VIRGINIA AUTHORITIES

Alcoholic Beverage Control Authority, Virginia

§ 4.1-100.(Effective until July 1, 2021) Definitions

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this title, "bed and

breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Bespoke clothier establishment" means a permanent retail establishment that offers, by appointment only, custom made apparel and that offers a membership program to customers. Such establishment shall be a permanent structure where measurements and fittings are performed on-site but apparel is produced offsite and delivered directly to the customer. Such establishment shall have facilities to properly secure any stock of alcoholic beverages.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a

commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Coworking establishment" means a facility that has at least 100 members, a majority of whom are 21 years of age or older, to whom it offers shared office space and related amenities, including desks, conference rooms, Internet access, printers, copiers, telephones, and fax machines.

"Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and recreational and educational activities related to farming, livestock, and other rural activities.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines

and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the Commonwealth.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a bespoke clothier establishment" means a person who maintains a membership in the bespoke clothier establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the bespoke clothier establishment. The minimum membership fee shall be not less than $25 for any term of membership.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Member of a coworking establishment" means a person who maintains a membership in the coworking establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the coworking establishment. "Member of a coworking establishment" does not include an employee or any person with an ownership interest in the coworking establishment.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution,

use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on

property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

Code 1950, §§ 4-2, 4-99; 1952, c. 496; 1954, c. 682; 1962, c. 533; 1968, c. 7, § 4-98.1; 1970, cc. 302, 309; 1974, cc. 460, 497; 1975, c. 408; 1976, cc. 64, 702; 1977, c. 280; 1980, cc. 324, 490; 1983, c. 340; 1984, c. 200; 1985, cc. 448, 457; 1988, c. 261, § 4-127; 1990, cc. 707, 932; 1991, c. 426; 1993, cc. 190, 866, 910; 1995, cc. 497, 518, 661; 1996, cc. 558, 604; 1997, cc. 124, 425; 1999, cc. 93, 171, 481; 2000, cc. 786, 1037, 1052; 2005, c. 911; 2006, c. 714; 2007, cc. 101, 295, 454, 558; 2008, cc. 198, 513, 875; 2013, cc. 107, 117; 2014, cc. 124, 510; 2015, cc. 25, 38, 54, 288, 348, 730, 735; 2016, cc. 324, 710; 2017, cc. 152, 157, 160, 492, 585, 741; 2018, c. 337; 2019, cc. 37, 178, 466, 628; 2020, cc. 755, 1009, 1010, 1113, 1114.

§ 4.1-100.(Effective July 1, 2021) Definitions

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other

nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in this title or Board regulation.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club

because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and recreational and educational activities related to farming, livestock, and other rural activities.

"Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little preparation, such as cheeses, salads, cooked meats, and related condiments.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant to a prescription and other medicines and items for home and general use.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government

registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, and (iii) offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Grocery store" means an establishment that sells food and other items intended for human consumption, including a variety of ingredients commonly used in the preparation of meals.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine and beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a distiller located outside the Commonwealth.

"Marina store" means an establishment that is located on the same premises as a marina, is operated by the owner of such marina, and sells food and nautical and fishing supplies.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution,

use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and to the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on

property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

Code 1950, §§ 4-2, 4-99; 1952, c. 496; 1954, c. 682; 1962, c. 533; 1968, c. 7, § 4-98.1; 1970, cc. 302, 309; 1974, cc. 460, 497; 1975, c. 408; 1976, cc. 64, 702; 1977, c. 280; 1980, cc. 324, 490; 1983, c. 340; 1984, c. 200; 1985, cc. 448, 457; 1988, c. 261, § 4-127; 1990, cc. 707, 932; 1991, c. 426; 1993, cc. 190, 866, 910; 1995, cc. 497, 518, 661; 1996, cc. 558, 604; 1997, cc. 124, 425; 1999, cc. 93, 171, 481; 2000, cc. 786, 1037, 1052; 2005, c. 911; 2006, c. 714; 2007, cc. 101, 295, 454, 558; 2008, cc. 198, 513, 875; 2013, cc. 107, 117; 2014, cc. 124, 510; 2015, cc. 25, 38, 54, 288, 348, 730, 735; 2016, cc. 324, 710; 2017, cc. 152, 157, 160, 492, 585, 741; 2018, c. 337; 2019, cc. 37, 178, 466, 628; 2020, cc. 755, 1009, 1010, 1113, 1114.

§ 4.1-101.Virginia Alcoholic Beverage Control Authority created; public purpose

A. The General Assembly has determined that there exists in the Commonwealth a need to control the possession, sale, transportation, distribution, and delivery of alcoholic beverages in the Commonwealth. Further, the General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. To achieve this objective, there is hereby created an independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state government, to be known as the Virginia Alcoholic Beverage Control Authority. The Authority's exercise of powers and duties conferred by this title shall be deemed the performance of an essential governmental function and a matter of public necessity for which public moneys may be spent. The Board of Directors of the Authority is vested with control of the possession, sale, transportation, distribution, and delivery of alcoholic beverages in the Commonwealth, with plenary power to prescribe and enforce regulations and conditions under which alcoholic beverages are possessed, sold, transported, distributed, and delivered, so as to prevent any corrupt, incompetent, dishonest, or unprincipled practices and to promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth. The exercise of the powers granted by this title shall be in all respects for the benefit of the citizens of the Commonwealth and for the

promotion of their safety, health, welfare, and convenience. No part of the assets or net earnings of the Authority shall inure to the benefit of, or be distributable to, any private individual, except that reasonable compensation may be paid for services rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are in conformity with said purposes, and no private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Authority.

B. The Virginia Alcoholic Beverage Control Authority shall consist of the Virginia Alcoholic Beverage Control Board of Directors, the Chief Executive Officer, and the agents and employees of the Authority. The Virginia Alcoholic Beverage Control Authority shall be deemed successor in interest to the Department of Alcoholic Beverage Control and the Alcoholic Beverage Control Board.

C. Nothing contained in this title shall be construed as a restriction or limitation upon any powers that the Board of Directors of the Authority might otherwise have under any other law of the Commonwealth.

Code 1950, § 4-6; 1976, c. 64; 1993, c. 866; 2015, cc. 38, 730.

§ 4.1-101.01.Board of Directors; membership; terms; compensation

A. The Authority shall be governed by a Board of Directors, which shall consist of five citizens at large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall be subject to a background check in accordance with § 4.1-101.03.

B. After the initial staggering of terms, members shall be appointed for a term of five years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the Board may be removed from office by the Governor for cause, including the improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

C. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The Board may also form committees and advisory councils, which may include

representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

D. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written request of a majority of the Board members.

E. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of their official duties as set forth in the general appropriation act for members of the House of Delegates when the General Assembly is not in session, except that the chairman of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly is not in session.

F. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the Authority.

2015, cc. 38, 730; 2017, cc. 698, 707.

§ 4.1-101.02.Appointment, salary, and powers of Chief Executive Officer; appointment of confidential assistant to the Chief Executive Officer

A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree in business or a related field of study; and shall possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive such compensation as determined by the Board and approved by the Governor, including any performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject to a background check in accordance with § 4.1-101.03. The Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause, including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or targets as set by the Board and approved by the Governor, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance with this title.

D. The Chief Executive Officer shall:

1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;

2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be conferred or imposed upon him by law;

3. Employ or retain such special agents or employees subordinate to the Chief Executive Officer as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's approval; and

4. Make recommendations to the Board for legislative and regulatory changes.

E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

2015, cc. 38, 730; 2017, cc. 698, 707.

§ 4.1-101.03.Background investigations of Board members and Chief Executive Officer

All members of the Board and the Chief Executive Officer shall be fingerprinted before, and as a condition of, appointment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a national criminal history records search and to the Department of State Police for a Virginia criminal history records search. The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section. No person shall be appointed to the Board or appointed by the Board who (i) has defrauded or attempted to defraud any federal, state, or local government or governmental agency or authority by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of a material fact; (ii) has willfully deceived or attempted to deceive any federal, state, or local government or governmental agency or governmental authority by making or maintaining business records required by statute or regulation that are false and fraudulent; or (iii) has been convicted of (a) a felony or a crime involving moral turpitude or (b) a violation of any law applicable to the manufacture,

transportation, possession, use, or sale of alcoholic beverages within the five years immediately preceding appointment.

2015, cc. 38, 730.

§ 4.1-101.04.Financial interests of Board, employees, and family members prohibited

No Board member or employee of the Authority shall (i) be a principal stockholder or (ii) otherwise have any financial interest, direct or indirect, in any licensee subject to the provisions of this title or in any entity that has submitted an application for a license under Chapter 2 (§ 4.1-200 et seq.). No Board member and no spouse or immediate family member of a Board member shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

2015, cc. 38, 730.

§ 4.1-101.05.Employees of the Authority

A. Employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, or disability. Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.

B. Notwithstanding any other provision of law, the Authority shall give preference in hiring to special agents and employees of the Department of Alcoholic Beverage Control. The Authority shall issue a written notice to all persons whose employment at the Department of Alcoholic Beverage Control will be transferred to the Authority. The date upon which such written notice is issued shall be referred to herein as the "Option Date." In order to facilitate an orderly and efficient transition and ensure the continuation of operations during the transition from the Department of Alcoholic Beverage Control (the Department) to the Authority, the Authority shall have discretion, subject to the time limitations contained herein, to determine the date upon which any employee's employment with the Department will end or be transferred to the Authority. This date shall be stated in the written notice and shall be

referred to herein as the "Transition Date." No Transition Date shall occur prior to July 1, 2018, without the mutual agreement of the employee and the Authority. No Transition Date shall be set beyond December 31, 2018. Each person whose employment will be transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of the Department of Alcoholic Beverage Control who (i) is not offered the opportunity to transfer to employment by the Authority or (ii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act. Any eligibility for such severance benefits shall be contingent on the continued employment through an employee's Transition Date.

C. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 shall continue to be a member of such health insurance plan under the same terms and conditions as if no transfer had occurred.

D. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred.

E. Notwithstanding any other provision of law, any person whose employment is transferred to the Authority as a result of this section and who was subjected to a criminal history background check as a condition of employment with the Department of Alcoholic Beverage Control shall not be subject to the requirements of § 4.1-103.1, unless the Authority deems otherwise.

2015, cc. 38, 730; 2017, cc. 698, 707, 742; 2020, c. 1137.

§ 4.1-101.06.Moneys of Authority

All moneys of the Authority, from whatever source derived, shall be paid in accordance with § 4.1-116.

2015, cc. 38, 730.

§ 4.1-101.07.Forms of accounts and records; audit; annual report

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts and

books of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on or before December 15 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions of services and tangible or intangible property, any material changes to the policies and procedures issued by the Authority related to procurement or personnel, and any proposed marketing activities.

B. Notwithstanding any other provision of law, in exercising any power conferred under this title, the Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These systems and related procedures shall be subject to review and approval by the State Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management system or its successor system. Such reports shall be made in accordance with policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.

2015, cc. 38, 730; 2017, cc. 698, 707.

§ 4.1-101.08. Leases of property

The Authority shall be exempt from the provisions of § 2.2-1149 and from any rules, regulations, and guidelines of the Division of Engineering and Buildings in relation to leases of real property into which it enters.

2015, cc. 38, 730.

§ 4.1-101.09. Exemptions from taxes or assessments

The exercise of the powers granted by this title shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under the provisions of this title or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of any property of the Authority businesses for which local or state taxes would otherwise be required.

2015, cc. 38, 730.

§ 4.1-101.010.Exemption of Authority from personnel and procurement procedures; information systems; etc

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this title. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this title.

B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:

1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;

2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and

3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Authority's capital projects and construction-related professional services under § 2.2-1132.

C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Authority and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on one website.

2015, cc. 38, 730; 2017, cc. 698, 707.

§ 4.1-101.011.Reversion to the Commonwealth

In the event of the dissolution of the Authority, all assets of the Authority, after satisfaction of creditors, shall revert to the Commonwealth.

2015, cc. 38, 730.

§ 4.1-101.1.Certified mail; subsequent mail or notices may be sent by regular mail; electronic communications as alternative to regular mail; limitation

A. Whenever in this title the Board is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board may be sent by regular mail.

B. Except as provided in subsection C, whenever in this title the Board is required or permitted to send any mail, notice, or other official communication by regular mail to persons licensed under Chapter 2 (§ 4.1-200 et seq.), upon the request of a licensee, the Board may instead send such mail, notice, or official communication by email, text message, or other electronic means to the email address, telephone number, or other contact information provided to the Board by the licensee, provided that the Board retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery or a certificate of service prepared by the Board confirming the electronic delivery.

C. No notice required by § 4.1-227 to (i) a licensee of a hearing that may result in the suspension or revocation of his license or the imposition of a civil penalty or (ii) a person holding a permit shall be sent by the Board by email, text message, or other electronic means, nor shall any decision by the Board to suspend or revoke a license or permit or impose a civil penalty be sent by the Board by email, text message, or other electronic means.

2011, c. 566; 2015, c. 412.

§ 4.1-102.Repealed

Repealed by Acts 2015, cc. 38 and 730, cl. 3, effective July 1, 2018.

§ 4.1-103.(Effective until July 1, 2021) General powers of Board

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;

4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this title, including agreements with any person or federal agency;

5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;

8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;

10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;

11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;

12. Buy and sell any mixers;

13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);

14. Control the possession, sale, transportation and delivery of alcoholic beverages;

15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;

16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;

17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this title;

18. Purchase or otherwise acquire title to any land or building required for the purposes of this title and sell and convey the same by proper deed, with the consent of the Governor;

19. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be considered necessary or useful in carrying into effect the purposes of this title, including rectifying, blending and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;

20. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline alcohol;

21. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;

22. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the

Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

23. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

24. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;

25. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

26. Assess and collect civil penalties and civil charges for violations of this title and Board regulations;

27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

28. Establish minimum food sale requirements for all retail licensees;

29. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this title; and

31. Do all acts necessary or advisable to carry out the purposes of this title.

Code 1950, § 4-7; 1974, c. 460; 1982, c. 647; 1984, c. 200; 1993, c. 866; 1996, c. 558; 2015, cc. 25, 38, 730, 735; 2016, c. 21; 2017, cc. 698, 707.

§ 4.1-103.(Effective July 1, 2021) General powers of Board

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;

4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this title, including agreements with any person or federal agency;

5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and special agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;

6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;

8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;

10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;

11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;

12. Buy and sell any mixers;

13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);

14. Control the possession, sale, transportation, and delivery of alcoholic beverages;

15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;

16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;

17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this title;

18. Purchase, lease, or acquire the use of, by any manner, any plant or equipment that may be considered necessary or useful in carrying into effect the purposes of this title, including rectifying, blending, and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;

19. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline alcohol;

20. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;

21. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to final decision by the Board, on application of

any party aggrieved. The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;

22. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

23. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;

24. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

25. Assess and collect civil penalties and civil charges for violations of this title and Board regulations;

26. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

27. Establish minimum food sale requirements for all retail licensees;

28. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

29. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this title;

30. Establish and collect fees for all permits set forth in this title, including fees associated with applications for such permits;

31. Impose a requirement that a mixed beverage restaurant licensee located on the premises of and operated by a casino gaming establishment pay for any cost incurred by the Board to enforce such license in excess of the applicable state license fee; and

32. Do all acts necessary or advisable to carry out the purposes of this title.

Code 1950, § 4-7; 1974, c. 460; 1982, c. 647; 1984, c. 200; 1993, c. 866; 1996, c. 558; 2015, cc. 25, 38, 730, 735; 2016, c. 21; 2017, cc. 698, 707; 2020, cc. 1113, 1114.

§ 4.1-103.01.Additional powers; access to certain tobacco sales records; inspections; penalty

A. Notwithstanding the provisions of § 58.1-3 or any other provision of law, the Tax Commissioner shall provide to the Board the name, address, and other identifying information within his possession of all wholesale cigarette dealers.

B. All invoices, books, papers or other memoranda and records concerning the sale of cigarettes maintained by wholesale cigarette dealers pursuant to § 58.1-1007 shall be subject to inspection during normal business hours by special agents of the Board. Any person who, upon request by a special agent, unreasonably fails or refuses to allow an inspection of the records authorized by this subsection shall be guilty of a Class 2 misdemeanor.

C. The Board may use the information obtained from the Tax Commissioner or by the inspections authorized by subsection B only for the purpose of creating and maintaining a list of retail dealers to facilitate enforcement of the laws governing the sale of tobacco products to minors. Neither the Board nor any special agent shall divulge any information provided by the Tax Commissioner or obtained in the performance of the inspections authorized by subsection B to anyone other than to another special agent. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

1998, cc. 189, 364.

§ 4.1-103.02.Additional powers; substance abuse prevention; Virginia Institutions of Higher Education Substance Use Advisory Committee established

It shall be the responsibility of the Board to administer a substance abuse prevention program within the Commonwealth and to (i) coordinate substance abuse prevention activities of agencies of the Commonwealth in such program, (ii) review substance abuse prevention program expenditures by agencies of the Commonwealth, and (iii) determine the direction and appropriateness of such expenditures. The Board shall cooperate with federal, state, and local agencies, private and public agencies, interested organizations, and individuals in order to prevent substance abuse within the Commonwealth. The Board shall report annually by December 1 of each year to the Governor and the General Assembly on the substance abuse prevention activities of the Commonwealth.

The Board shall also establish and appoint members to the Virginia Institutions of Higher Education Substance Use Advisory Committee (Advisory Committee). The goal of the Advisory Committee shall be to develop and update a statewide strategic plan for substance use education, prevention, and intervention at Virginia's public and private institutions of higher education. The strategic plan shall (a) incorporate the use of best practices, which may include, but not be limited to, student-led peer-to-peer education and college or other institution of higher education recovery programs; (b) provide for the collection of statewide data from all institutions of higher education on student alcohol and substance use; (c) assist institutions of higher education in developing their individual strategic plans by providing networking and training resources and materials; and (d) develop and maintain reporting guidelines for use by institutions of higher education in their individual strategic plans.

The Advisory Committee shall consist of representatives from Virginia's public and private institutions of higher education, including students and directors of student health, and such other members as the Board may deem appropriate. The Advisory Committee's membership shall be broadly representative of individuals from both public and private institutions of higher education.

The Advisory Committee shall submit an annual report on its activities to the Governor and the General Assembly on or before December 1 each year.

2012, cc. 803, 835; 2018, cc. 210, 211.

§ 4.1-103.03.(Effective until July 1, 2021) Additional powers; mediation; alternative dispute resolution; confidentiality

A. As used in this section:

"Appropriate case" means any alleged license violation or objection to the application for a license in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license only with the consent of, and participation by, the applicant for licensure and shall be terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in subdivision 22 of § 4.1-103. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or

settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other materials.

E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting a license, suspending or revoking a license, or accepting payment of a civil penalty or investigative costs. However, a consent agreement signed by the parties shall not be confidential.

2017, cc. 698, 707.

§ 4.1-103.03.(Effective July 1, 2021) Additional powers; mediation; alternative dispute resolution; confidentiality

A. As used in this section:

"Appropriate case" means any alleged license violation or objection to the application for a license in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license only with the consent of, and participation by, the applicant for licensure and shall be terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in subdivision 21 of § 4.1-103. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or

settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other materials.

E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting a license, suspending or revoking a license, or accepting payment of a civil penalty or investigative costs. However, a consent agreement signed by the parties shall not be confidential.

2017, cc. 698, 707; 2020, cc. 1113, 1114.

§ 4.1-103.1.Criminal history records check required on certain employees; reimbursement of costs

All persons hired by the Authority whose job duties involve access to or handling of the Authority's funds or merchandise shall be subject to a criminal history records check before, and as a condition of, employment.

The Board shall develop policies regarding the employment of persons who have been convicted of a felony or a crime involving moral turpitude.

The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section.

1994, c. 34; 2015, cc. 38, 730; 2017, cc. 698, 707.

§ 4.1-104.Purchases by the Board

The purchasing of alcoholic beverages and mixers, products used in connection with distilled spirits intended for resale, or products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 intended for resale, the making of leases, and the purchasing of real estate by the Board under the provisions of this title are exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

Code 1950, § 4-18; 1993, c. 866; 1996, c. 558; 2008, c. 135; 2016, c. 21.

§ 4.1-105.Police power of members, agents and employees of Board

Members of the Board are vested, and such agents and employees of the Board designated by it shall be vested, with like power to enforce the provisions of (i) this title and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of a county, city, or town; (ii) § 3.2-4207; (iii) § 18.2-371.2; and (iv) § 58.1-1037.

Code 1950, § 4-8; 1993, c. 866; 1997, cc. 812, 882; 2000, cc. 880, 901; 2006, c. 695.

§ 4.1-106.Liability of Board members; suits by and against Board

A. No Board member may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this title, except by the Commonwealth, and then only in the Circuit Court of

the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

B. The Board may, in the name of the Commonwealth, be sued in the Circuit Court of the City of Richmond to enforce any contract made by it or to recover damages for any breach thereof. The Board may defend the proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

Code 1950, § 4-12; 1993, c. 866.

§ 4.1-107.Counsel for members, agents and employees of Board

If any member, agent, or employee of the Board shall be arrested, indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Board chairman may employ special counsel approved by the Attorney General to defend such member, agent, or employee. The compensation for special counsel employed pursuant to this section, shall, subject to the approval of the Attorney General, be paid in the same manner as other expenses incident to the administration of this title are paid.

Code 1950, § 4-20; 1958, c. 542; 1993, c. 866.

§ 4.1-108.Hearings; representation by counsel

Any licensee or applicant for any license granted by the Board shall have the right to be represented by counsel at any Board hearing for which he has received notice. The licensee or applicant shall not be required to be represented by counsel during such hearing. Any officer or director of a corporation may examine, cross-examine and question witnesses; present evidence on behalf of the corporation; and draw conclusions and make arguments before the Board or hearing officers without being in violation of the provisions of § 54.1-3904.

1989, c. 266, § 4-10.1; 1993, c. 866.

§ 4.1-109.Hearings; allowances to witnesses

Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same allowance for expenses as witnesses for the Commonwealth in criminal cases in accordance with § 17.1-611. Such allowances shall be paid out of the fund from which other costs incurred by the Board are paid upon certification to the Comptroller.

Code 1950, § 4-10; 1954, c. 709; 1993, c. 866.

§ 4.1-110.Purchase orders of Board for alcoholic beverages

A. Every order of the Board for the purchase of alcoholic beverages shall be authenticated by the chairman or by a member or agent of the Board, authorized by the Board to authenticate such orders. No order shall be binding unless so authenticated.

B. A duplicate of every such order shall be kept on file in the office of the Board in accordance with retention regulations established pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.).

C. All cancellations of orders made by the Board shall be authenticated in the same manner and a duplicate kept as required by subsection B.

Code 1950, § 4-17; 1972, c. 138; 1984, c. 469; 1993, c. 866.

§ 4.1-111.(Effective until July 1, 2021) Regulations of Board

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55.1-1100, but only in accordance with this title.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing

brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shop licensees. Growlers sold by gourmet shop licensees shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shop licensees for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a

bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

Code 1950, §§ 4-11, 4-36; 1968, c. 7, §§ 4-98.5, 4-98.14; 1974, c. 460; 1982, c. 145; 1991, c. 690; 1992, c. 220; 1993, cc. 433, 866; 1997, c. 40; 1998, c. 301; 1999, cc. 98, 641; 2003, c. 856; 2008, c. 513; 2009, c. 122; 2010, c. 481; 2011, c. 728; 2012, cc. 376, 760, 818; 2015, cc. 404, 412; 2017, cc. 160, 743, 744; 2019, cc. 7, 29, 706.

§ 4.1-111.(Effective July 1, 2021) Regulations of Board

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to

prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct, or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55.1-1100, but only in accordance with this title.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour and any pricing related to such happy hour. Such regulations shall not prohibit on-

premises licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shops granted a retail off-premises wine and beer license. Growlers sold by gourmet shops shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shops granted a retail off-premises wine and beer license for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

Code 1950, §§ 4-11, 4-36; 1968, c. 7, §§ 4-98.5, 4-98.14; 1974, c. 460; 1982, c. 145; 1991, c. 690; 1992, c. 220; 1993, cc. 433, 866; 1997, c. 40; 1998, c. 301; 1999, cc. 98, 641; 2003, c. 856; 2008, c. 513; 2009, c. 122; 2010, c. 481; 2011, c. 728; 2012, cc. 376, 760, 818; 2015, cc. 404, 412; 2017, cc. 160, 743, 744; 2019, cc. 7, 29, 706; 2020, cc. 1113, 1114.

§ 4.1-112.Regulations relating to transportation of beer and wine coolers

The Board may promulgate regulations relating to the transportation of beer and wine coolers through the Commonwealth, including a prohibition against the direct shipment of beer or wine coolers from points outside the Commonwealth to installations of the United States armed forces located within the Commonwealth for resale on such installation.

1988, c. 261, § 4-144; 1993, c. 866.

§ 4.1-112.2.Outdoor advertising; limitations; variances; compliance with Title 33.2

A. No outdoor alcoholic beverage advertising shall be placed within 500 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the

advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; or (iv) a dwelling used for residential use.

B. However, (i) if there is no building or structure on a playground or similar recreational facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational facility and (ii) if a public or private school providing grade K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

C. If, at the time the advertisement was displayed, the advertisement was more than 500 feet from (i) a church, synagogue, mosque or other place of religious worship; (ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private playground or similar recreational facility; or (iv) a dwelling used for residential use, but the circumstances change such that the advertiser would otherwise be in violation of subsection A, the Board shall permit the advertisement to remain as displayed for the remainder of the term of any written advertising contract, but in no event more than one year from the date of the change in circumstances.

D. The Board may grant a permit authorizing a variance from the distance requirements of this section upon a finding that the placement of alcoholic beverage advertising on a sign will not unduly expose children to alcoholic beverage advertising.

E. Provided such signs are in compliance with local ordinances, the distance and zoning restrictions contained in this section shall not apply to:

1. Signs placed by licensees upon the property on which the licensed premises are located; or

2. Directional signs placed by manufacturers or wholesalers with advertising limited to trade names, brand names, the terms "distillery," "brewery," "farm winery," or "winery," and tour information.

F. The distance and zoning restrictions contained in this section shall not apply to any sign that is included in the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

G. Nothing in this section shall be construed to authorize billboard signs containing outdoor alcoholic beverage advertising on property zoned agricultural or residential, or on any unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs containing outdoor advertising that would be prohibited under state law or local ordinance.

H. All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this title, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted

pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign located or to be located on highway rights of way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

2012, cc. 760, 818.

§ 4.1-113.Board not to regulate certain advertising in the interiors of retail establishments

A. The Board shall not regulate the use of advertising materials or decorations within the premises of a retail on-premises licensee (i) where such advertising materials or decorations cannot be seen from the street or roadway outside of the licensed establishment and (ii) if the retail establishment is located within an enclosed area with no street or roadway, where such advertising or decorations cannot be seen more than fifteen feet from the nearest window.

B. This section shall not restrict the regulation of advertising materials or decorations containing references to an alcoholic beverage brand or manufacturer, except the Board shall not regulate such references contained in works of art.

C. This section shall not restrict or deny the Board its authority pursuant to §§ 4.1-216, 4.1-317, and subdivisions 11, 12, 13, 16, and 21 of § 4.1-325, nor shall this section authorize any manufacturer, bottler, wholesaler or importer of any alcoholic beverages to sell, rent, lend, buy for, or give to any retailer any advertising materials or decorations under any circumstances otherwise prohibited by law.

1981, c. 574, § 4-69.2; 1993, c. 866.

§ 4.1-113.1.Outdoor advertising; compliance with Title 33.2

All lawfully erected outdoor alcoholic beverage signs shall comply with the provisions of this title, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor alcoholic beverage directional sign located or to be located on highway rights-of-way shall also be governed by and comply with the Integrated Directional Sign Program administered by the Virginia Department of Transportation or its agents.

2012, cc. 326, 618.

§ 4.1-114.(Effective until July 1, 2021) Annual review of operations of certain mixed beverage licensees

The Board shall at least annually review the operations of each establishment holding a mixed beverage restaurant license and each person holding a caterer's license to determine whether during the preceding license year such licensee has met the food-beverage ratio required by § 4.1-210. If not met, the license granted to such licensee may be suspended or revoked. If the license is revoked, no new license may be granted to the licensee with respect to such establishment or catering business

for at least one year from the date of the revocation. For the purposes of this section and § 4.1-210, "nonalcoholic beverage" shall not include any beverages, ice, water or other mixer served with an alcoholic beverage.

1968, c. 7, § 4-98.7; 1980, c. 490; 1981, c. 565; 1986, c. 374; 1990, c. 402; 1993, c. 866.

§ 4.1-114.(Effective July 1, 2021) Annual review of operations of certain mixed beverage licensees

The Board shall at least annually review the operations of each establishment holding a mixed beverage restaurant license and each person holding a caterer's license to determine whether during the preceding license year such licensee has met the food-beverage ratio required by § 4.1-206.3. If not met, the license granted to such licensee may be suspended or revoked. If the license is revoked, no new license may be granted to the licensee with respect to such establishment or catering business for at least one year from the date of the revocation. For the purposes of this section and § 4.1-206.3, "nonalcoholic beverage" shall not include any beverages, ice, water or other mixer served with an alcoholic beverage.

1968, c. 7, § 4-98.7; 1980, c. 490; 1981, c. 565; 1986, c. 374; 1990, c. 402; 1993, c. 866; 2020, cc. 1113, 1114.

§ 4.1-115.Reports and accounting systems of Board; auditing books and records

A. The Board shall make reports to the Governor as he may require covering the administration and enforcement of this title. Additionally, the Board shall submit an annual report to the Governor and General Assembly on or before December 15 each year, which shall contain:

1. A statement of the nature and amount of the business transacted by each government store during the year;

2. A statement of the assets and liabilities of the Board, including a statement of income and expenses and such other financial statements and matters as may be necessary to show the result of the operations of the Board for the year;

3. A statement showing the taxes collected under this title during the year;

4. General information and remarks about the working of the alcoholic beverage control laws within the Commonwealth; and

5. Any other information requested by the Governor.

B. The Board shall maintain an accounting system in compliance with generally accepted accounting principles and approved in accordance with § 2.2-803.

C. A regular postaudit shall be conducted of all accounts and transactions of the Board. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Board shall be conducted by the Auditor of Public Accounts on or before October 1. The cost of the annual audit and

postaudit examinations shall be borne by the Board. The Board may order such other audits as it deems necessary.

Code 1950, § 4-13; 1984, c. 734; 1993, c. 866; 2004, c. 650; 2005, c. 633.

§ 4.1-116. Disposition of moneys collected by Board; creation of Enterprise Fund; reserve fund

A. All moneys collected by the Board shall be paid directly and promptly into the state treasury, or shall be deposited to the credit of the State Treasurer in a state depository, without any deductions on account of salaries, fees, costs, charges, expenses, refunds or claims of any description whatever, as required by § 2.2-1802.

All moneys so paid into the state treasury, less the net profits determined pursuant to subsection C, shall be set aside as and constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses incurred in establishing and maintaining government stores and in the administration of the provisions of this title, including the purchasing, building, leasing and operation of distilleries and the manufacture of alcoholic beverages.

B. The net profits derived under the provisions of this title shall be transferred by the Comptroller to the general fund of the state treasury quarterly, within fifty days after the close of each quarter or as otherwise provided in the appropriation act. As allowed by the Governor, the Board may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding the sum of $2.5 million in connection with the administration of this title and to provide for the depreciation on the buildings, plants and equipment owned, held or operated by the Board.

C. The term "net profits" as used in this section means the total of all moneys collected by the Board less all costs, expenses and charges authorized by this section.

Code 1950, §§ 4-22, 4-23; 1960, c. 104; 1962, c. 385; 1964, c. 215; 1966, c. 431; 1968, c. 623; 1970, c. 727; 1972, cc. 138, 849; 1973, c. 349; 1974, c. 460; 1981, c. 514; 1982, c. 540; 1983, c. 427; 1984, c. 105; 1985, c. 222; 1993, c. 866.

§ 4.1-117. Disposition of net profits to localities

When the moneys transferred quarterly or as otherwise provided in the appropriation act by the Comptroller to the general fund of the state treasury exceed the sum of $187,500, two-thirds of all moneys in excess of $187,500 shall be apportioned by the Comptroller and distributed quarterly within ten days following such transfer. Such payments shall be made by the Comptroller drawn on the Treasurer of Virginia to the several counties, cities, and towns of the Commonwealth, appropriated on the basis of the population of the respective counties, cities, and towns, according to the last preceding United States census. However, in the case of any town which came into existence in or about the year 1691 which is now the county seat of any county having a population of less than 45,000 but more than 40,000, and the boundaries of such town are not fixed, such portion of the

moneys appropriated shall be based on an estimate of the population of such town made by the Center for Public Service. The judge of the circuit court of the county in which the town or city or greater part thereof seeking an increase under the provisions of this chapter is located may appoint two disinterested persons as commissioners, neither of whom shall reside in the county, city, or town which is the subject of the annexation proceedings. The commissioners so appointed shall determine the population of the territory annexed to the town or city as of the date of the last preceding United States census and report their findings to the court, and future distributions of the moneys allocated under the provisions of this chapter shall be made in accordance therewith. The Comptroller shall make no adjustments in his distribution of profits until the Secretary of the Commonwealth transmits to the Comptroller, pursuant to § 15.2-3209, a copy of the court order granting the petition of annexation.

Code 1950, § 4-22; 1960, c. 104; 1962, c. 385; 1964, c. 215; 1966, c. 431; 1968, c. 623; 1970, c. 727; 1972, c. 849; 1973, c. 349; 1974, c. 460; 1981, c. 514; 1982, c. 540; 1983, c. 427; 1984, c. 105; 1985, c. 222; 1993, c. 866.

§ 4.1-118.Certain information not to be made public

Neither the Board nor its employees shall divulge any information regarding (i) financial reports or records required pursuant to § 4.1-114; (ii) the purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees; or (iii) beer and wine taxes collected from, refunded to, or adjusted for any person. The provisions of § 58.1-3 shall apply, mutatis mutandis, to beer and wine taxes collected pursuant to this title and to purchase orders and invoices for beer and wine filed with the Board by wholesale beer and wine licensees.

Nothing contained in this section shall prohibit the use or release of such information or documents by the Board to any governmental or law-enforcement agency, or when considering the granting, denial, revocation, or suspension of a license or permit, or the assessment of any penalty against a licensee or permittee.

Nor shall this section prohibit the Board or its employees from compiling and disseminating to any member of the public aggregate statistical information pertaining to (i) malt beverage excise tax collection as long as such information does not reveal or disclose excise tax collection from any identified licensee; (ii) the total quantities of wine sold or shipped into the Commonwealth by each out-of-state winery, distributor, or importer for resale in the Commonwealth by wholesale wine licensees collectively; (iii) the total amount of wine sales in the Commonwealth by wholesale wine licensees collectively; or (iv) the total amount of purchases or sales submitted by licensees as required pursuant to § 4.1-114, provided such information does not identify the licensee.

1988, c. 261, § 4-145; 1993, c. 866; 1994, c. 179.

§ 4.1-119.(Effective until July 1, 2021) Operation of government stores

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such

samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

Code 1950, § 4-15; 1958, c. 269; 1962, c. 453; 1970, c. 351; 1983, c. 267; 1984, c. 200; 1992, c. 782; 1993, cc. 252, 866; 1996, c. 558; 1999, c. 98; 2005, c. 651; 2006, c. 106; 2007, cc. 546, 726, 820; 2008, c. 609; 2009, c. 620; 2010, cc. 115, 170, 517; 2011, c. 713; 2012, c. 344; 2013, c. 476; 2014, cc. 437, 724; 2015, cc. 38, 62, 604, 730; 2016, cc. 21, 132, 141; 2017, cc. 75, 125, 155, 160; 2018, c. 734; 2019, cc. 37, 178, 466, 810, 811, 814; 2020, c. 1017.

§ 4.1-119.(Effective July 1, 2021, until July 1, 2022) Operation of government stores

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism

Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and

flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

Code 1950, § 4-15; 1958, c. 269; 1962, c. 453; 1970, c. 351; 1983, c. 267; 1984, c. 200; 1992, c. 782; 1993, cc. 252, 866; 1996, c. 558; 1999, c. 98; 2005, c. 651; 2006, c. 106; 2007, cc. 546, 726, 820; 2008, c. 609; 2009, c. 620; 2010, cc. 115, 170, 517; 2011, c. 713; 2012, c. 344; 2013, c. 476; 2014, cc. 437, 724; 2015, cc. 38, 62, 604, 730; 2016, cc. 21, 132, 141; 2017, cc. 75, 125, 155, 160; 2018, c. 734; 2019, cc. 37, 178, 466, 810, 811, 814; 2020, cc. 1017, 1113, 1114.

§ 4.1-119.(Effective July 1, 2022) Operation of government stores

A. Subject to the provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, low alcohol beverage coolers, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and low alcohol beverage coolers, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and low alcohol beverage coolers in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold. If the licensed distiller makes application and meets certain requirements established by the Board, such agreement shall allow monthly revenue transfers from the licensed distiller to the Board to be submitted electronically and, notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, to be limited to the amount due to the Board in applicable taxes and markups.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (a) (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a low alcohol beverage cooler and (b) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 14 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than 12 ounces of beer, five ounces of wine, or three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

Code 1950, § 4-15; 1958, c. 269; 1962, c. 453; 1970, c. 351; 1983, c. 267; 1984, c. 200; 1992, c. 782; 1993, cc. 252, 866; 1996, c. 558; 1999, c. 98; 2005, c. 651; 2006, c. 106; 2007, cc. 546, 726, 820; 2008, c. 609; 2009, c. 620; 2010, cc. 115, 170, 517; 2011, c. 713; 2012, c. 344; 2013, c. 476; 2014, cc. 437, 724; 2015, cc. 38, 62, 604, 730; 2016, cc. 21, 132, 141; 2017, cc. 75, 125, 160; 2018, c. 734; 2019, cc. 37, 178, 466, 810, 811, 814; 2020, cc. 1017, 1113, 1114.

§ 4.1-119.1.Human trafficking hotline; posted notice required

Within each government store, except for government stores established on a distiller's licensed premises pursuant to subsection D of § 4.1-119, the Authority shall post notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this section shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-11.3.

2019, c. 388.

§ 4.1-120.When government stores closed

A. Except as provided in subsection B, no sale or delivery of alcoholic beverages shall be made at any government store, nor shall any such store be kept open for the sale of alcoholic beverages:

1. On Sunday;

2. On Thanksgiving Day, Christmas Day and New Year's Day; or

3. During such other periods and on such other days as the Board may direct.

B. Certain government stores, as determined by the Board, may be open on Sunday for the sale of alcoholic beverages after 10:00 a.m.

Code 1950, § 4-19; 1972, c. 138; 1992, c. 129; 1993, c. 866; 2004, c. 1002; 2008, c. 134; 2012, c. 245; 2019, cc. 810, 811.

§ 4.1-121.Referendum on establishment of government stores

A. The qualified voters of any county, city, or town having a population of 1,000 or more may file a petition with the circuit court of the county or city, or of the county wherein the town or the greater part thereof is situated, asking that a referendum be held on the question of whether the sale by the Virginia Alcoholic Beverage Control Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the jurisdiction on January 1 preceding its filing or by at least 100 qualified voters, whichever is greater. Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale by the Virginia Alcoholic Beverage Control Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, be prohibited in ..... (name of county, city, or town)?"

The referendum shall be ordered and held and the results certified as provided in § 24.2-684. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the county, city, or town.

B. Once a referendum has been held, no other referendum on the same question shall be held in the county, city, or town within four years of the date of the prior referendum. However, a town shall not be prescribed from holding a referendum within such period although an election has been held in the county in which the town or a part thereof is located less than four years prior thereto.

Code 1950, § 4-45; 1954, c. 221; 1974, c. 399; 1975, c. 517; 1977, c. 683; 1980, cc. 541, 543; 1984, c. 200; 1993, c. 866; 2015, cc. 38, 730; 2019, cc. 37, 178.

§ 4.1-122.Effect of local option referenda

A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a majority of the qualified voters vote "Yes" on the question, then on and after 60 days from the date on which the order of the court, setting forth the results of such referendum was entered of record, none of the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or shipment to persons outside of such county, city, or town authorized under this title to acquire the alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by train, boat or airplane selling wine and beer to bona fide passengers.

B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters have previously voted to prohibit the sale of alcoholic beverages by the Board and in a subsequent election a majority of the voters of the county, city, or town vote "No" on the question stated in § 4.1-121, then such alcoholic beverages may, in accordance with this title, be sold within the county, city, or town on and after 60 days from the day on which the order of the court setting forth the results of such election is entered of record.

C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's election district of a county and the majority of voters voting in such referendum voted "Yes," the sale by the Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be prohibited in such county, town, or supervisor's election district of a county. Notwithstanding this section and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such county, town, or supervisor's election district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the appropriate license fees are paid for the privilege.

D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any county, city, or town, except as otherwise prohibited by this title.

E. For the purpose of this section, when any referendum is held in any town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county.

Code 1950, § 4-46; 1954, c. 221; 1974, c. 460; 1975, c. 482; 1977, c. 683; 1980, cc. 541, 543; 1982, cc. 66, 204; 1984, c. 200; 1991, c. 690; 1993, c. 866; 2019, cc. 37, 178.

§ 4.1-123.Referendum on Sunday wine and beer sales; exception

A. Either the qualified voters or the governing body of any county, city, town, or supervisor's election district of a county may file a petition with the circuit court of the county or city or of the county wherein the town or the greater part thereof is situated asking that a referendum be held on the question of whether the sale of beer and wine on Sunday should be permitted within that jurisdiction. The petition of voters shall be signed by qualified voters equal in number to at least ten percent of the number registered in the jurisdiction on January 1 preceding its filing or at least 100 qualified voters, whichever is greater. Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of wine and beer between the hours of twelve o'clock p.m. on each Saturday and six o'clock a.m. on each Monday be permitted in _____ (name of county, city, town, or supervisor's election district of the county)?"

The referendum shall be ordered and held and the results certified as provided in § 24.2-684. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the county, city, or town.

Notwithstanding an ordinance adopted pursuant to § 4.1-129, an affirmative majority vote on the question shall be binding on the governing body of the county, city, or town, and the governing body shall take all actions required of it to legalize such Sunday sales.

B. Notwithstanding the provisions of subsection A or § 4.1-129, where property that constitutes a farm winery lies within, or abuts, the boundaries of Floyd and Patrick Counties, the retail sale of wine by the farm winery licensee in the county that restricts the sale of wine and beer shall be allowed at one fixed location on a parcel of land that contains all or part of the licensee's producing vineyard and the licensee's vinification facilities.

The Board may refuse to allow such licensee the exercise of his retail sales privilege in the county restricting the Sunday sale of wine and beer if the Board determines, after giving the licensee notice and a hearing, that (i) the owner of the farm winery had actual knowledge that the vinification facilities and all or part of the producing vineyard were going to be located in the county restricting the sale of wine and beer prior to construction of the vinification facilities or (ii) the primary business purpose of the farm winery licensee is to engage in the retail sale of wine in such county rather than the business of a farm winery.

Nothing in this subsection shall apply to a farm winery licensee that has a retail establishment for the sale of its wine in the county adjoining the county that restricts the Sunday sale of wine and beer if the retail establishment is within one-half mile of the farm winery's vinification facilities.

1979, c. 621, § 4-96.3; 1980, c. 543; 1993, c. 866; 2001, cc. 594, 783; 2007, c. 813.

§ 4.1-124.(Effective until July 1, 2021) Referendum on the sale of mixed beverages

A. The provisions of this title relating to the sale of mixed beverages shall be effective in any town, county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this title should be prohibited. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be prohibited in _____ (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's election district of a county on or after 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the same extent and subject to the same conditions and limitations as are otherwise applicable to counties under this section. Such towns shall be treated as separate local option units, and only residents of any such town shall be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having a population in excess of 1,000, however, shall also be

eligible to vote in any referendum held pursuant to this section for any county in which the town is located.

Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed under this title should be prohibited was previously held in the former city and a majority of the voters voting in such referendum voted "Yes."

B. Once a referendum has been held, no other referendum on the same question shall be held in the town, county, or supervisor's election district of a county for a period of 23 months.

C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property dedicated for industrial or commercial development and controlled through the provision of public utilities and covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement between three or more counties, cities, or towns and such jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the counties and that the governing board of the authority authorizes an establishment located within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-210. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin or sex.

1968, c. 7, §§ 4-98.12, 4-98.13; 1975, c. 517; 1979, c. 199; 1982, c. 31; 1985, c. 551; 1986, c. 70; 1988, c. 156; 1991, c. 690; 1993, c. 866; 1995, c. 177; 1997, c. 126; 2011, c. 560; 2015, cc. 38, 730; 2019, cc. 37, 178.

§ 4.1-124.(Effective July 1, 2021) Referendum on the sale of mixed beverages

A. The provisions of this title relating to the sale of mixed beverages shall be effective in any town, county, or supervisor's election district of a county unless a majority of the voters voting in a referendum vote "Yes" on the question of whether the sale of mixed alcoholic beverages by restaurants licensed under this title should be prohibited. The qualified voters of a town, county, or

supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be prohibited within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be prohibited in _____ (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages prohibited from sale by such referendum shall not be sold by restaurants within the town, county, or supervisor's election district of a county on or after 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the same extent and subject to the same conditions and limitations as are otherwise applicable to counties under this section. Such towns shall be treated as separate local option units, and only residents of any such town shall be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this section for any county in which the town is located.

Notwithstanding the provisions of this section, the sale of mixed beverages by restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 if a referendum on the question of whether the sale of mixed beverages by restaurants licensed under this title should be prohibited was previously held in the former city and a majority of the voters voting in such referendum voted "Yes."

B. Once a referendum has been held, no other referendum on the same question shall be held in the town, county, or supervisor's election district of a county for a period of 23 months.

C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property dedicated for industrial or commercial development and controlled through the provision of public utilities and covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement between three or more counties, cities, or towns and such jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the counties and that the governing board of the authority authorizes an establishment located within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-206.3. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin, or sex.

1968, c. 7, §§ 4-98.12, 4-98.13; 1975, c. 517; 1979, c. 199; 1982, c. 31; 1985, c. 551; 1986, c. 70; 1988, c. 156; 1991, c. 690; 1993, c. 866; 1995, c. 177; 1997, c. 126; 2011, c. 560; 2015, cc. 38, 730; 2019, cc. 37, 178; 2020, cc. 1113, 1114.

§ 4.1-125.Section 4.1-124 applicable to certain towns

The provisions of § 4.1-124 shall be applicable mutatis mutandis to any town within the Commonwealth which is entirely surrounded by a base of the United States armed forces.

1968, c. 761, § 4-98.12:1; 1993, c. 866.

§ 4.1-127.Contests of local option referenda

The regularity or legality of any referendum held pursuant to §§ 4.1-121, 4.1-123 and 4.1-124 shall be subject to the inquiry, determination, and judgment of the circuit court which ordered the referendum. The court shall proceed upon complaint of fifteen or more qualified voters of the county, city, or town, filed within thirty days after the date the results of the referendum are certified and setting out fully the grounds of contest. The complaint and the proceedings shall conform as nearly as practicable to the provisions of § 15.2-1654, and the judgment of the court entered of record shall be a final determination of the regularity and legality of the referendum.

Code 1950, § 4-47; 1993, c. 866.

§ 4.1-128.Local ordinances or resolutions regulating or taxing alcoholic beverages

A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance that (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsections B and E of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such inconsistency.

Code 1950, § 4-98; 1983, c. 340; 1993, c. 866; 2000, cc. 381, 450; 2007, cc. 140, 454; 2015, cc. 38, 730; 2017, cc. 157, 492.

§ 4.1-129.Local ordinances regulating time of sale of wine and beer

The governing body of each county may adopt ordinances effective in that portion of such county not embraced within the corporate limits of any incorporated town, and the governing body of each city and town may adopt ordinances effective in such city or town, prohibiting the sale of wine or beer, or both, between the hours of twelve o'clock p.m. on each Saturday and six o'clock a.m. on each Monday, or fixing hours within such period during which wine or beer, or both, may be sold. Such governing bodies shall provide for fines and other penalties for violations of any such ordinances which shall be enforced as if the violations were Class 1 misdemeanors, with a right of appeal

pursuant to § 16.1-106. Such ordinances shall not affect the sale of wine and beer on common carriers of passengers by train, boat, or airplane.

A copy of any ordinance adopted pursuant to this section shall be certified by the clerk of the governing body adopting it and transmitted to the Board.

On and after the effective date of any ordinance adopted pursuant to this section, no retail licensee authorized to sell wine or beer, or both, shall sell or permit the drinking of wine or beer on the premises of such licensee during the hours limited by the ordinance.

Code 1950, § 4-97; 1993, c. 866.

§ 4.1-130.Importation of beverages not under customs or internal revenue bonds; storage in approved warehouses; release

A. Notwithstanding the provisions of § 4.1-310, alcoholic beverages not under United States customs bonds or internal revenue bonds may be transported into and stored in the Commonwealth in warehouses which have been approved by the Board for that purpose.

The Board may refuse to approve any warehouse as a place where alcoholic beverages may be stored if it has reasonable cause to believe that the owner or operator of the warehouse is a person to whom or the place sought to be approved is one for which the Board may refuse to grant a license under the provisions of § 4.1-222, which shall apply mutatis mutandis, unless the provisions of such section are inapplicable.

The Board may disapprove any warehouse which has been approved as a place where alcoholic beverages may be stored if it has reasonable cause to believe that a ground exists for which the Board may suspend or revoke a license under the provisions of § 4.1-225, which shall apply mutatis mutandis, unless the provisions of such section are inapplicable.

B. Alcoholic beverages stored in warehouses in the Commonwealth pursuant to this section shall be released only on permits issued by the Board for delivery to the Board or to persons entitled to receive them within or outside the Commonwealth.

1962, c. 200, § 4-84.1; 1993, c. 866.

§ 4.1-131.Importation of beverages under customs bonds and holding in warehouses; release

A. Alcoholic beverages may be imported into the Commonwealth under United States customs bonds and be held in the Commonwealth in United States customs bonded warehouses. Alcoholic beverages may be removed from any such warehouse, wherever situated, to such a warehouse located in the Commonwealth and be held in the Commonwealth.

B. Alcoholic beverages so imported or removed to such warehouses in the Commonwealth shall be released from customs bonds in the Commonwealth only (i) for delivery to the Board, or to licensees entitled to receive them in the Commonwealth, as provided in § 4.1-310; (ii) to boats engaged in

foreign trade, trade between the Atlantic and Pacific ports of the United States, trade between the United States and any of its possessions outside of the several states and the District of Columbia, or for shipment outside of the Commonwealth; or (iii) in accordance with subsection C for the official or personal use of persons who are on duty in the United States as members of the armed forces of any foreign country, or their immediate family, authorized by federal laws and regulations to receive imported alcoholic beverages free of customs duties and internal revenue taxes.

C. Persons operating United States customs bonded warehouses and licensed as wholesalers or retailers may make sales and deliveries, in quantities determined by the Board, of alcoholic beverages held in customs bond to foreign armed forces personnel as provided in subsection B. Such sales may be made only on permits issued by the Board which shall cover the transportation of such imported alcoholic beverages, either by the operator of a customs bonded warehouse or purchaser from the operator, from such customs bonded warehouse to the place of duty or residence of such authorized persons.

Code 1950, § 4-85; 1958, c. 394; 1960, c. 101; 1984, c. 128; 1993, c. 866.

§ 4.1-132.(Effective until July 1, 2021) Transportation into or within Commonwealth under internal revenue bond and holding in warehouses; release

A. Alcoholic beverages may be transported into the Commonwealth under United States internal revenue bonds and be held in the Commonwealth in United States internal revenue bonded warehouses. Alcoholic beverages may be removed from any such warehouse, wherever situated, to such a warehouse located in the Commonwealth and be held in the Commonwealth.

B. Alcoholic beverages may be transported within the Commonwealth under United States internal revenue bonds and be held in United States internal revenue bonded warehouses. Alcoholic beverages may be removed from any such warehouse and transported to a winery or farm winery licensee in accordance with § 4.1-207.

C. Alcoholic beverages so transported or removed to such warehouses in the Commonwealth shall be released from internal revenue bonds in the Commonwealth only on permits issued by the Board for delivery to (i) boats engaged in foreign trade, trade between the Atlantic and Pacific ports of the United States, or trade between the United States and any of its possessions outside of the several states and the District of Columbia; (ii) installations of the United States Department of Defense; or (iii) holders of permits issued in accordance with subdivision A 14 of § 4.1-212.

Code 1950, § 4-86; 1954, c. 21; 1993, c. 866; 2003, c. 564; 2006, c. 826.

§ 4.1-132.(Effective July 1, 2021) Transportation into or within Commonwealth under internal revenue bond and holding in warehouses; release

A. Alcoholic beverages may be transported into the Commonwealth under United States internal revenue bonds and be held in the Commonwealth in United States internal revenue bonded

warehouses. Alcoholic beverages may be removed from any such warehouse, wherever situated, to such a warehouse located in the Commonwealth and be held in the Commonwealth.

B. Alcoholic beverages may be transported within the Commonwealth under United States internal revenue bonds and be held in United States internal revenue bonded warehouses. Alcoholic beverages may be removed from any such warehouse and transported to a winery or farm winery licensee in accordance with § 4.1-206.1.

C. Alcoholic beverages so transported or removed to such warehouses in the Commonwealth shall be released from internal revenue bonds in the Commonwealth only on permits issued by the Board for delivery to (i) boats engaged in foreign trade, trade between the Atlantic and Pacific ports of the United States, or trade between the United States and any of its possessions outside of the several states and the District of Columbia; (ii) installations of the United States Department of Defense; or (iii) holders of permits issued in accordance with subdivision A 13 of § 4.1-212.

Code 1950, § 4-86; 1954, c. 21; 1993, c. 866; 2003, c. 564; 2006, c. 826; 2020, cc. 1113, 1114.

§ 4.1-133.Bailment system of warehousing; prohibited fees and charges

In the event that the Board adopts any regulation or policy providing for bailment warehousing operations or otherwise requiring that a vendor of alcoholic beverages retain ownership or legal title to beverages purchased or ordered for purchase by the Board for any period after the Board or its agent comes into physical possession of such beverages, the Board shall not impose upon any vendor required to provide stock under such bailment system any:

1. Overstock fee or other charge based or premised in whole or in part upon the fact that a vendor has delivered to any warehouse, store or other facility owned or operated by the Board or its agent bailed stock in excess of any maximum inventory level established or suggested by the Board.

2. Space reservation fee or other charge based or premised in whole or in part upon the fact that a vendor has delivered to any warehouse, store or other facility owned or operated by the Board or its agent bailed stock in a quantity less than any minimum inventory level established or suggested by the Board.

3. Fee or charge for the movement of bailed stock within a bailment warehouse or other bailment facility, or from a bailment warehouse or other bailment facility to a work area in proximity to such warehouse or facility, not at the request of the vendor holding legal title to such stock for the purpose of inspecting such stock.

4. Fee or charge for conducting a physical inventory of bailed stock at the request of the vendor holding legal title to such stock, provided that no more than two such requests have been made within the current fiscal year with respect to the particular item or brand of stock that is the subject of the request.

5. Fee or charge for withdrawal of bailed stock by the vendor who retains legal title to such stock.

6. Fee or charge greater than fifteen dollars per hour for the placement of stock on pallets or other appurtenances designed to facilitate the movement of stock within the warehouse or other facility.

1996, c. 692.

Alexandria Historical Restoration and Preservation Commission

Created
1962 Acts of Assembly, c. 481.

Amendments
1976, c. 173 (§ 3)
1985, c. 76 (§ 5)
2002, c. 439 (§§ 1, 3)

§ 1. Definitions.
As used in this act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) "Commission." The Alexandria Historical Restoration and Preservation Commission.

(b) "Facilities." Those sites, historic or otherwise, whether residential or commercial situated in the restorable area, whether real, personal or mixed, as to which the Commission desires to exercise the authority granted in this act.

(c) "Restored facilities." Those sites, historic or otherwise, whether residential or commercial, situated in the restorable area, whether real, personal or mixed, which the Commission has acquired and which the Commission desires to restore, preserve, maintain, construct, reconstruct, produce, reproduce and operate for the use, benefit, education, recreation, enjoyment and general welfare of the people of the City of Alexandria the Commonwealth of Virginia and the United States, in accordance with the restoration period.

(d) "Restorable area." The area or areas of the City of Alexandria in which the Commission shall have been given the right to exercise the powers of this chapter by an ordinance duly enacted by the city council of Alexandria.

(e) "Restoration period." The period of time during which the Commission shall seek to conform the design, architecture and construction shall be from the founding of the City of Alexandria to and including a period extending back fifty years from the date that the Commission makes its determination to restore a facility. (1962, c. 481; 2002, c. 439)

§ 2. There is hereby created and constituted within the City of Alexandria a political subdivision of the Commonwealth of Virginia to be known as The Alexandria Historical Restoration and Preservation Commission. The purpose and function of the Commission shall be to acquire facilities in the restorable area and provide restores facilities in accordance with the restoration period. (1962, c. 481)

§ 3. The Commission shall consist of five members, three to be appointed by the city council of Alexandria and two to be appointed by the Governor; they shall be appointed within thirty days after the effective date of this act. Members of the original Commission shall be appointed for terms as follows: One for two years, two for three years and two for four years, provided that the members appointed by the Governor shall be appointed for four years, and thereafter members shall be appointed for four-year terms except appointments to fill vacancies for unexpired terms in which event the appointment shall be for the unexpired term only. The members of the Commission, including the chairman, shall receive no compensation for their services but shall be entitled to be reimbursed for per diem and travel expenses incurred in the performance of their official duties as members of the Commission. Each member shall give a surety bond in the sum of ten thousand dollars, executed by a surety company authorized to do business in this State, payable to the Governor and his successors in office, and conditioned upon the faithful performance of his duties.

The Commission shall be expanded to nine members beginning July 1, 2002. The additional members shall be appointed by the city council of Alexandria. Thereafter members shall be appointed for four-year terms except appointments to fill vacancies for unexpired terms, in which event the appointment shall be for the unexpired term only. (1962, c. 481; 1976, c. 173; 2002, c. 439)

§ 4. Not later than fifteen days after the appointment of its membership and annually thereafter the Commission shall hold an organizational meeting at which it shall elect from its membership a chairman, a vice chairman and a secretary-treasurer. No business shall be transacted by the Commission except at a regularly called meeting at which a quorum is present and the minutes thereof recorded. Permanent records shall be maintained which shall reflect all official transactions of the Commission. (1962, c. 481)

§ 5. The Alexandria City Director of Finance shall be the ex officio treasurer of the Commission and shall have the custody of all of its funds to be kept in a special account. All receipts and disbursements of the Commission shall be handled subject to the same laws, rules and regulations as city funds are handled. (1962, c. 481; 1985, c. 76)

§ 6. The Commission shall have power:

(a) To adopt a seal and alter the same at pleasure;

(b) To contract and be contracted with, to sue and be sued, to plead and be impleaded in all courts of law and equity;

(c) To exercise any power not in conflict with the Constitution and laws of this State or the United States which is possessed by private corporation;

(d) To establish an office in the City of Alexandria for the conduct of its affairs;

(e) To purchase, acquire, lease or otherwise hold, facilities or any interest therein for its authorized purpose;

(f) To own, hold, rent, sell, operate, maintain, repair and improve or otherwise dispose of its restored facilities or any interest therein for its authorized purposes;

(g) To acquire in its own name by purchase, grant, devise, gift or lease, on such terms and conditions and in such manner as it may deem necessary or expedient, facilities, including real property or rights or easements therein or franchises necessary or convenient for its purposes and to use the restored facilities so long as its existence shall continue and to lease or make contacts with respect to the use or disposal of same, or any part thereof, in any manner deemed by the Commission to be in its best interest but only for the purposes for which it is created;

(h) To demolish, clear or remove buildings from any restorable area; such work or undertaking may embrace the adaptation of such area to pubic purposes, including parks or other recreational or community purposes; or to provide restored facilities for residential or commercial use; such work or undertaking may include buildings, land, equipment, and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water services, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare or other purposes; or to accomplish a combination of the foregoing. To plan buildings and improvements of a residential or commercial design, to acquire property, to demolish existing structures, to construct, reconstruct, alter and repair improvements and all other work in connection with providing restored facilities in the restorable area.

(i) To employ and dismiss at pleasure consulting engineers, architects, superintendents or managers, accountants, inspectors and attorneys and such other employees as may be deemed necessary and to prescribe their powers and duties and to fix their compensation;

(j) To acquire facilities suitable for the uses of the Commission, and to improve, operate and maintain restored facilities for the purposes herein stated, or to act as trustee for any such facilities or restored facilities under such terms and conditions as the owner may prescribe and the Commission shall deem acceptable.

(k) To enter into contracts with the City of Alexandria for the purpose of providing police and fire protection, water, sanitation an other public services deemed necessary or expedient and said municipality is authorized to enter into such contracts;

(l) To contract with any agency of the State or federal government and any firm or corporation or the city of Alexandria, upon such terms and conditions as the Commission finds to its best interest, with respect to the establishment, construction, operation, and financing of the restored facilities of the Commission;

(m) To make and enter into all contracts or agreements, with or without competitive bidding, as the Commission may determine necessary, expedient or incidental to the performance of its duties or the execution of its powers under this act;

(n) To engage in any lawful business or activity deemed by it necessary or useful in the full exercise of its powers to establish, finance, maintain, and operate the restored facilities contemplated by this act, including the renting or leasing for revenue of any property, whether real, personal or mixed and whether improved or not, directly related to carrying out the purposes for which the Commission is created;

(o) To fix and collect charges for admission to any of the restored facilities operated and maintained by the Commission under the provisions of this act and to adopt and enforce reasonable rules and regulations to govern the conduct of the visiting public;

(p) To borrow money for any of its authorized purposes and for expenses incidental thereto included expenses incurred;

(q) To expend money for research, study and planning to carry out the purposes of this act in providing restored facilities in the restoration area;

(r) To perform all lawful acts necessary, convenient and incident to effectuating its function and purpose. (1962, c. 481)

Alleghany Airport Authority

Created
1978 Acts of Assembly, c. 690.

§ 1. Definitions.
As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

1. The word "Authority" shall mean the Alleghany Airport Authority hereinafter created or, if the Authority shall be abolished, the board, body, or commission or agency succeeding to the principal functions thereof or upon whom the powers given by this act to the Authority shall be conferred by law.

2. The word "project" shall mean an airport for general, commercial and private use constructed by the Authority under the provisions of this act, together with all necessary and convenient approaches, roads and streets used in connection with such airport.

3. The term "cost of the project" shall embrace the cost of construction, landscaping and conservation, the cost of acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the Authority for the construction and operation of the project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the Authority for a period not exceeding one year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, provision for working capital and a reserve for interest, other expenses necessary or incident to determining the feasibility or practicability of constructing the project, administrative expenses, and such other expenses as may be necessary or incident to the construction of the project, the financing of such construction and the placing of the project in operation.

4. The word "bonds" or the words "revenue bonds" shall mean revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this act. (1978, c. 690)

§ 2. Credit of Commonwealth and political subdivisions not pledged.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any county, city, district or political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any county, city, district or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the Commonwealth or any county, city or district therein or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the provisions of this act and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this act. (1978, c. 690)

§ 3. "Alleghany Airport Authority."

There is hereby created and constituted a political subdivision of the Commonwealth to be known as the "Alleghany Airport Authority". The exercise by the Authority of the powers conferred by this act in the construction, operation and maintenance of the project authorized by this act shall be deemed and

held to be the performance of an essential governmental function. The Authority shall consist of five members all of whom shall be appointed by their respective governing bodies in the county of Alleghany and the cities of Covington and Clifton Forge, as hereinafter provided, all of whom shall be residents of such political subdivisions at the time of their appointment and during their tenure. Two of the members of the Authority first appointed shall continue in office for terms expiring on June thirty, nineteen hundred eighty-one, one from the county and the other from the city of Covington, two for terms expiring on June thirty, nineteen hundred eighty, one from the county and the other from the city of Clifton Forge; and one, from the city of Covington, for a term expiring on June thirty, nineteen hundred seventy-nine. They shall continue to serve until their successors, chosen from the same political subdivisions, shall be duly appointed and qualified. The successor of each such member shall be appointed for a term of five years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Authority shall be eligible for reappointment. Members of the Authority shall be subject to removal from office in like manner as are State, county, town and district officers under the provisions of § 24.1-79.1 et seq. of the Code of Virginia. The Authority shall annually elect one of its members as chairman and another as vice-chairman and shall also elect annually a secretary-treasurer, who may or may not be a member of the Authority.

The secretary-treasurer shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates.

Three members of the Authority shall constitute a quorum and the affirmative vote of three members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority

Before the issuance of any revenue bonds under the provisions of this act the secretary-treasurer of the Authority shall execute a surety bond in the penal sum of fifty thousand dollars, such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the Commonwealth as surety and to be approved by the Attorney General and filed in the office of the Secretary of the Commonwealth.

The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties. Each member shall also be paid the sum of fifty dollars per day for each day or portion thereof during which he is engaged in the performance of his duties. (1978, c. 690)

§ 4. General grant of powers.

The Authority is hereby authorized and empowered:

1. To adopt bylaws for the regulation of its affairs and the conduct of its business;

2. To adopt an official seal and alter the same at pleasure;

3. To determine the location of the project, to determine, in its discretion the design standards and the materials of construction, and to construct, maintain, repair and operate the project;

4. To issue revenue bonds of the Authority for any of its purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

5. To fix and revise from time to time and charge and collect tolls, rates, fees, rentals and other charges for the use of the project;

6. To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

7. To employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

8. To enter upon any lands and premises for the purpose of making such surveys, soundings, borings and examinations as the Authority may deem necessary or convenient for its purposes, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings; provided, however, the Authority shall pay any actual damage resulting to such lands and premises as a result of such entry and activities as a part of the cost of the project;

9. To sue and be sued in its own name, plead and be impleaded;

10. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act; and

11. To do all acts and things necessary and convenient to carry out the powers expressly granted in this act. (1978, c. 690)

§ 5. Acquisition of property.

A. The Authority is hereby authorized and empowered to acquire by purchase solely from funds provided under the provisions of this act, such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and the commissions of the Commonwealth, with the approval of the Governor, and the county of Alleghany and the cities of Covington and Clifton Forge, notwithstanding any contrary provisions of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court or other action or formality, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public highways and other real property already devoted to public use.

B. The Authority established hereunder is hereby granted full power to exercise the right of eminent domain in the acquisition of any lands, easements, privileges or other property interests which are necessary for airport and landing field purposes, including the right to acquire, by eminent domain, avigation easements over lands or water outside the boundaries of its airport or landing fields where necessary in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport and landing fields even though such avigation easement be inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition. Proceedings for the acquisition of such lands, easements and privileges by condemnation may be instituted and conducted in the name of the Commission in accordance with Title 25, as amended, of the Code of Virginia.

C. Title to any property acquired by the Authority shall be taken in the name of the Authority.

D. In any eminent domain proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the Authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security nor any act or obligation of the Authority shall impose any liability upon the Commonwealth or upon any county, or other political subdivision of the Commonwealth.

E. If the owner, lessee or occupier of any property to be condemned or otherwise acquired shall refuse to remove his property therefrom or give up possession thereof, the Authority may proceed to obtain possession in any manner provided by law. (1978, c. 690)

§ 6. Revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or

rates not exceeding such interest rate as is permissible by law, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bond and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this act.

The proceeds of the bonds shall be used solely for the payment of the cost of the project, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or

the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this act. (1978, c. 690)

§ 7. Trust agreement.

In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project, the rates of toll or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project. (1978, c. 690)

§ 8. Revenues.

The Authority is hereby authorized to fix, revise, charge and collect tolls or other charges for the use of the project and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the airport for placing thereon telephone, telegraph, electric light or power lines, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls or other charges shall be so fixed and adjusted in respect of the aggregate of tolls or other charges from the project as to provide a fund sufficient with other revenues, if any, to pay (i) the cost of maintaining, repairing and operating such project and (ii) the principal of and interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. The tolls and all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the

payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Any pledge made by the Authority pursuant to this chapter shall be governed by the laws of the Commonwealth. The use and disposition of monies to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1978, c. 690)

§ 9. Trust funds.

All monies received pursuant to the provisions of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. The Authority shall, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues to be received by a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this act, subject to such regulations as this act and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds. (1978, c. 690)

§ 10. Remedies.

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of tolls or other charges. (1978, c. 690)

§ 11. Exemption from taxation.

The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this Act or upon the income therefrom; and the bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale

thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof. (1978, c. 690)

§ 12. Revenue refunding bonds.

The Authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable. (1978, c. 690)

§ 13. Act liberally construed.

This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1978, c. 690)

§ 14. Constitutional construction.

The provisions of this act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein. (1978, c. 690)

§ 15. Inconsistent laws inapplicable.

All other general or special laws inconsistent with any provision of this act are hereby declared to be inapplicable to the provisions of this act. (1978, c. 690)

Alleghany-Highlands Economic Development Authority

§ 15.2-6200.Authority created; name

The Alleghany-Highlands Economic Development Authority, hereinafter referred to as the Authority, is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter. Each locality within the region may become a member of the Authority upon passage of a region-wide concurrent resolution by the governing bodies. The resolution may be passed at any time prior to the effective date of this chapter; otherwise, membership shall be effective July 1, 1993.

1993, c. 982, § 15.1-1662; 1997, c. 587.

§ 15.2-6201.Findings of fact

The economy of the Alleghany-Highlands region has not kept pace with that of the rest of the Commonwealth. The economic problems of the Alleghany-Highlands region are due in large part to its inability to diversify. The region has suffered, and continues to suffer, widespread unemployment in great disproportion to the rest of the Commonwealth.

The Alleghany-Highlands Economic Development Authority will assist this region of the Commonwealth to achieve a greater degree of economic stability.

It is hereby further declared that the foregoing is a public purpose and use for which public moneys may be spent and such activity will serve a public purpose in providing jobs to the citizens of the Commonwealth.

1997, c. 587.

§ 15.2-6202.Duties of Authority; governmental functions

A. The Authority shall provide financial support (i) for the purchase of real estate, construction of buildings for sale or lease, installation of utilities and any other support improvements it deems necessary, including flood control dams, and (ii) for direct loans and grants to private for-profit basic employers. The Authority shall also apply for matching funds from the state or federal government, or the private sector. All such loans and grants may be managed by the Fifth Planning District Commission.

B. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth, particularly the County of Alleghany and the Town of Clifton Forge; for the increase of their commerce; and for the promotion of their safety, health, welfare, convenience and prosperity.

C. For purposes of this chapter, "Alleghany-Highlands Region" includes the County of Alleghany and the Town of Clifton Forge.

1993, c. 982, § 15.1-1663; 1997, c. 587; 2006, c. 861.

§ 15.2-6203.Board of Authority; members and officers; staff; annual report

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Alleghany-Highlands Economic Development Authority, hereinafter referred to as the Board or the Board of the Authority. Initial appointments shall begin July 1, 1993. The Board shall consist of seven members as follows: one representative of each of the region's governing bodies, or their designees, who shall be appointed by the respective governing bodies and shall be residents of the region; four at-large members, who shall be appointed by the Governor and shall be residents of the region; and one member to be appointed by the Chief Executive Officer of the Virginia Economic Development Partnership. However, all appointments made after July 1, 2005, shall be made solely by the participating governing bodies, in a manner agreed to by the governing bodies. All members shall serve for a term of four years and may be reappointed for one additional term. For the initial appointments only, two of the four at-large members shall be appointed for two-year terms and such initial terms shall not be counted toward the term limitation.

B. Each member of the Board shall, before entering upon the discharge of the duties of his office, take and subscribe to the oath prescribed in § 49-1. Members shall be reimbursed for actual expenses incurred in the performance of their duties.

C. Four members of the Board shall constitute a quorum, and the affirmative vote of four members of the Board shall be necessary for any action taken by the Board. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

D. The Board shall elect from its membership a chairman and a secretary-treasurer for each calendar year. The secretary-treasurer shall keep the minutes of the Board and affix the seal of the Authority.

The Board may also appoint an executive director and staff who shall discharge such functions as may be directed by the Board.

E. The Board, promptly following the close of the fiscal year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, and the board of supervisors and town council of the Region. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year.

1993, c. 982, § 15.1-1664; 1994, c. 448; 1996, cc. 590, 598; 1997, c. 587; 2005, c. 671; 2006, c. 861; 2010, c. 869.

§ 15.2-6204.Office of Authority; title to property

The Board shall maintain the principal office of the Authority within the Region. All records shall be kept and business transacted at such office. The title to all property of every kind belonging to the

Authority shall be titled to the Authority, which shall hold it for the benefit of its members and the Commonwealth.

1993, c. 982, § 15.1-1665; 1997, c. 587.

§ 15.2-6205.General powers of Authority; regulations; enforcement of statutes, rules, etc

The Authority acting through its Board:

1. Is vested with the powers of a body corporate, including the power to sue and be sued, plead and be impleaded, make contracts, and adopt and use a common seal and alter the same as may be deemed expedient;

2. May retain legal counsel to represent the Authority in hearings, controversies, or matters involving the interests of the Authority and the furtherance of its purposes; and

3. May adopt, alter or repeal its own bylaws and regulations which govern the manner in which its business may be transacted and may provide for the appointment of such committees, and the functions thereof, as the Authority deems necessary to facilitate its business. Each committee shall consist of the number of persons as the Authority deems advisable. Committee members shall receive no compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on the business of the Authority. The Authority may set a flat fee for the expenses of a member in attendance at a meeting of the Authority or at its other functions. Such fee shall not exceed $100 per day.

1993, c. 982, § 15.1-1666; 1997, c. 587.

§ 15.2-6206.Further powers

The Authority may:

1. Enter into contractual agreements in furtherance of its purpose;

2. Rent, lease, including the execution of leases with option to purchase, buy, own, acquire and dispose of such property, real or personal, as the Authority deems proper to carry out any of the purposes and provisions of this chapter;

3. Apply for and accept grants or loans of money or other property from any federal agency for any of the purposes authorized in this chapter and expend or use the same in accordance with the directions and requirements attached thereto or imposed thereon by any such federal agency; and

4. Perform any act or function which is in accord with the purposes of this chapter, including (i) borrowing money, including issuing bonds, (ii) providing for the guarantee of loans, and (iii) employing such persons as the Board deems necessary to carry on the business of the Authority.

1993, c. 982, § 15.1-1667; 1997, c. 587.

§ 15.2-6207.Acceptance of funds, property, grants, or loans

The Authority may accept funds and property from the federal government, the Commonwealth, persons, and localities and may use the same for any of the purposes for which the Authority is created.

Localities are hereby authorized to lend or donate money or other property to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality.

1993, c. 982, § 15.1-1668; 1997, c. 587.

§ 15.2-6208.Eligible use of funds

From such funds as may be appropriated or received, the Authority may make loans and grants for the benefit of qualified private, for-profit enterprises and public or not-for-profit enterprises, nonprofit industrial development corporations, or industrial development authorities for financing the following:

1. Purchase of real estate;

2. Grading of sites;

3. Water, sewer, natural gas or electrical line improvements, replacement and extensions;

4. Construction, rehabilitation, and expansion of buildings;

5. Construction of parking facilities;

6. Access roads construction and street improvements;

7. Purchase or lease of machinery and tools; and

8. Any other improvements deemed necessary by the Authority to meet its objectives.

1993, c. 982, § 15.1-1669; 1997, c. 587.

§ 15.2-6209.Capitalization of Authority

On or before January 1, 1994, and on or before the first day of each year thereafter, each county and town that is a member of the Authority may remit to the Authority an amount it deems appropriate for Authority purposes.

1993, c. 982, § 15.1-1670; 1997, c. 587; 2005, c. 671; 2006, c. 861.

§ 15.2-6210.Proceeds held

The secretary-treasurer may invest and reinvest funds of the Authority pending their need. All moneys received by the Authority pursuant to § 15.2-6208, together with any matching funds received from state or federal sources, shall be applied and used only in the county or town from which the funds were received, unless the governing body of the county or town consents to their use in another county, city, or town.

1993, c. 982, § 15.1-1671; 1997, c. 587; 2006, c. 861.

§ 15.2-6211.Forms of accounts and records; audit of same

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises. The accounts and records of the Authority shall be subject to audit pursuant to § 30-140 and the costs of such audit services shall be borne by the Authority. The Authority's fiscal year shall be the same as the Commonwealth's.

1993, c. 982, § 15.1-1672; 1997, c. 587.

§ 15.2-6212.Dissolution of Authority

Each member locality of the Authority may withdraw from the Authority only upon dissolution of the Authority as set forth herein. Whenever the Board determines that the purpose for which the Authority was created has been substantially fulfilled or is impractical or impossible to accomplish and that all obligations incurred by the Authority have been paid or that cash or a sufficient amount of United States government securities has been deposited for their payment, or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the Board may adopt resolutions declaring and finding that the Authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving the Authority may be introduced in the General Assembly. The dissolution of the Authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by the Authority at the time of such dissolution shall vest in the counties and cities which have contributed to the fund in proportion to their respective contributions.

1993, c. 982, § 15.1-1673; 1997, c. 587.

§ 15.2-6213.Chapter liberally construed

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

1993, c. 982, § 15.1-1674; 1997, c. 587.

§ 15.2-6214.Revenue sharing agreements

Notwithstanding the requirements of Chapter 34 (§ 15.2-3400 et seq.) of Title 15.2, the County of Alleghany and the Town of Clifton Forge may agree to a revenue and economic growth sharing arrangement with respect to tax revenues generated by any industry, business or other for-profit employment generating enterprise locating in any of the localities. The obligations of the parties to any such agreement shall not be construed to be debt within the meaning of Article VII, Section 10 of the Constitution of Virginia. Any such agreement shall be approved by a majority vote of the governing bodies of the localities reaching agreement but shall not require any other approval.

1993, c. 982, § 15.1-1675; 1997, c. 587; 2006, c. 861.

Assistive Technology Loan Fund Authority (ATLFA)

§ 51.5-53.Definitions

As used in this chapter, unless the context clearly requires a different meaning:

"Assistive technology" means any item, piece of equipment or device that enables an individual with a disability to improve his or her independence and quality of life.

"Authority" means the Assistive Technology Loan Fund Authority established pursuant to this chapter.

"Board" means the Board of Directors of the Assistive Technology Loan Fund Authority.

"Bonds" means notes, bonds, certificates, and other evidence of indebtedness or obligation of the Authority.

"Fund" means the Assistive Technology Loan Fund established pursuant to this chapter.

"Qualifying borrower" means any person who demonstrates that a loan made pursuant to this chapter will assist one or more persons with disabilities to improve their independence or become more productive members of the community. The person must demonstrate creditworthiness and repayment abilities to the satisfaction of the Board.

1995, c. 812; 2004, c. 728.

§ 51.5-54.Declaration of purpose; Assistive Technology Loan Fund Authority established

A. It is hereby found and determined by the General Assembly that there exists in the Commonwealth a need to provide assistance with loans and in the purchase of assistive technology equipment, or other equipment, which is designed to enable persons with disabilities to become more independent or more productive members of the community with an improved quality of life.

B. To achieve the objectives of subsection A, the Assistive Technology Loan Fund Authority is hereby created, with such powers and duties as are set forth in this chapter, as a public body corporate and as a political subdivision of the Commonwealth.

1995, c. 812; 2002, c. 19.

§ 51.5-55.Membership of Board; terms, compensation, and expenses

A. All powers, rights and duties conferred by this chapter or other provisions of law upon the Authority shall be exercised by the Board of Directors of the Authority. The Board shall consist of 12 members as follows: the Secretary of Health and Human Resources or his designee; an employee of the Wilson Workforce and Rehabilitation Center; an experienced consumer lender; a certified public accountant; two persons with investment finance experience; and six persons with a range of disabilities. The citizen members shall be appointed by the Governor and confirmed by the General Assembly. The Board shall annually elect a chairman from among its members. Board members shall receive no

salaries but shall be reimbursed for all reasonable and necessary expenses incurred by them in the performance of their duties on behalf of the Authority.

B. The 10 citizen members of the Board shall be appointed for four-year terms, except that appointments to fill vacancies shall be made for the unexpired terms. Representatives of state agencies shall serve coincident with the term of the Governor. No member appointed by the Governor shall be eligible to serve more than two complete terms in succession.

C. Meetings of the members of the Board shall be held at the call of the chairman or whenever six members so request. The Board may delegate to a loan committee of at least six members the authority to review and approve or deny loan applications based upon information provided to or obtained by the Board, in accordance with criteria established by the Board. In any event, the Board shall meet as necessary to attend to the business of the Authority.

1995, c. 812; 1996, c. 930; 2000, cc. 21, 294; 2002, c. 19; 2012, c. 483; 2015, c. 542.

§ 51.5-56.Powers of the Authority

The Authority is hereby granted all powers necessary or appropriate to carry out and effectuate its purposes including, but not limited to, the following powers to:

1. Have perpetual existence as a public body corporate and as a political subdivision of the Commonwealth;

2. Adopt, amend, and repeal bylaws, rules and regulations not inconsistent with this chapter, to regulate its affairs and to carry into effect the powers and the purposes of the Authority and for the conduct of its business. All regulations of the Authority shall be promulgated in accordance with the Administrative Process Act (§ 2.2-4000 et seq.);

3. Sue and be sued in its name;

4. Have an official seal and alter it at will;

5. Establish, administer, manage, including the creation of reserves, and make expenditures from the Fund for the sole purpose of providing loans to individuals with disabilities for the acquisition of assistive technology, other equipment, or other authorized purposes;

6. Administer the Fund established by this chapter and contract with the State Treasurer and other state or community-based entities or groups working with persons with disabilities for such assistance in administering the loan program as the Board may require;

7. Maintain an office at such place or places within the Commonwealth as it may designate;

8. Make and execute contracts and all other instruments necessary and convenient for the performance of its duties and the exercise of its powers under this chapter upon such terms and

conditions as it deems appropriate, including contracts with appropriate state or community-based entities or groups dealing with disabled persons;

9. Employ office personnel, advisers, consultants, professionals and agents as may be necessary in its judgment, and to fix their compensation. The Board shall appoint an executive director who is subordinate to the Board, and the Board shall ensure that the executive director complies with all Board, regulatory, and statutory directives. Legal services in civil matters shall be rendered and performed by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2, and special counsel may only be employed with approval and appointment by the Attorney General or as may otherwise be authorized by § 2.2-510;

10. Procure insurance against any loss in connection with its property and other assets, including, but not limited to, loans in such amounts and from such insurers as it may deem advisable;

11. Receive, hold, accept, and administer from any source gifts, grants, aid or contributions of money, property, labor or other things of value to be held, used and applied to carry out the purposes of this chapter (subject, however, to any conditions upon which grants or contributions are made) including, but not limited to, gifts, grants, bequests of money or devises from any source, including the federal government or any of its agencies or instrumentalities for the purposes of this chapter. Unless otherwise restricted by the terms of the gift or bequest, the Board is authorized to sell, exchange, or otherwise dispose of such money, securities, or other property given or bequeathed to it in furtherance of its purposes;

12. Borrow money to carry out the purposes of this chapter and to execute evidences of such indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from funds pledged for that purpose and to provide for the payment of the same and for the rights of the holders thereof, provided that, any moneys borrowed, whether through the use of bonds or other indebtedness, may be secured or paid solely from funds received pursuant to subdivision 11 or funds received from the fees and charges imposed by the Authority pursuant to subdivision 14;

13. Use any fund or funds of the Authority for any and all expenses to be paid by the Authority including, by way of example, but not by limitation, any and all expenses for administrative, legal, and other services;

14. Collect fees and charges, as the Authority determines to be reasonable, in connection with its loans, insurance, guarantees, commitments and servicing thereof;

15. Take any action necessary or convenient for the exercise of the powers granted by this chapter or reasonably implied from them; and

16. Maintain the confidentiality of financial, medical, rehabilitative and other personal information submitted to or maintained by the Authority concerning applicants for or recipients of loan funds. Such

information shall not be subject to the mandatory disclosure provisions of § 2.2-3704 or the public meeting requirements of § 2.2-3711 of the Virginia Freedom of Information Act.

1995, c. 812; 2002, c. 19; 2004, c. 728; 2006, cc. 344, 380.

§ 51.5-57.Assistive Technology Loan Fund established

A. There is hereby established a permanent and perpetual fund to be known as the Assistive Technology Loan Fund, consisting of such moneys as may be appropriated by the General Assembly from time to time, gifts, bequests, endowments or grants from the United States government, its agencies and instrumentalities, all receipts by the Fund from loans made by it, all income from the investment of moneys held in the Fund, and any other available sources of funds, public and private. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment of such funds shall remain in the Fund and be credited to it.

B. The Fund shall be used to provide loans to individuals with disabilities within the Commonwealth for the purpose of acquiring assistive technology, other equipment, or other authorized purposes designed to help such individuals become more independent. The Fund shall also be used to buy down interest rates of lending institutions making such loans and provide a loan guarantee for loans made by lending institutions for such purposes. The Fund shall be used only when, in the discretion of the Board, loan applicants have met eligibility criteria and the release of money is deemed appropriate.

C. The Fund shall be administered and managed by the Authority. The costs and expenses of maintaining, servicing and administering the Fund may be paid out of amounts in the Fund.

1995, c. 812; 2002, c. 19.

§ 51.5-58.Provision of loans

A. The Board may enter into loan agreements with any qualifying borrower who demonstrates (i) that the loan will be used to acquire assistive technology, other equipment, or other authorized purposes designed to help one or more persons with disabilities to improve their independence or become more productive members of the community and (ii) who has the ability to repay the loan.

B. The amount and terms of any loan shall be determined by the Board.

C. All loans must be repaid on such terms and at such interest rates as the Board may, from time to time, determine to be appropriate in accordance with a procedure prescribed by regulations adopted pursuant to the Administrative Process Act (§ 2.2-4000 et seq.).

1995, c. 812; 2002, c. 19.

§ 51.5-59.Annual report; Auditor of Public Accounts to audit books and accounts

The Board shall submit an annual report that includes a statement of the receipts, disbursements, and current investments of the Fund for the preceding year to the Governor and the General Assembly. The report shall set forth a complete operating and financial statement covering the operation of the Fund during the year, including any loan fund or loan guarantee fund the Authority administers or manages. The Auditor of Public Accounts or his legally authorized representatives shall audit the books and accounts of the Authority and any loan fund or loan guarantee fund the Authority administers or manages as determined necessary by the Auditor of Public Accounts.

1995, c. 812; 2006, cc. 344, 380; 2018, cc. 57, 307.

Authorities for Development of Former Federal Areas

§ 15.2-6300.Declaration of policy for authorities created by the Governor

This legislation is enacted to provide for the acquisition by political subdivisions of areas which have been or may hereafter be occupied as United States government military installations and which are disposed of by the United States government. The industrial and economic development of localities included in or adjacent to such military installations and the tax revenues of the Commonwealth will be seriously affected by the manner in which such areas are returned to nonmilitary uses and to the tax rolls, no provision having been made therefor. The proper development of such areas industrially and otherwise is required so that local governments may derive revenues with which to render necessary services to their citizens and so that industrial development; job creation; and housing, recreational, commercial, educational and other economic and social development may be fostered and stimulated to prevent the creation of blighted areas in the Commonwealth with resultant injury to all. The creation by this chapter and operation of authorities pursuant to this chapter are governmental functions of the gravest concern to the Commonwealth and the need for this enactment being a matter of legislative policy such need is hereby declared as a matter of legislative determination.

Code 1950, § 15-937; 1954, c. 645; 1962, c. 623, § 15.1-1320; 1996, c. 740; 1997, c. 587; 2005, cc. 869, 887.

§ 15.2-6300.1.Declaration of policy for authorities created by a locality

It is further found and declared that: It being the policy of the federal government to promote the development of federal employee housing, including military housing, office buildings and other infrastructure through partnerships with private and governmental entities, the purpose of such transactions being to help the federal government get needed infrastructure in place more quickly, and to increase the value of its installations, the creation and operation of the authorities by a locality and the granting to such an authority of the powers set forth under this chapter are necessary for the public welfare, to enable more efficient cooperation with the federal government, and to increase the value of federal installations in the Commonwealth.

2005, cc. 869, 887.

§ 15.2-6301.Definitions

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

"Adjacent to such authority" includes real or personal property which is contiguous, neighboring, or within reasonable proximity of an authority.

"Area of operation" means an area coextensive with the territorial boundaries of the land acquired from the federal government by the authority.

"Authority" means any political subdivision created by this chapter. The terms "an authority" or "the authority" refer to each such authority.

"Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this chapter.

"Commissioners" means the members of the board of commissioners of an authority.

"Facility" means a particular building or structure or particular buildings or structures, including all equipment, appurtenances and accessories necessary or appropriate for the operation of such facility.

"Federal area" means an area coextensive with the territorial boundaries that is, or has been, occupied by a United States governmental activity or operation.

"Federal government" includes the United States of America, or any department, agency or instrumentality, corporate or otherwise, of the United States of America.

"Former federal area" means an area coextensive with the territorial boundaries that is, or has been, occupied by a United States governmental military installation and which is, or appears likely to be, subject to disposal by the United States government to public bodies, or otherwise.

"Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, and the federal government when it is a party to any contract with the authority.

"Project" means any specific enterprise undertaken by an authority, including the facilities as hereinafter defined, and all other property, real or personal or any interest therein, necessary or appropriate for the operation of such property.

"Public body of the Commonwealth" means any city, town, county, municipal corporation, commission, district, authority, other political subdivision or public body of the Commonwealth.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

Code 1950, § 15-938; 1954, c. 645; 1962, c. 623, § 15.1-1321; 1997, c. 587; 2005, cc. 839, 869, 887.

§ 15.2-6302.Establishment of development authorities

With regard to an authority created by the Governor, there is hereby created with respect to every former federal area a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in this chapter. Each such authority shall be designated as the _____ _____ Development Authority (with a name chosen by the Governor descriptive of the area in which the property is located); however, no authority shall exercise any power or transact any business hereunder unless or until the Governor upon receipt of a duly certified resolution of the

governing body of each of the localities within the area of operation of an authority requesting such action, shall proclaim that a former federal area exists with respect to which an authority should function under the terms of this chapter. Any such authority for which such a proclamation has been issued may proceed to transact business and to exercise its powers hereunder at any time after the selection of the commissioners of the authority, as set forth in § 15.2-6304.

Alternatively, the governing body of the City of Hampton may by ordinance create a development authority for the development or redevelopment of federal areas. The ordinance creating such an authority shall not be adopted or approved until a public hearing has been held on the question of its adoption or approval.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of or action by the authority, the authority shall be conclusively presumed to have been established and authorized to transact business and exercise its powers hereunder (i) upon proof of the action of the Governor in issuing a proclamation with reference to such authority and the designation of its name by the Governor, which descriptive name can be altered by the authority as may be deemed expedient, or (ii) upon the adoption and approval of an ordinance by the City of Hampton in accordance with this section.

Code 1950, § 15-939; 1954, c. 645; 1962, c. 623, § 15.1-1322; 1997, c. 587; 2003, c. 246; 2005, cc. 869, 887.

§ 15.2-6303.Authorities to file annual reports

At least once a year, each authority shall file with the Governor a report of its activities for the preceding year.

Code 1950, § 15-940; 1954, c. 645; 1962, c. 623, § 15.1-1323; 1997, c. 587.

§ 15.2-6304.Board of commissioners; appointment of director, agents and employees

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon an authority created hereunder shall be exercised by a board of commissioners of that authority, hereinafter referred to as board or board of commissioners.

B. In the case of authorities created by proclamation of the Governor pursuant to § 15.2-6302, the board shall consist of seven members to be appointed by the Governor, of whom at least five shall be residents of the locality or localities in which the authority is located. The members shall serve for terms of six years each, the initial appointment to be two members for terms of six years, two members for terms of five years, two members for terms of four years and one member for a term of three years, and subsequent appointments to be made for terms of six years, except appointments to fill vacancies which shall be made for the unexpired term.

C. In the case of authorities created by the City of Hampton pursuant to § 15.2-6302, the board shall initially consist of up to seven members appointed by the locality in which the authority is located, all of whom shall be residents of such locality. Beginning in 2010, the board shall consist of up to nine members appointed by the locality in which the authority is located, all of whom shall be residents of such locality. The members shall serve for terms of not more than four years each. If a member resigns, dies, or is otherwise removed from his position on the board, the locality may appoint a new member to fill the vacancy for the remainder of the unexpired term.

D. Members shall receive from the authority their necessary travel and business expenses while on business of the board. Each commissioner shall before entering on his duties take and subscribe the oath prescribed by § 49-1.

E. The board shall appoint the chief executive officer of the authority, who shall not be a member thereof, to be known as the director of that authority, hereinafter referred to as director, and whose compensation shall be paid by the authority in the amount determined by the board. The board shall employ or retain such other agents or employees subordinate to the director as may be necessary, including persons with special qualifications, and shall determine which such agents or employees shall be bonded and the amount of such bonds. The director and other agents and employees so appointed shall serve at the pleasure of the board, which shall fix their compensation and prescribe their duties.

The board shall elect from its membership a chairman, vice-chairman, a secretary and a treasurer, or secretary-treasurer, and shall prescribe their powers and duties. Four members shall constitute a quorum of the board for the purpose of conducting its business and exercising its powers and for all other purposes. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection. It shall keep suitable records of all of its financial transactions and shall arrange to have the same audited annually.

Code 1950, § 15-941; 1954, c. 645; 1962, c. 623, § 15.1-1324; 1996, c. 740; 1997, c. 587; 2005, cc. 869, 887; 2007, cc. 707, 740; 2010, cc. 338, 381, 460.

§ 15.2-6305.Powers and duties of director

The director shall exercise such of the powers and duties relating to the authority conferred upon the board as may be delegated to him by the board, including powers and duties involving the exercise of discretion. The director shall also exercise and perform such other powers and duties as may be lawfully delegated to him, and such powers and duties as may be conferred or imposed upon him by law.

Code 1950, § 15-942; 1954, c. 645; 1962, c. 623, § 15.1-1325; 1997, c. 587.

§ 15.2-6306.Principal and branch offices

The board of each authority created by proclamation of the Governor pursuant to § 15.2-6302 shall establish a principal office within one of the counties included in the authority. The board may also establish such branch offices as may be considered by the board to be appropriate to the efficient operation of the authority.

Code 1950, § 15-943; 1954, c. 645; 1962, c. 623, § 15.1-1326; 1997, c. 587; 2005, cc. 869, 887.

§ 15.2-6307.Legal services

For such legal services as it may require, the authority may employ its own counsel and legal staff or make use of legal services made available to it by any public body, or both.

Code 1950, § 15-944; 1954, c. 645; 1962, c. 623, § 15.1-1327; 1997, c. 587.

§ 15.2-6308.Powers of authorities generally

An authority shall have the following powers:

1. To sue and be sued; to adopt and use a common seal and to alter the same as may be deemed expedient; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with law, to carry into effect the powers and purposes of the authority.

2. To foster and stimulate the industrial, social and other economic development of its area of operation, including without limitation development for industrial, employment, housing, commercial, recreational, educational and other public purposes; to prepare and carry out plans and projects to accomplish such objectives; to provide for the construction, reconstruction, improvement, alteration, maintenance, removal, equipping or repair of any buildings, structures or land of any kind; to sell, lease or rent to others or to develop, operate or manage with others in a joint venture or other partnering arrangement, on such terms as it deems proper and which are consistent with the provisions of § 15.2-6317, any lands, dwellings, houses, accommodations, structures, buildings, facilities, or appurtenances embraced within its area of operations; to establish, collect and revise the rents charged and terms and conditions of occupancy thereof; to terminate any such lease or rental obligation upon the failure of the lessee or renter to comply with any of the obligations thereof; to arrange or contract for the furnishing by any person or agency, public or private, of works, services, privileges or facilities in connection with any activity in which the authority may engage; to acquire, own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, easement, dedication or otherwise any real or personal property or any interest therein, which purchase, lease, or acquisition may be made for less than fair market value; to sell, lease, exchange, transfer, assign, or pledge any real or personal property or any interest therein, which sale, lease, or other transfer or assignment may be made for less than fair market value; to dedicate, make a gift of, or lease for a nominal amount, any real or personal property or any interest

therein to the Commonwealth, or the localities or agencies, public or private, within the area of operation or adjacent to such authority, jointly or severally, for public use or benefit, such as, but not limited to, game preserves, playgrounds, park and recreational areas and facilities, hospitals, clinics, schools and airports; to acquire, lease, maintain, alter, operate, improve, expand, sell or otherwise dispose of on-site utility and infrastructure systems or sell any excess service capacity for off-site use; to acquire, lease, construct, maintain and operate and dispose of tracks, spurs, crossings, terminals, warehouses and terminal facilities of every kind and description necessary or useful in the transportation and storage of goods, wares and merchandise; and to insure or provide for the insurance of any real or personal property or operation of the authority against any risks or hazards.

3. To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursements, in property or security in which fiduciaries may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled.

4. To undertake and carry out examinations, investigations, studies and analyses of the business, industrial, agricultural, utility, transportation and other economic development needs, requirements and potentialities of its area of operation, or off-site needs, requirements and potentialities which directly affect the successful industrial and economic development of its area of operation, and the manner in which such needs and requirements and potentialities are being met, or should be met, in order to accomplish the purposes for which it is created; to make use of the facts determined in such research and analyses in its own operation; and to make the results of such studies and analyses available to public bodies and to private individuals, groups and businesses, except as such information may be exempted pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

5. In the discharge of its enumerated powers, to cooperate with the federal government, the Commonwealth and the localities within its area of operation or adjacent to such authority.

6. To appoint an authority advisory committee to advise it, consisting of such number of persons as it may deem proper. Such persons so appointed shall be residents of the locality in which the authority is located. They shall not receive any compensation for their services but may be reimbursed for their necessary traveling and other expenses incurred while on business of the authority.

7. To exercise all or any part or combination of powers herein granted.

8. To do any and all other acts and things that may be reasonably necessary and convenient to carry out its purposes and powers.

No provision of law with respect to the acquisition, operation or disposition of property by other political subdivisions or public bodies shall be applicable to an authority unless specifically stated therein. In any locality where planning, zoning or development regulations may apply, the authority

shall comply with and is subject to those regulations to the same extent as a private commercial or industrial enterprise.

Code 1950, § 15-946; 1954, c. 645; 1962, c. 623, § 15.1-1329; 1996, c. 740; 1997, c. 587; 2005, cc. 869, 887.

§ 15.2-6308.1.Approval of Governor required

If an authority desires to undertake a project or other activity as provided in this chapter, and the property involved in such undertaking is subject to a reversionary interest in favor of the Commonwealth, such undertaking shall require the prior approval of the Governor but shall not require the approval of any other agency or political subdivision of the Commonwealth. Once the Governor grants such approval, the Commonwealth's reversionary interest in such property shall be subordinate to any lease, mortgage, or other transaction entered into by such authority with regard to such property.

2005, cc. 869, 887.

§ 15.2-6309.Two or more authorities may join or cooperate in exercising powers

Any two or more authorities may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all of the powers granted to such authorities.

Code 1950, § 15-947; 1954, c. 645; 1962, c. 623, § 15.1-1330; 1997, c. 587.

§ 15.2-6310.Payments to Commonwealth or political subdivisions thereof

An authority may agree to make such payments to the Commonwealth, a locality, or any political subdivision thereof, which payments such bodies are hereby authorized to accept, as the authority finds consistent with the purposes for which the authority has been created.

Code 1950, § 15-948; 1954, c. 645; 1962, c. 623, § 15.1-1331; 1997, c. 587.

§ 15.2-6311.Authorities may borrow money, accept contributions, etc

In addition to the powers conferred upon an authority by other provisions of this chapter, an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the federal government; the Commonwealth; any locality or political subdivision; or any agency or instrumentality thereof; or from any source, public or private, for or in aid of any project of the authority, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable.

Code 1950, § 15-949; 1954, c. 645; 1962, c. 623, § 15.1-1332; 1996, c. 740; 1997, c. 587.

§ 15.2-6312.Authorities empowered to issue bonds; additional security; liability thereon

An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes, including the issuance of refunding bonds for the payment or retirement of bonds previously

issued by it. An authority may issue such type of bonds as it may determine, including (without limiting the generality of the foregoing):

1. Bonds on which the principal and interest are payable:

a. Exclusively from the income and revenues of the project or facility financed with the proceeds of such bonds; or

b. Exclusively from the income and revenues of certain designated projects or facilities whether or not they are financed in whole or in part with the proceeds of such bonds; or

c. From its revenues generally.

2. Bonds on which the principal and/or interest are payable solely from contributions or grants received from the federal government, the Commonwealth or any other source, public or private.

Any such bonds may be additionally secured by a pledge of any grants or contributions from the federal government, the Commonwealth or any political subdivision of the Commonwealth, or other source, or a pledge of any income or revenues of the authority, or a mortgage of any particular projects or facilities or other property of the authority.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth, or any political subdivision thereof (other than the issuing authority), and neither the Commonwealth nor any political subdivision thereof (other than the issuing authority) shall be liable thereon, nor shall such bonds or obligations be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose.

Code 1950, § 15-950; 1954, c. 645; 1962, c. 623, § 15.1-1333; 1996, c. 740; 1997, c. 587.

§ 15.2-6313.Bonds to be authorized by resolution of board; terms; sale; negotiability; validity

Bonds of an authority shall be authorized by resolution of its board and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such annual rate or rates, not exceeding nine percent, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable to such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide. The bonds may be sold at public or private sale.

In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such

signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery. Any provisions of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable within the meaning and for all the purposes of Title 8.3A.

In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a specific project or facility of such authority shall be conclusively deemed to have been issued for such enumerated purpose and such project or facility shall be conclusively deemed to have been conducted and operated in all respects in accordance with the purposes and provisions of this chapter.

Code 1950, § 15-951; 1954, c. 645; 1962, c. 623, § 15.1-1334; 1996, c. 740; 1997, c. 587.

§ 15.2-6314.Exemption from taxation; authorities to be municipal corporate instrumentalities of Commonwealth

The bonds or other securities issued by an authority, the interest thereon, and all real and personal property and any interest therein of an authority, and all income derived therefrom by an authority shall at all times be free from taxation by the Commonwealth, or by any political subdivision thereof. The authority shall be regarded as a municipal corporate instrumentality of the Commonwealth for the purpose of discharging its functions and exercising its powers under this chapter.

Code 1950, § 15-952; 1954, c. 645; 1962, c. 623, § 15.1-1335; 1997, c. 587.

§ 15.2-6314.1.Applicability of the Virginia Personnel Act and the Virginia Public Procurement Act

A. Employees of an authority created by a locality shall be exempt from the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) if (i) the locality has personnel policies and procedures that are consistent with the goals, objectives, and policies of the Virginia Personnel Act; and (ii) such authority adopts the locality's personnel policies and procedures. In any event, personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, handicap, or political affiliation.

B. Any authority created under this chapter shall be subject to the terms of the Virginia Public Procurement Act (§ 2.2-4300 et seq.). Notwithstanding the foregoing, should the United States Department of Defense place a federal area on a list of installations to be closed or realigned under the authority granted to the United States Department of Defense pursuant to the federal Defense Base Closure And Realignment Act of 1990 (United States Public Law 101-501, as amended through the National Defense Authorization Act of Fiscal Year 2003), and such federal area is subject to the jurisdiction of an authority created by a locality, such listing of that installation shall qualify as an "emergency" under subsection F of § 2.2-4303 of the Virginia Public Procurement Act.

2005, cc. 869, 887; 2020, c. 1137.

§ 15.2-6315.Provisions for securing payment of bonds

In order to secure the payment of such bonds, the authority shall have power by provision or provisions included in any resolution authorizing said bonds or in any indenture made to secure their payment:

1. To pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

2. To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

3. To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any property or any part thereof; and to covenant as to what other or additional debts or obligations may be incurred by it.

4. To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time of the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

5. To covenant as to the rents and fees to be charged in the operation of a specific project or facility, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

6. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

7. To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

8. To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

9. To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by the authority, to take possession and use, operate and manage any property or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any portion of them may enforce any covenant or rights securing or relating to the bonds.

10. To exercise all or any part or combination of the powers herein granted; and to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenant and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

Code 1950, § 15-953; 1954, c. 645; 1962, c. 623, § 15.1-1336; 1997, c. 587.

§ 15.2-6316.Rights and remedies of obligees

An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

1. By mandamus, suit, action or proceeding at law or in equity to compel the authority and the commissioners, officers, agents or employees thereof, to perform each and every term, provision and covenant contained in any contract of the authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this chapter.

2. By suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful or the violation of any of the rights of such obligee of the authority.

Code 1950, § 15-954; 1954, c. 645; 1962, c. 623, § 15.1-1337; 1997, c. 587.

§ 15.2-6317.Rents, fees and charges; disposition of revenues

The rents, fees and charges established by the authority for the use of its property, projects and facilities and for any other service furnished or provided by the authority shall be fixed so that they, together with other revenues of the authority, shall provide at least sufficient funds to pay the cost of maintaining, repairing and operating the authority, its property, projects and facilities and the principal and interest of any bonds issued by the authority or other debts contracted as the same shall become due and payable. A reserve may be accumulated and maintained out of the revenues of the authority for extraordinary repairs and expenses and for such other purposes as may be provided in any resolution authorizing a bond issue or in any trust indenture securing such bonds. Subject to such

provisions and restrictions as may be set forth in the resolution or in the trust indenture authorizing or securing any of the bonds or other obligations issued hereunder, the authority shall have exclusive control of the revenue derived from the operation of the authority and the right to use such revenues in the exercise of its powers and duties set forth in this chapter. No person, firm, association or corporation shall receive any profit or dividend from the revenues, earnings or other funds or assets of such authority other than for debts contracted, for services rendered, for materials and supplies furnished and for other value actually received by the authority.

Code 1950, § 15-955; 1954, c. 645; 1962, c. 623, § 15.1-1338; 1997, c. 587.

§ 15.2-6318.Investment in bonds issued by authorities

The Commonwealth and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, except domestic life insurance companies, and all fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by any such authority, and such bonds and other obligations shall be authorized security for all public deposits and shall be fully negotiable in this Commonwealth; it being the purpose of this chapter to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension funds, and funds held on deposit, for the purchase of any such bonds or other obligations and that any such bonds or other obligations shall be authorized security for all public deposits and shall be fully negotiable in this Commonwealth.

Code 1950, § 15-956; 1954, c. 645; 1962, c. 623, § 15.1-1339; 1997, c. 587.

§ 15.2-6319.Dissolution of authority

Whenever the commission of the authority by resolution determines that the purposes for which the authority was formed have been substantially complied with and all bonds issued and all obligations incurred by the authority have been fully paid, the commission shall execute and file for record with the governing body or bodies of the locality in which the authority was created, a resolution declaring such facts. If the governing bodies are of the opinion that the facts stated in the authority's resolution are true and the authority should be dissolved, they shall so resolve; however, in the case of an authority created by proclamation of the Governor pursuant to § 15.2-6302, the authority shall not be dissolved unless or until the Governor, upon determination that such dissolution is appropriate or upon receipt of a duly certified resolution of each governing body of each locality within the area of operation of the authority requesting dissolution, shall proclaim that the authority is dissolved. Any such authority for which such a proclamation was issued shall be dissolved as of the date on which the proclamation was issued. Upon dissolution, the title to all funds and properties owned by the

authority at the time of such dissolution shall vest, (i) in the case of authorities created by proclamation of the Governor, in the localities in the area of operation or to not-for-profit agencies, public or private, as may be designated by the localities, or (ii) in the case of authorities created by the City of Hampton pursuant to § 15.2-6302, in such locality or to not-for-profit agencies, public or private, as may be designated by such locality.

1996, c. 740, § 15.1-1339.1; 1997, c. 587; 2005, cc. 869, 887; 2011, cc. 126, 178; 2014, c. 640.

§ 15.2-6320.Powers conferred additional and supplemental; liberal construction

The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law. This chapter shall be liberally construed to effect the purposes hereof.

Code 1950, § 15-957; 1954, c. 645; 1962, c. 623, § 15.1-1340; 1996, c. 740; 1997, c. 587; 2015, c. 709.

§ 15.2-6321.Chapter controlling over inconsistent laws

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special or local, including provisions of charters of localities, the provisions of this chapter shall be controlling.

Code 1950, § 15-958; 1954, c. 645; 1962, c. 623, § 15.1-1341; 1997, c. 587.

§ 15.2-6322.Sovereign immunity

No provisions of this chapter nor act of an authority, including the procurement of insurance or self-insurance, shall be deemed a waiver of any sovereign immunity to which the authority or its directors, officers, employees, or agents are otherwise entitled.

2005, cc. 869, 887.

Baseball Stadium Authority, Virginia

§ 15.2-5800.Definitions; professional baseball games; consent for construction

As used in this chapter the following words have the meanings indicated:

"Authority" means the Virginia Baseball Stadium Authority.

"Facility" means (i) major league and minor league baseball stadiums, (ii) practice fields or other areas where major league and minor league professional baseball teams may practice or perform, (iii) offices for major league and minor league professional baseball teams or franchises, (iv) office, restaurant, concessions, retail and lodging facilities which are owned and operated in connection with a major league baseball stadium, and (v) any other directly related properties including, but not limited to, onsite and offsite parking lots, garages, and other properties.

"Major league baseball" means the organization which controls the administrative functions for the ownership and operation of major league baseball operations in the United States and Canada.

"Major league baseball franchise" means the contractual right granted by major league baseball to any person or persons to own or operate a major league baseball team in a specified location.

"Major league baseball stadium" means a sports facility which is designed for use primarily as a baseball stadium and which meets criteria that may be established by major league baseball.

"Minor league baseball stadium" means a sports facility which is designed for use primarily as a stadium for a minor league professional baseball team.

"Sales tax revenues" means taxes collected under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), as limited herein. Sales tax revenues shall not include any local general retail sales and use tax levied pursuant to §§ 58.1-605 and 58.1-606.

1992, c. 823, § 15.1-227.70; 1995, cc. 613, 629; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

§ 15.2-5801.Creation of Authority

There is hereby established a body corporate and politic known as the Virginia Baseball Stadium Authority. The Authority is a political subdivision of the Commonwealth.

1992, c. 823, § 15.1-227.71; 1995, cc. 613, 629; 1997, c. 587.

§ 15.2-5802.Members of Authority; chairman; terms

A. The Authority shall consist of nine members who shall be appointed by the Governor, and the Governor shall designate one of the members as chairman. The members of the Authority annually shall elect a vice-chairman from their membership who shall perform the duties of the chairman in his absence. In making appointments to the Authority, the Governor shall ensure that the geographic areas of the Commonwealth are represented; however, in the event a major league baseball stadium is proposed, at least four members of the Authority shall be residents of the county or city in which the

facility is proposed to be located. The appointments of the members by the Governor shall be confirmed in accordance with § 2.2-107.

B. The term of a member of the Authority is four years. However, upon the initial appointment of the members of the Authority, the terms of the members shall be staggered as follows: The initial term of three of the members shall be four years; the initial term of three members shall be three years; and the initial term of the remaining three members shall be two years. The Governor shall designate the term to be served by each appointee at the time of appointment.

At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. Upon the end of the term of a member, or upon the resignation or removal of a member, the Governor shall appoint a member to the Authority. The Governor may remove a member for cause in accordance with § 2.2-108. The members of the Authority shall receive no compensation for their services, but a member may be reimbursed by the Authority for reasonable expenses actually incurred in the performance of the duties of that office.

1992, c. 823, § 15.1-227.72; 1995, cc. 613, 629; 1997, c. 587.

§ 15.2-5803.Quorum; actions of Authority; meetings

Five members of the Authority shall constitute a quorum for the purpose of conducting business. Actions of the Authority shall receive the affirmative vote of a majority of the quorum to be effective. No vacancy on the Authority shall impair the right of a quorum to exercise all rights and perform all the duties of the Authority. The Authority shall determine the times and places of its regular meetings. Special meetings of the Authority shall be held when requested by two or more members of the Authority. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. A reasonable effort shall be made to provide each member with notice of any special meeting. No matter not specified in the notice shall be considered at such special meeting unless all the members of the Authority are present.

1992, c. 823, § 15.1-227.73; 1995, cc. 613, 629; 1997, c. 587.

§ 15.2-5804.Executive Director appointment; duties

A. The Authority shall appoint an Executive Director, who is the chief administrative officer and secretary of the Authority and serves at the pleasure of the Authority. The Executive Director shall be paid from funds as may be appropriated or received by the Authority.

B. In addition to any other duties set forth in this chapter, the Executive Director shall:

1. Direct and supervise the administrative affairs and activities of the Authority in accordance with its rules, regulations, and policies;

2. Attend all meetings and keep minutes of all proceedings;

3. Approve all accounts for salaries, per diem payments, and allowable expenses of the Authority and its employees and consultants and approve all expenses incidental to the operation of the Authority;

4. Report and make recommendations to the Authority on the merits and status of any proposed facility; and

5. Perform any other duty that the Authority requires for carrying out the provisions of this chapter.

1992, c. 823, § 15.1-227.74; 1995, cc. 613, 629; 1996, cc. 950, 1038; 1997, c. 587.

§ 15.2-5805.Powers

In addition to the powers set forth elsewhere in this chapter, the Authority may:

1. Adopt and alter an official seal;

2. Sue and be sued in its own name;

3. Adopt bylaws, rules and regulations to carry out the provisions of this chapter;

4. Maintain an office at such place as the Authority may designate;

5. Employ, either as regular employees or independent contractors, consultants, engineers, architects, accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers and other professional personnel, personnel, and agents as may be necessary in the judgment of the Authority, and fix their compensation;

6. Determine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary to accomplish the purposes of the Authority;

7. Acquire, hold, lease, use, encumber, transfer, or dispose of real and personal property, including a lease of its property or any interest therein whatever the condition thereof, whether or not constructed or acquired, to the Commonwealth or any political subdivision of the Commonwealth. The Commonwealth and any such political subdivision are authorized to acquire or lease such property or any interest therein; however, the Commonwealth shall not enter into any such lease or purchase agreement unless such lease or purchase agreement has first been approved pursuant to subsections E and F of § 15.2-5806;

8. Enter into contracts of any kind, and execute all instruments necessary or convenient with respect to its carrying out the powers in this chapter to accomplish the purposes of the Authority;

9. Operate, enter into contracts for the operation of, and regulate the use and operation of facilities developed under the provisions of the chapter;

10. Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the use of facilities or for services rendered in connection with the facilities;

11. Borrow money from any source for any valid purpose, including working capital for its operations, reserve funds, or interest, and to mortgage, pledge, or otherwise encumber the property or funds of the Authority and to contract with or engage the services of any person in connection with any financing, including financial institutions, issuers of letters of credit, or insurers;

12. Issue bonds under this chapter;

13. Receive and accept from any source, private or public, contributions, gifts, or grants of money or property; and

14. Do all things necessary or convenient to carry out the powers granted by this chapter.

1992, c. 823, § 15.1-227.75; 1995, cc. 613, 629; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

§ 15.2-5806.Public hearings; notice; reports

A. At least sixty days prior to selecting a site for a major league or minor league baseball stadium, the Authority shall hold a public hearing within thirty miles of the site proposed to be acquired for the purpose of soliciting public comment.

B. Except as otherwise provided herein, at least sixty days prior to the public hearing required by this section, the Authority shall notify the local governing body in which the major league or minor league baseball stadium is proposed to be located and advertise the notice in a newspaper of general circulation in that locality. The notice shall include: (i) a description of the site proposed to be acquired, (ii) the intended use of the site, and (iii) the date, time, and location of the public hearing. After receipt of the notice required by this section, the local governing body in which a major league or minor league baseball stadium is proposed to be located may require that this period be extended for up to sixty additional days or for such other time period as agreed upon by the local governing body and the Authority.

C. At least thirty days before acquiring or entering into a lease involving a major league or minor league baseball stadium and before entering into a construction contract involving a major league or minor league baseball stadium or stadium site, the Authority shall submit a detailed written report and the findings of the Authority that justify the proposed acquisition, lease, or contract to the General Assembly. The report and findings shall include a detailed plan of the method of funding and the economic necessity of the proposed acquisition, lease, or contract.

D. The time periods in subsections A, B, and C of this section may not run concurrently.

E. The Commonwealth shall not enter into any purchase agreement, lease agreement, lease-purchase agreement, master lease agreement or any other contractual arrangement that creates a direct or contingent financial obligation of the Commonwealth unless such agreement or arrangement

has first been submitted to the State Treasurer sufficiently prior to the execution of such agreement or arrangement to allow the State Treasurer to undertake a review for the purposes of determining (i) whether the agreement or arrangement may constitute tax-supported debt of the Commonwealth and (ii) the potential impact of the agreement or arrangement on the debt capacity and credit ratings of the Commonwealth. If after such review the State Treasurer determines that the agreement or arrangement may constitute tax-supported debt of the Commonwealth, or may have an adverse impact on the debt capacity or the credit ratings of the Commonwealth, the agreement or arrangement and any associated financing shall be submitted to the Treasury Board for review and approval of terms and structures in a manner consistent with § 2.2-2416.

F. The Commonwealth shall not enter into any purchase agreement, lease agreement, lease-purchase agreement, master lease agreement or any other contractual arrangement that creates a direct or contingent financial obligation of the Commonwealth unless such agreement or arrangement has first been reviewed and approved as required by subsection E and subsequently approved in writing by the Governor.

1992, c. 823, § 15.1-227.76; 1995, cc. 613, 629; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

§ 15.2-5807.Acquisition of property

A. The Authority may acquire in its own name, by gift or purchase, any real or personal property, or interests in property, necessary or convenient to construct or operate any facility.

B. In any jurisdiction where planning, zoning, and development regulations may apply, the Authority shall comply with and is subject to those regulations to the same extent as a private commercial or industrial enterprise.

C. This section does not affect the right of the Authority to acquire an option for acquisition of the property, prior to 2000, once the approval required by this section is obtained.

D. Any locality shall have the power to acquire by eminent domain, in the manner and in accordance with the procedure provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, any real property, including fixtures and improvements, and personal property, including any interest, right, easement, or estate therein, located within such locality for public purposes. For purposes of this section, public purpose means the construction and operation of any facility, as defined in § 15.2-5800, when determined by the governing body of such locality that the construction and operation of such a facility would enhance the economic development, resources, or advantages of the locality. In furtherance of this public purpose, the locality may convey any such real property, including fixtures and improvements, and personal property acquired pursuant to this section to the Authority, by sale, gift or lease, upon terms mutually agreed upon by the Authority and the locality. The Authority and locality may enter into agreements regarding the initiation and prosecution of such condemnation proceedings, including payment and reimbursement of any costs, fees, expenses, or awards resulting from the proceedings.

Upon the written request of the Authority, the locality in which the stadium site is proposed may, by majority vote, exercise its power of eminent domain as provided herein.

1992, c. 823, § 15.1-227.77; 1995, cc. 613, 629; 1996, cc. 950, 1038; 1997, c. 587; 2003, c. 940.

§ 15.2-5808.Bond issues

A. The Authority may at any time and from time to time issue bonds for any valid purpose, including the establishment of reserves and the payment of interest. In this chapter the term "bonds" includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation.

B. The bonds of any issue shall be payable solely from the property or receipts of the Authority, including, but not limited to:

1. Taxes, fees, charges, or other revenues payable to the Authority;

2. Payments by financial institutions, insurance companies, or others pursuant to letters or line of credit, policies of insurance, or purchase agreements;

3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement; and

4. Proceeds of refunding bonds.

C. Bonds shall be authorized by resolution of the Authority and may be secured by a trust agreement by and between the Authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The bonds shall:

1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding forty years from their respective dates of issue;

2. Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;

3. Be payable at a time or times, in the denominations and form, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;

4. Be payable in lawful money of the United States at a designated place;

5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides;

6. Be executed by the manual or facsimile signatures of the officers of the Authority designated by the Authority which signatures shall be valid at delivery even for one who has ceased to hold office; and

7. Be sold in the manner and upon the terms determined by the Authority including private (negotiated) sale.

D. Any resolution or trust agreement may contain provisions which shall be a part of the contract with the holders of the bonds as to:

1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the Authority or proceeds or benefits of any contract and conveying or otherwise securing any property rights;

2. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts and sinking funds, and the regulation, investment, and disposition thereof;

3. Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds may be applied and restrictions to investments of revenues or bond proceeds in government obligations for which principal and interest are unconditionally guaranteed by the United States of America;

4. Limitations on the issuance of additional bonds and the terms upon which additional bonds may be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;

5. The refunding or refinancing of outstanding bonds;

6. The procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;

7. Defining the acts or omissions which shall constitute a default in the duties of the Authority to bondholders and providing the rights or remedies of such holders in the event of a default which may include provisions restricting individual right of action by bondholders;

8. Providing for guarantees, pledges of property, letters of credit, or other security, or insurance for the benefit of bondholders; and

9. Any other matter relating to the bonds which the Authority determines appropriate.

E. No member of the Authority nor any person executing the bonds on behalf of the Authority shall be liable personally for the bonds or subject to any personal liability by reason of the issuance of the bonds.

F. The Authority may enter into agreements with agents, banks, insurers, or others for the purpose of enhancing the marketability of, or as security for, its bonds.

G. A pledge by the Authority of revenues as security for an issue of bonds shall be valid and binding from the time the pledge is made.

The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract or otherwise against the Authority, irrespective of whether the person has notice.

No resolution, trust agreement or financing statement, continuation statement, or other instrument adopted or entered into by the Authority need be filed or recorded in any public record other than the records of the Authority in order to perfect the lien against third persons, regardless of any contrary provision of public general or public local law.

H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of bonds issued under this chapter or a trustee acting under a trust agreement entered into under this chapter, may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of Virginia or by any applicable resolution or trust agreement.

I. The Authority may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of the bonds. Refunding bonds may be issued for the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, for alleviating impending or actual default and may be issued in one or more series in an amount in excess of that of the bonds to be refunded.

J. The franchise holder must agree that the franchise will not be relocated until any bonds issued hereunder are defeased.

K. In the event a major league baseball facility is planned, no bonds shall be issued hereunder until the Authority has executed a long-term lease with a major league baseball franchise. In the event a minor league baseball facility is planned, the same requirements, mutatis mutandis, shall apply.

1992, c. 823, § 15.1-227.78; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

§ 15.2-5809.Investments in bonds

Any financial institution, investment company, insurance company or association, and any personal representative, guardian, trustee, or other fiduciary, may legally invest any moneys belonging to them or within their control in any bonds issued by the Authority.

1992, c. 823, § 15.1-227.79; 1997, c. 587.

§ 15.2-5810.Bonds are tax exempt

The Authority shall not be required to pay any taxes or assessments of any kind whatsoever and its bonds, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of

taxation by this Commonwealth or by any of its political subdivisions, municipal corporations, or public agencies of any kind.

1992, c. 823, § 15.1-227.80; 1997, c. 587.

§ 15.2-5811.Stadium Authority Financing Fund; use

A. There is hereby created a Virginia Baseball Stadium Authority Financing Fund ("Fund"). The Authority shall use the Fund as a nonlapsing revolving fund for carrying out the provisions of this chapter.

B. All of the following receipts of the Authority shall be placed in the Fund: (i) proceeds from the sale of bonds, (ii) revenues collected or received from any source under the provisions of this chapter, and (iii) any other revenues under the jurisdiction of the Authority.

C. The Authority shall pay all expenses and make all expenditures from the Fund. To the extent deemed appropriate by the Authority, the receipts of the Fund shall be pledged to and charged with the payment of debt service on Authority bonds and all reasonable charges and expenses related to Authority borrowing and the management of Authority obligation.

1992, c. 823, § 15.1-227.81; 1997, c. 587.

§ 15.2-5812.Additional duties

In addition to the duties set forth elsewhere in this chapter, the Authority shall:

1. Keep records as are consistent with sound business practices and accounting records using generally accepted accounting practices;

2. Cause an audit by an independent certified public accountant to be made of accounts and transactions at the conclusion of each fiscal year;

3. Be subject to audit and examination at any reasonable time of its accounts and transactions by the Auditor of Public Accounts; and

4. Submit a detailed annual report of its activities and financial standing to the Governor and to the General Assembly.

1992, c. 823, § 15.1-227.82; 1997, c. 587.

§ 15.2-5813.Creation of local advisory boards

Prior to constructing any facility, the Authority shall create a local advisory board for that facility. Each local advisory board shall be composed of twelve members. Six members shall be appointed by the local governing body in which the proposed facility is to be located. Notwithstanding the provisions of § 15.2-1534, the governing body may appoint one or more of its members to serve on the local advisory board. Six members shall be appointed by the Authority, and each of those six members shall reside in the locality in which the facility is proposed to be located. All advisory board members

shall be appointed for a term of four years. All advisory board members shall serve without pay, but a member may be reimbursed by the Authority for reasonable expenses actually incurred in the performance of advisory functions. Each advisory board shall elect a chairman and a secretary and such other officers as it deems necessary. The Authority shall give each local advisory board reasonable opportunity to provide appropriate comments and recommendations on the design and the operation of the facility in its locality.

1995, cc. 613, 629, § 15.1-227.83; 1997, c. 587.

§ 15.2-5814.Entitlement to sales tax revenues derived from a major league baseball stadium

A. In connection with the issuance of bonds by the Authority to finance or refinance a major league baseball stadium, the Authority shall be entitled to all sales tax revenues that are generated by transactions taking place upon the premises of the major league baseball stadium. Such entitlement shall continue for the lifetime of such bonds, but that entitlement shall not exceed thirty years. Sales tax revenues may be applied to repayment of the bonds, stadium operating expenses, master lease rental payments by the Commonwealth, capital expenditures and other purposes of the Authority. The State Comptroller shall remit such sales tax revenues to the Authority on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues generated by transactions taking place upon the premises of the major league baseball stadium. The State Comptroller shall make such remittances to the Authority, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.).

B. In connection with the issuance of bonds by the Authority to finance or refinance a major league baseball stadium, the local governing body of the locality in which the stadium is located may direct, by ordinance or resolution, that all local sales and use tax revenues generated by transactions taking place upon the premises of the major league stadium from taxes levied pursuant to §§ 58.1-605 and 58.1-606 shall be remitted by the State Comptroller to the Authority for the repayment of bonds, stadium operating expenses, master lease rental payments by the Commonwealth, capital expenditures and other purposes of the Authority. Such remittances shall be for the same period and under the same conditions as remittances to the Authority paid in accordance with subsection A, mutatis mutandis.

C. In connection with the issuance of bonds by the Authority to finance or refinance a major league baseball stadium, the local governing body of the locality in which the stadium is located may direct, by ordinance or resolution, that all admissions tax revenues of such locality generated by admissions to the major league stadium from taxes levied pursuant to §§ 58.1-3818 and 58.1-3840 shall be remitted to the Authority for the repayment of bonds, stadium operating expenses, master lease rental payments by the Commonwealth, capital expenditures and other purposes of the Authority. Any levy

pursuant to this section may be for the lifetime of such bonds, but such levy shall not exceed thirty years.

1995, cc. 613, 629, § 15.1-227.84; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

§ 15.2-5815.Tax revenues of the Commonwealth or any other political subdivision not pledged

Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the Commonwealth, or any of its revenues, or the faith and credit of any other political subdivision of the Commonwealth, or any of its revenues, for the payment of any bonds.

1995, cc. 613, 629, § 15.1-227.85; 1996, cc. 950, 1038; 1997, cc. 587, 884; 2005, c. 106.

§ 15.2-5816.Cooperation between the Authority and other political subdivisions

The Authority may enter into agreements with any other political subdivision of the Commonwealth for joint or cooperative action in accordance with § 15.2-1300.

1995, cc. 613, 629, § 15.1-227.86; 1997, c. 587.

§ 15.2-5817.Tort liability

No pecuniary liability of any kind shall be imposed on the Commonwealth or on any other political subdivision of the Commonwealth because of any act, agreement, contract, tort, malfeasance or nonfeasance by or on the part of the Authority, its agents, servants or employees.

1995, cc. 613, 629, § 15.1-227.87; 1997, c. 587.

§ 15.2-5818.Tort claims

For purposes of Article 18.1 (§ 8.01-195.1 et seq.) of Chapter 3 of Title 8.01, the Authority is an "agency" within the meaning of § 8.01-195.2, and each of its members and agents is an "employee" within the meaning of such section.

1996, cc. 950, 1038, § 15.1-227.88; 1997, c. 587.

§ 15.2-5819.Policy statement

It is hereby found, determined, and declared that the acquisition of a major league baseball franchise and a major league baseball stadium will result in substantial economic development in the Commonwealth and is in all respects for the benefit of the people of the Commonwealth and is a public purpose and that the Authority will be performing an essential government function in the exercise of the powers conferred by this chapter.

1996, cc. 950, 1038, § 15.1-227.89; 1997, c. 587.

§ 15.2-5820.Expired

Expired.

§ 15.2-5822.Expired

Expired.

Bath County Airport District

Created
1960 Acts of Assembly, c. 422.

§ 1. Creation of district.
To promote the agricultural and industrial development of the county of Bath and the health, safety, welfare, convenience and prosperity of the inhabitants thereof, there is hereby created within the county a political subdivision to be known as the Airport District of Bath County. For the purposes of this act and not otherwise the district shall be a separate political entity. (1960, c. 422)

§ 2. Boundaries of district.
The boundaries of the district shall be as follows, all references to numbered monuments and corners being to the plate of survey of land purchased by Virginia Hot Springs Company from the Douthat Estate, other corners being lettered:

BEGINNING at A, the intersection of the eastern right of way of Highway U.S. 220 and the center line of the entrance driveway of the Homestead Hotel in the village of Hot Springs; thence with the northward toward Warm Springs approximately 4,750 feet to its intersection with the center line of the road to the old Homestead Quarry at B; thence through the land of Virginia Hot Springs, Inc. [hereinafter abbreviated "VHSI"] S. 59° 40' E. 3,500 feet to Mon. 24, a corner of the old Boone Cabin Tract; I thence continuing through VHSI land S. 48° 28' E. crossing Warm Spring Mountain 4,300 feet to Cor. 36 on top of Little Brushy Mountain at a corner to the George Washington National Forest boundary; thence with the latter the following six courses and distances: (1) S. 28° 59' W. crossing Porter's Creek 6,666 feet to Mon. 37 near the top of Big Brushy Mountain, (2) along the top of the latter and crossing Wilson Creek in the Bear loop S. 15° 37' W. 7,578 feet to Mon. 38, (3) still with the mountain top and east of the present Ingalls Field S. 56° 23' W. 2,570 feet to Mon. 39, (4) still with the mountain top and east of Ingalls Field s. 43° 55' W. 5,075 feet to Cor. 40, (5) still with the mountain top S. 42° 40' W. crossing the south prong of Wilson Creek 7,311 feet t Mon. 41 and (6) down the east side of the mountain S. 27° 58' W. 10,090 feet to Mon. 42 ; thence with an outside VHSI line N. 58° 31' W. 4,884 feet t Mon. 1; thence through VHSI land the following five courses and distances: (1) N. 29° 52' E. 586 feet to Monument 2, (2) N. 56 59' E. 1,777 feet to Monument 3, (3) S. 54° 16' E. 140 feet to Monument 4, (4) N. 41° 24' E. 4,278 feet to Monument 5, and (5) on a compute bearing N. 29° 31' E. 7,150 feet to C at the southeast corner of the Hobby Horse Farm of Mrs. Rachel I. Ingalls; thence with the line of the latter on a computed bearing N. 35° 29' E. 780 feet to D at the northeast corner of her property; thence through VHSI land on a computed bearing N. 30° 50' E. 4,700 feet to Cor. 17; thence with a VHSI outside line the following eight courses and distances: (1) N. 56° 01' E. 3,178 feet to Mon. 18, (2) N. 18 28' E. 4,957 feet to

Mon. 19, (3) N. 34° 18' W. 1,295 feet to Mon. 20, (4) N. 50° 09' E. 2,815 feet to Mon. 21, (5) N. 33 19' E. 537 feet to E., described in an old survey as a rock pile with birch pointers, (6) N. 59 0' W. 1,699 feet to a stone pile at F, (7) S. 32° 35' W. 520 feet to a rock pile at G, and (8) N. 59° 45' W. approximately 700 feet to H on the center line of Shady Lane Extended on the boundary between VHSI and the Rock Spring Farm of Mrs. T. K. Ellis; thence with the center line of shady Lane extended northward approximately 250 feet to I at is intersection with the center line of The Homestead Trail; thence with the latter northward approximately 4,300 feet to J at its intersection with the center line of the Airport Road thence with the latte in a generally northerly direction approximately 2,000 feet to K to the center line of its intersection with the road leaning to the VHSI ski and skating area; thence with the latter in a northerly direction approximately 2,200 feet to L at its intersection wit the center line of the Tool House Road; thence with the latte in a westerly direction approximately 600 feet to M at its intersection with the center line of Homestead Boulevard; thence with the latter in a southerly direction approximately 2,000 feet to N, a point in the entrance driveway of The Homestead Hotel opposite the main entrance, or front door of the hotel; and thence with the center line of the entrance driveway in a westerly direction approximately 500 feet to the place of BEGINNING; and CONTAINING approximately 600 acres. (1960, c. 422)

§ 3. Powers and authority of district.

The district shall have and may exercise all of the powers and authority conferred upon the cities and counties of the Commonwealth by Articles 1 and 2 of Chapter 3 of Title 5 of the Code of Virginia as heretofore or hereafter amended and shall be subject to all of the limitations and restrictions thereof; provided, however, the powers of eminent domain hereby granted the district shall be subject to the provisions of § 25-233 of the Code as fully and to the same extent as though the district were a corporation possessing the power of eminent domain. (1960, c. 422)

§ 4. Governing body of district.

The governing body of the district shall be the board of supervisors or the county. (1960, c. 422)

§ 5. Issuance and sale of bonds.

(a) The governing body of the county in which the district is located shall have power, subject to the conditions and limitations of this section, to issue from time to time bonds of such district in such amount as the governing body may deem necessary for the acquisition, construction and improvement of an airport and incidental facilities and in such form as the governing body may prescribe. Such bonds shall be payable in ten equal annual installments, shall bear interest at the annual rate of Three (3%) Per Cent with installments of principal and interest payable on the first day of January of each year, and may be redeemable at such time or times and upon such notice as the board may prescribe and stipulate upon the face of the bonds when issued. They shall be in such denominations as the boar may prescribe, signed by its chairman, and countersigned by its clerk under its seal.

(b) As and when funds are needed for the acquisition or construction of an airport and incidental facilities, such bonds may from time to time be issue and sold at either public or private sale at such price not less than par and accrue interest as the board may determine. All bonds thus issued shall be delivered to the treasurer of the county, who shall deliver same to the purchaser upon payment of the purchase price. The proceeds shall be deposited by the treasurer in the same manner as other funds of the county and shall be used only for the purpose for which issued as directed by order of the board.

(c) In appropriating the proceeds of the sale of the bonds the board may in its discretion either specify in detail how they shall be used for the acquisition and construction of an airport or make a general appropriation for that purpose to the county or to a join airport committee or commission established under § 5-24 of the Code of Virginia, provided that the proceeds from the sale of bonds may not be used for the maintenance or operation of the airport. (1960, c. 422)

§ 6. Payment of bonds.

(a) The net revenue derived from the operation of the airport shall be set aside by the board to pay the interest on the bonds issued hereunder and to create a sinking fund to pay the principal thereof.

(b) Should such net revenue be insufficient for the payment of the interest and principal of said bonds, the board shall, to the extent necessary, levy an annul tax upon all the property in the district subject to local taxation to pay such interest and principal.

(c) The Circuit Court of the county of Bath, or the judge thereof in vacation, upon the petition of a majority of the members of the governing body of said county, shall make an order requiring the judges of election at the precinct or precincts at which the qualified voters living in the said airport district vote, at a time not more than thirty days form the date of such order, which date shall be designated therein, to open a poll and take the sense of the unqualified voters of the airport district on the question of whether the governing body of the county shall issue bonds of the airport district in the manner and for the purposes set forth in the preceding section of this act. The maximum amount of bonds to be voted upon for issuance at one time or from time to time at said election shall be as determined by the governing body of the county in its petition requesting the election.

(d) The election shall be conducted in the manner prescribed by law for the conduct of regular elections and the ballots shall be printed and voted and the returns made and canvassed and the results certified in accordance with the provisions of § 24-141 of the Code of Virginia.

(e) If it shall appear from the report of the commissioners of election that a majority of the qualified voters of the airport district voting on the question are in favor of issuing the bonds, the Circuit Court, or the judge thereof in vacation, shall enter of record an order requiring the governing body of the county to proceed at its next meeting, which may be a regular meeting or a special meeting, to carry out the wishes of the voters as expressed at the election. (1960, c. 422)

§ 7. Liability and compensation of treasurer.
The treasurer of the county and his sureties shall be liable for the amount received from the sale of bonds and collection of taxes herein authorized as though same were a county levy. As compensation for his services in the sale of bonds and disbursement of the proceeds the treasurer shall receive 1/8 of 1% of the bonds. For his services in the collection and disbursement of the district tax levy, the treasurer shall be compensated as if the same were a county levy. (1960, c. 422)

Virginia Biotechnology Research Partnership Authority

Created
1993 Acts of Assembly, c. 946.

Amendments
2000, c. 731 (§§ 4, 6, 20 [added])
2005, c. 788 (§§ 1, 3, 4, 5, 15, 17)

§ 1. Short title.
This act shall be known and may be cited as the "Virginia Biotechnology Research Partnership Authority Act." (1993, c. 946; 2005, c. 788)

§ 2. Definitions.
The following terms, whenever used or referred to in this Act, have the following meanings, except where the context clearly indicates otherwise:

"Authority" means the political subdivision of the Commonwealth created by this Act.

"Board" means the board of directors of the Authority.

"Bonds" means the notes, bonds, certificates and other evidences of indebtedness or obligations of the Authority.

"Federal agency" means the United States; the President of the United States; and any department, corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States.

"Person" means natural persons, firms, foundations, associations, corporations, business trusts, partnerships, joint ventures and public bodies, including but not limited to the Commonwealth of Virginia; any state; and any agency, department, institution, political subdivision or instrumentality of the Commonwealth or any state.

"Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility or the provision for or funding of any activity that will further the purposes described in § 3 of this Act. (1993, c. 946)

§ 3. Declaration of public purpose; Authority created.

A. The General Assembly has determined that there exists in the Commonwealth a need to (i) disseminate knowledge pertaining to scientific and technological research and development among public and private entities, including but not limited to knowledge in the area of biotechnology and (ii) promote industrial and economic development.

B. To achieve the objectives of subsection A, which purposes are declared to be public purposes, there is created a political subdivision of the Commonwealth to be known as the "Virginia Biotechnology Research Partnership Authority." The Authority's exercise of powers and duties conferred by this Act shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

C. [Expired.]

(1993, c. 946; 2005, c. 788)

§ 4. Board of directors; members and officers; Executive Director.

A. The Authority shall be governed by a board of directors consisting of not less than nine nor more than 15 members, three of whom shall be the President of Virginia Commonwealth University, the Mayor of the City of Richmond, and the Secretary of Commerce and Trade for the Commonwealth, who shall serve as directors during their terms of office. Any of the aforesaid ex officio members of the board may, from time to time and by written notice to the chairman of the board of the Authority, appoint a designee, under such terms as the designator may provide, to act on behalf of such designator. Such designee, for the term of the designation, shall be treated in all respects as a director and shall have all powers of a director, including, without limitation, the powers to (i) attend and be heard at meetings of the board, thereby counting toward the number of the directors present for the purpose of determining whether a quorum exits; (ii) vote as a member of the board; and (iii) function as the holder of any office held by the designator or as a member of any committee of which the designator is a member. Six members of the board shall be appointed by the Governor from a list of nominations submitted by the board of directors of the Virginia Biotechnology Research Park, a not-for-profit non-stock Virginia corporation. Two of the directors appointed by the Governor shall be appointed for terms of one year, two for terms of two years, and two for terms of three years, from the effective date of their appointment; and thereafter, the members of the board shall be appointed for terms of three years.

B. [Expired.]

C. All members of the board appointed by the Governor shall be confirmed by each house of the General Assembly. Vacancies in the membership of the board shall be filled by appointment for the unexpired portion of the term. Immediately after appointment, the directors shall enter upon the performance of their duties.

D. Members of the board shall be subject to removal from office in like manner as are state, county, town and district officers under the provisions of §§ 24.2-230 through 24.2-238 of the Code of Virginia. The Circuit Court of the City of Richmond shall have exclusive jurisdiction over all proceedings for such removal.

E. The board shall annually elect from its membership a chairman and vice chairman, and shall also elect a secretary and a treasurer, who need not be members of the board, and may also elect other subordinate officers, who need not be members of the board. The chairman, or in his absence the vice chairman, shall preside at all meetings of the board. In the absence of both the chairman and vice chairman, the board shall appoint a chairman pro tempore, who shall preside at such meetings.

F. A majority of the board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

G. The members of the board shall be entitled to reimbursement for their reasonable travel, meal and lodging expenses incurred in attending the meetings of the board or while otherwise engaged in the discharge of their duties. Such expenses shall be paid out of the treasury of the Authority upon vouchers signed by the chairman of the board or by such other person as may be designated by the board for this purpose.

H. The board may employ an Executive Director of the Authority, who shall serve at the pleasure of the board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the board.

I. The Executive Director and employees of the Authority shall be compensated in the manner provided by the board and shall not be subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq). (1993, c. 946; 2000, c. 731; 2005, c. 788)

§ 5. Powers of the Authority.

The Authority is hereby granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the rights and powers to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the board;

4. Plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain and operate projects;

5. Adopt bylaws for the management and regulation of its affairs;

6. Fix, alter, charge and collect rates, rentals, fees, and other charges for the use of projects of, the sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority; the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties; the payment of the costs of accomplishing its purposes as set forth in § 3; the payment of the principal of and interest on its obligations; and the creation of reserves for such purposes, for other purposes of the Authority and to pay the cost of maintaining, repairing and operating any project and fulfilling the terms and provisions of any agreements made with the purchasers or holders of any such obligations;

7. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 3 or for refunding bonds previously issued by the Authority, whether or not such outstanding bonds have matured or are then subject to redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof, by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority deems advisable; and in general to provide for the security for said bonds and the rights of holders thereof;

8. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes and the execution of its powers under this Act, including agreements with any person or federal agency;

9. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their compensation to be payable from funds made available to the Authority;

10. Receive and accept from any federal or private agency, foundation, corporation, association or person grants, donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made;

11. Render advice and assistance, and to provide services, to institutions of higher education, and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

12. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; foster the utilization of scientific and technological research, information discoveries and data and obtain patents, copyrights, trademarks, and other intellectual property protection thereon; coordinate the scientific and technological research efforts of public institutions and private industry and collect and maintain data on the development and utilization of scientific and technological research capabilities;

13. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority;

14. Establish and maintain satellite offices within the Commonwealth; and

15. Do all acts and things necessary or convenient to carry out the powers granted to it by law. (1993, c. 946; 2005, c. 788)

§ 6. Form, terms, execution and sale of bonds and loans; use of proceeds; interim receipts or temporary bonds; lost or destroyed bonds; faith and credit of state and political subdivisions not pledged; expenses.

The bonds of each issue shall be dated, shall bear interest at such rate or rates as shall be fixed by the Authority, or as may be determined in such manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by the Authority, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of bonds and manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the chairman or vice chairman of the Authority or, if so authorized by the Authority, shall bear his facsimile signature, and the official seal of the Authority, or, if so authorized by the Authority, a facsimile thereof shall be impressed or imprinted thereon and attested by the secretary or any assistant secretary of the Authority, or, if so

authorized by the Authority, with the facsimile signature of such secretary or assistant secretary. Any coupons attached to bonds issued by the Authority shall bear the signature of the chairman or vice chairman of the Authority or a facsimile thereof. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery and any bonds may bear the facsimile signature of, or may be signed by, such persons as at the actual time of the execution of such bonds shall be the proper officers to sign such bonds although at the date of such bonds such persons may not have been such officers. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payment of principal of, and premium on, if any, and interest on such bonds. The Authority may contract for the services of one or more banks, trust companies, financial institutions or other entities or persons, within or without the Commonwealth for the authentication, registration, transfer, exchange and payment of the bonds, or may provide such services itself. The Authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine will best effect the purposes of this Act.

The proceeds of the bonds of each issue shall be used solely for the purposes, and in furtherance of the powers, of the Authority as may be provided in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same.

In addition to the above powers, the Authority shall have the authority to issue interim receipts or temporary bonds as provided in § 15.2-2616 of the Code of Virginia and to execute and deliver new bonds in place of bonds mutilated, lost or destroyed, as provided in § 15.2-2621 of the Code of Virginia.

The Authority may borrow money for any of its purposes in the form of loans, and the Authority may authorize its officers to enter into such loans on behalf of the Authority, to approve the terms and conditions thereof, including the securing of the payment of such loans in any manner permitted for bonds, and to execute all documents necessary or desirable in connection therewith, subject to any limits on the principal amount, interest rate, maturity and other terms as may be established by the board of directors of the Authority from time to time.

No obligation of the Authority shall be deemed to constitute a debt, or pledge of the faith and credit, of the Commonwealth or of any political subdivision thereof, but shall be payable solely from the revenues and other funds of the Authority pledged thereto. All such obligations shall contain on the face thereof a statement to the effect that the Commonwealth, any political subdivision thereof and the

Authority shall not be obligated to pay the same or the interest thereon except from revenues and other funds of the Authority pledged thereto, and that neither the faith and credit nor the taxing power of the Commonwealth or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligations.

All expenses incurred in carrying out the provisions of the Act shall be payable solely from funds provided under the provisions of this Act, and no liability shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this Act. (1993, c. 946; 2000, c. 731)

§ 7. Trust indenture or agreement securing bonds.

At the discretion of the Authority, any bonds issued under the provisions of this Act may be secured by a trust indenture or agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust indenture or agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received and provide for the mortgage of any project or property or any part thereof. Such trust indenture or agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants providing for the repossession and sale by the Authority or any trustees under any trust indenture or agreement of any project, or part thereof, upon any default under the lease or sale of such project, setting forth the duties of the Authority in relation to the acquisition of property and the planning, development, acquisition, construction, rehabilitation, establishment, improvement, extension, enlargement, maintenance, repair, operation and insurance of the project or projects in connection with which such bonds shall have been authorized; the amounts of rates, rents, fees and other charges to be charged; the collection of such rates, rents, fees and other charges; the custody, safeguarding and application of all moneys; and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any national bank with its main office in the Commonwealth or any other state or any bank or trust company incorporated under the laws of the Commonwealth or another state which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust indenture or agreement or resolution may set forth the rights of action by bondholders. In addition to the foregoing, any such trust indenture or agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders including, without limitation, provisions for the assignment to a corporate trustee or escrow agent of any rights of the Authority in any project owned by, or leases or sales of any projects made by, the Authority. All expenses incurred in carrying out the provisions of such trust indenture or agreement or resolution or

other agreements relating to any project, including those to which the Authority may not be a party, may be treated as a part of the cost of the operation of the project or projects. (1993, c. 946)

§ 8. Moneys received deemed trust funds.

All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Act. The resolution authorizing the bonds of any issue or the trust indenture or agreement or resolution securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as a trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this Act and such trust indenture or agreement or resolution may provide. (1993, c. 946)

§ 9. Proceedings by bondholder or trustee to enforce rights.

Any holder of bonds issued under the provisions of this Act or any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement or resolution, except to the extent the rights herein given may be restricted by such trust indenture or agreement or resolution authorizing the issuance of such bonds, may either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such trust indenture or agreement or resolution, and may enforce and compel the performance of all duties required by this Act or by such trust indenture or agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging, and collecting of rates, rentals, fees, and other charges. (1993, c. 946)

§ 10. Bonds made securities for investment and deposit.

Bonds issued by the Authority under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is now or may hereafter be authorized by law. (1993, c. 946)

§ 11. Refunding bonds; bonds for refunding and for costs of additional projects.

The Authority is hereby authorized to provide for the issuance of refunding bonds of the Authority for the purpose of refunding any bonds then outstanding that shall have been issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority

in respect of the same shall be governed by the provisions of this Act insofar as the same may be applicable. (1993, c. 946)

§ 12. Grants or loans of public or private funds.

The Authority is authorized to accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both or otherwise, to accomplish, in whole or in part, any of the purposes of this Act. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth. (1993, c. 946)

§ 13. Appropriations by any government.

Any government may make appropriations for the acquisition, construction, improvement, maintenance or operation of any project acquired, constructed, improved, maintained or operated by the Authority. (1993, c. 946)

§ 14. Conveyance, lease or transfer of property by a city or county to the Authority.

Any city, including but not limited to the City of Richmond, or county within the Commonwealth in order to provide for the construction, reconstruction, improvement, repair or management of any project, or in order to accomplish any of the purposes of this Act may, with or without consideration or for a nominal consideration, lease, sell, convey or otherwise transfer to the Authority any real, personal or mixed property located within such city or county. (1993, c. 946)

§ 15. Exemption of Authority from personnel and procurement procedures.

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this Act. (1993, c. 946; 2005, c. 788)

§ 16. Moneys of Authority.

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other order of such person or persons as the Authority may authorize to execute such warrants or orders. (1993, c. 946)

§ 17. Forms of accounts and records; audit; annual report.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived, shall be in such form as the Auditor of Public Accounts shall prescribe.

B. The Auditor of Public Accounts, and his legally authorized representatives, shall annually examine the accounts and books of the Authority. Such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises.

C. The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the preceding June 30. (1993, c. 946; 2005, c. 788)

§ 18. Exemption from taxes or assessments.

The exercise of the powers granted by this Act will be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of the projects by the Authority and the undertaking of activities in the furtherance of the purposes of the Authority will constitute the performance of the essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this Act or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption hereby granted shall not be construed to extend to persons conducting on the premises of the facility businesses for which local or state taxes would otherwise be required.

Any bonds or refunding bonds issued under the provisions of this Act and any transfer of such bonds shall at all times be free from state and local taxation. The interest on the bonds and any refunding bonds or bond anticipation notes shall at all times be exempt from taxation by the Commonwealth and by any political subdivision thereof. (1993, c. 946)

§ 19. Title to property.

The Authority may acquire title to property in its own name. (1993, c. 946)

§ 20. Creation of entities; participation in joint ventures; provision of assistance by Authority; moneys.

1. The Authority may create or assist in the creation of; may own in whole or in part or otherwise control; and may participate in or with any entities, public or private.

2. The Authority may purchase, receive, subscribe for, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise acquire or dispose of any (i) shares or obligations of, or other interests in, any entities organized for any purpose within or without the Commonwealth and (ii) obligations of any persons or corporation.

3. The Authority may participate, through ownership or otherwise, in joint ventures with individuals, corporations, governmental bodies or agencies, political subdivisions, partnerships, associations, limited liability companies, insurers or other entities to facilitate any activities or programs consistent with the public purposes and intent of this chapter.

4. The Authority may create nonprofit entities for the purpose of facilitating any activities or programs consistent with the public purposes and intent of this act, and exercise control of such entities through the appointment of directors or otherwise.

5. In carrying out any activities authorized by this chapter, the Authority may provide appropriate assistance, including making loans and providing time of employees, to the entities described above in this section whether or not such entities are owned or controlled in whole or in part, directly or indirectly, by the Authority. The Auditor of Public Accounts shall work with the Authority to ensure that all such activities authorized by this chapter maintain appropriate public accountability. (2000, c. 731)

Blue Ridge Airport Authority

Created
1964 Acts of Assembly, c. 25
(Henry and Patrick Counties, City of Martinsville).

Amendments
1978, c. 633 (§ 3)
1980, c. 83 (§§ 8, 9)
1996, c. 465 (§ 3)

§ 1. Definitions.
As used in this Act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Blue Ridge Airport Authority hereinafter created or, if the Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or upon whom the powers given by this Act to the Authority shall be conferred by law.

(b) The word "project" shall mean an airport for general, commercial and private use constructed by the Authority under the provisions of this Act, together with all necessary and convenient approaches, roads and streets used in connection with such airport.

(c) The term "cost of the project" shall embrace the cost of construction, landscaping and conservation, the cost of acquisition of all land, rights of way, property, rights, easements and interests acquired by the Authority for the construction and operation of the project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the Authority for a period not exceeding one year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates

of cost and of revenues, provisions for working capital and a reserve for interest, other expenses necessary or incident to determining the feasibility or practicability of constructing the project, administrative expenses, and such other expenses as may be necessary for incident to the construction of the project, the financing of such construction and the placing of the project in operation.

(d) The word "bonds" or the words "revenue bonds" shall mean revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this Act.

(e) The word "owner" shall include all individuals, copartnerships, associations or corporations and also municipalities, political subdivisions and all public agencies an instrumentalities having any title or interest in any property, rights, easements and interests authorized to be acquired by this Act. (1964, c. 25)

§ 2. Credit of Commonwealth and political subdivisions not pledged.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any county, city, district or political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any county, city, district or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the commonwealth or any county, city or district therein or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect.

All expenses incurred in carrying out the provisions of this Act shall be payable solely from funds provided under the provisions of this act and no liability or obligation shall be incurred by the authority hereunder beyond the extend to which moneys shall have been provide under the provisions of this Act. (1964, c. 25)

§ 3. "Blue Ridge Airport Authority."

There is hereby created and constituted a political subdivision of the Commonwealth to be known as the "Blue Ridge Airport Authority". The exercise by the Authority of the powers conferred by this act in the construction, operation and maintenance of the project authorized by this act shall be deemed and held to be the performance of an essential governmental function.

The Authority shall consist of nine members, all of whom shall be appointed by the presiding judge or judges of the Seventh Judicial Circuit of the counties of Henry and Patrick and the city of Martinsville, at least three of whom shall be residents of said Judicial Circuit. Two of the members of the Authority first appointed shall continue in office for terms expiring on June 30, 1967, two for terms expiring on June 30, 1966, one for a term expiring on June 30, 1965, two to be appointed July 1, 1978, for terms expiring June 30, 1980, and two to be appointed July 1, 1996, for five-year terms, the term of each

such member to be designated by said judge or judges and to continue until his successor shall be duly appointed and qualified. The successor of each such member shall be appointed for a term of five years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Authority shall be eligible for reappointment. Members of the Authority shall be subject to removal from office in like manner as are State, county, town and district officers under the provisions of Article 7 (§ 24.2-230 et seq.) of Chapter 2 of Title 24.2 of the Code of Virginia. The Authority shall annually elect one of its members as chairman and another as vice-chairman and shall also elect annually a secretary-treasurer, who may or may not be a member of the Authority.

The secretary-treasurer shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates.

Five members of the Authority shall constitute a quorum and the affirmative vote of five members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

Before the issuance of any revenue bonds under the provisions of this act, the secretary-treasurer of the Authority shall execute a surety bond in the penal sum of fifty thousand dollars, such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the Commonwealth as surety and to be approved by the Attorney General and filed in the office of the Secretary of the Commonwealth.

The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties. Each member shall also be paid the sum of twenty dollars per day for each day or portion thereof during which he is engaged in the performance of his duties, with the maximum payable to any one member in any one calendar year of fifteen hundred dollars. (1964, c. 25; 1978, c. 633; 1996, c. 465)

§ 4. General grant of powers.

The Authority is hereby authorized and empowered:

(a) to adopt by-laws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to determine the location of the project, to determine, in its discretion and without reference to any other provisions of any State law, the design standards and the materials of construction, and to construct, maintain, repair and operate the project;

(d) to issue revenue bonds of the Authority for any of its purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this Act;

(e) to fix and revise from time to time and charge and collect tolls, rates, fees, rentals and other charges for the use of the project;

(f) to acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this Act;

(g) to employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in it judgment, and to fix their compensation;

(h) to enter upon any lands and premises for the purpose of making such surveys, soundings, borings and examinations as the Authority may deem necessary for convenient for its purposes, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings; provided, however, the Authority shall pay any actual damage resulting to such lands and premises as a result of such entry and activities as a part of the cost of the project;

(i) to sue and be sued in its own name, plead and be impleaded;

(j) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act; and

(k) to do all acts and things necessary or convenient to carry out the powers expressly granted in this Act. (1964, c. 25)

§ 5. Acquisition of property.

(a) The Authority is hereby authorized and empowered to acquire by purchase solely from funds provided under the provisions of this Act, such lands, structures, property, rights, rights of way, franchises, easements and other interest in lands as it may deem necessary or convenient for the construction and operation of the project, upon such terms an at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and the commissions of the Commonwealth, with the approval of the Governor, and the counties of Henry, Patrick and the city of Martinsville, notwithstanding any contrary provisions of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court or other action or formality, any real property which may be

necessary or convenient to the effectuation of the authorized purposes of the Authority, including public highways and other real property already devoted to public use.

(b) The Authority is authorized and empowered to acquire by the exercise of the power of eminent domain limited to the definition of "project" as set forth herein, any lands, property, rights, rights of way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any person, copartnership, association, public service, public utility or other corporation, or of the county, deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration, replacement or relocation of public or private property damaged or destroyed, whenever a reasonable price cannot be agreed upon or whenever the Authority cannot agree on the terms of purchase or settlement with the owner or owners because of the incapacity of such owner or owners or because of the inability to agree to the compensation to be paid or other terms of settlement or purchase, or because such owner or owners are nonresidents of the commonwealth, or are unknown, or are unable to convey valid title to such property. Such proceedings shall be in accordance with and subject to the provisions of any and all laws of the Commonwealth applicable to the exercise of the power of eminent domain in the name of the State Highway Commissioner and subject to the provisions of § 25-233 of the Code of Virginia, 1950, as fully as if the Authority were a corporation possessing the power of eminent domain; provided, however, that title to any property condemned by the Authority shall immediately vest in the Authority, and the Authority shall be entitled to the immediate possession of such property upon the deposit with the clerk of the court in which such condemnation proceedings are originated, of the total amount of the appraised price of the property and court costs and fees as provided by said laws, notwithstanding that any of the parties to such proceedings shall appeal from any decision in such condemnation proceedings. Upon the deposit with the clerk of the court of the appraised price, any person or persons entitled thereto may, upon petition to the court, be paid his or their pro rata share of 90% of such appraised price. the acceptance of such payment shall not preclude such person or persons for appealing any decisions rendered in such proceedings. If the appraisement is greater or less than the amount finally determined by the decision in such proceeding or by an appeal, the amount of the increase or decrease shall be paid by or refunded to the Authority.

The terms "appraised price" and "appraisement" as used in this section mean the value determined by two competent real estate appraisers appointed by the Authority for such purposes.

The acquisition of any such property by condemnation or by the exercise of the power of eminent domain shall be and is hereby declared to be a public use of such property.

(c) Title to any property acquired by the Authority shall be taken in the name of the Authority.

(d) In any eminent domain proceedings the court having jurisdiction of the suit, action or proceedings may make such orders as may be just to the Authority and to the owners of the property to be

condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security nor any act or obligation of the Authority shall impose any liability upon the Commonwealth or upon any county, or other political subdivision of the Commonwealth.

(e) If the owner, lessee or occupier of any property o be condemned or otherwise acquired shall refuse to remove his property therefrom or give up possession thereof, the Authority may proceed to obtain possession in any manner provided by law. (1964, c. 25)

§ 6. Revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding six per centum (6%) per annum, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bond and the place or places of payment of principal and interest, which may be at any bank or rust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this Act, all such bonds shall be determined to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this Act.

The proceeds of the bonds shall be used solely for the payment of the cost of the project, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such

deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Act. (1964, c. 25)

§ 7. Trust agreement.

In the discretion of the Authority any bonds issued under the provisions of this Act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project, the rates of toll or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project. (1964, c. 25)

§ 8. Revenues.

A. The Authority is hereby authorized to fix, revise, charge and collect tolls or other charges for the use of the project and to contract with any person, partnership, association or corporation desiring the use

of any part thereof, including the right of way adjoining the airport for placing thereon telephone, telegraph, electric light or power lines, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls or other charges shall be so fixed and adjusted in respect of the aggregate of tolls or other charges from the project as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such project and (b) the principal of and interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. The tolls and all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls and other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution or any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided and in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

B. The Authority is authorized to accept, receive, receipt for, disburse, and expend federal and State moneys and other moneys, public or private, made available by grant or loan or both to accomplish, in whole or in part, any of the purposes of this Act. All federal moneys accepted under this subsection shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with State Law, and all State moneys accepted under this subsection shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the State. (1964, c. 25; 1980, c. 83)

§ 9. Trust funds.

All moneys received pursuant to the provisions of this Act from the sale of bonds or shall be deemed to be trust funds to be held and applied solely as provided in this Act. The Authority shall, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues to be received by a trustee, which shall be any trust company or bank having the powers of a trust company within or without the

Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this Act, subject to such regulations as this Act and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds. (1964, c. 25; 1980, c. 83)

§ 10. Remedies.

Any holder of bonds issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this Act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this Act or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of tolls or other charges. (1964, c. 25)

§ 11. Exemption from taxation.

The exercise of the powers granted by this Act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the visions of this act or upon the income therefrom; and the bonds issues under the provisions of this Act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof. (1964, c. 25)

§ 12. Revenue refunding bonds.

The Authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding within shall have been issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this Act insofar as the same may be applicable. (1964, c. 25)

§ 13. Act liberally construed.

This Act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1964, c. 25)

§ 14. Constitutional construction.
The provisions of this Act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this Act. It is hereby declared to be the legislative intent that this Act would have been adopted had such unconstitutional provisions not been included therein. (1964, c. 25)

§ 15. Inconsistent laws inapplicable.
All other general or special laws inconsistent with any provision of this Act are hereby declared to be inapplicable to the provisions of this Act. (1964, c. 25)

Breaks Regional Airport Authority

Created
2009 Acts of Assembly, c. 694.

§ 1. Short title.
This act shall be known and may be cited as the Breaks Regional Airport Authority Act. (2009, c. 694)

§ 2. Creation; public purpose.
If the Town of Grundy, or the governing body of Buchanan County, by resolution declare that there is a need for an airport authority to be created, and an operating agreement is developed for the purpose of establishing or operating airport facilities for any such participating political subdivisions, and that they should unite in its formation, an airport authority to be known as the Breaks Regional Airport Authority (hereinafter the Authority) shall thereupon exist for such participating counties and town and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Breaks Regional Airport Authority, such authority shall be conclusively deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such counties and town declaring that there is a need for such authority and that they should unite in its formation. A copy of such resolution duly certified by the clerks of the counties and by the mayor of the town by which it is adopted shall be admissible as evidence in any suit, action or proceedings. Any political subdivision of the Commonwealth, all or part of which is located within 60 miles of an Authority facility, is authorized to join such Authority pursuant to the terms and conditions of this act.

It is hereby declared that the ownership and operation by the Authority of modern and efficient air transportation and related facilities and the exercise of powers conferred by this act are proper and essential governmental functions and public purposes and matters of public necessity for which public

moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. It is also declared that contract obligations of a county or town to provide payments over a period of more than one year to the Authority shall be excluded from existing indebtedness of such county or town for purposes of calculating debt limit pursuant to Article VII, Section 10 (a) of the Constitution of Virginia. It is further declared that the Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county pursuant to Article VII, Section 10 (b) of the Constitution of Virginia. (2009, c. 694)

§ 3. Definitions.

As used in this act the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means this Breaks Regional Airport Authority Act.

"Authority" means the Breaks Regional Airport Authority created by this act.

"Board of Directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by this Authority pursuant to this act.

"Breaks Regional Airport" means the airport facilities located at 2931 Airport Road, Vansant, Virginia, and any other facilities necessary, incidental, or convenient to the operation of the facilities.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all airports, terminals, runways, hangars, loading facilities, repair shops, parking areas, facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies and airlines, and industrial and commercial facilities, purchased, constructed or otherwise acquired or operated by the Authority pursuant to the provisions of this act.

Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, avigation rights, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

"Participating political subdivision" means any of the County of Buchanan or the Town of Grundy or any other political subdivision that may join or has joined the Authority pursuant to §§ 4 and 5 of this act.

"Political subdivision" means a county, municipality or other public body of this Commonwealth. (2009, c. 694)

§ 4. Participating political subdivision.

Prior to becoming a participating political subdivision, each political subdivision shall enter into a contract with the Authority and other participating political subdivisions setting forth the financial contribution to be made by such political subdivision to the Authority.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any other political subdivision. (2009, c. 694)

§ 5. Appointment and tenure of directors.

The powers of the Authority shall be vested in the directors of the Authority. The governing body of each participating political subdivision shall appoint two directors, and Dickenson County shall appoint one director. No member of the Board of Directors may be an employee of a participating political subdivision, except that the members of the governing bodies may each appoint one member to the Board of Directors. Only one member of each political subdivision's governing body may be appointed to the Board of Directors. The other appointments to the Board of Directors shall be limited to citizens from that political subdivision. The governing body of each participating political subdivision shall appoint the number of directors, set forth opposite its name below:

Town of Grundy: 2

County of Buchanan: 2

County of Dickenson: 1

The initial Board of Directors shall be appointed for the following terms: County of Buchanan: one member for one year, one member for four years; Town of Grundy: one member for two years, one member for three years; Dickenson County: one member for four years. Thereafter, each director shall be appointed for a four-year term or until his successor is appointed and qualified.

The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term.

Each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties. (2009, c. 694)

§ 6. Organization.

A majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

The Board shall hold regular meetings at such times and places as may be established by its bylaws. Special meetings of the Board may be called by any director or the Executive Director upon at least 48 hours written notice to each director served personally or left at his usual place of business or residence.

The Board of Directors shall annually elect a chairman and a vice-chairman from their membership, a secretary and a treasurer or a secretary-treasurer from their membership or not as they deem appropriate, and such other officers as they may deem appropriate. The Board of Directors may appoint an executive director, who shall not be a director, who shall exercise such powers and duties as may be delegated to him by the Board of Directors, including powers and duties involving the exercise of discretion.

The Board of Directors may make and from time to time amend and repeal bylaws, not inconsistent with this act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The Board of Directors may appoint such committees as it may deem advisable and fix the duties and responsibilities of such committees. (2009, c. 694)

§ 7. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including, for purposes of illustration, the following:

1. To sue and be sued in its own name;

2. To have perpetual succession;

3. To adopt a corporate seal;

4. To maintain offices at such places as it may designate in the Town of Grundy, the County of Buchanan, or the County of Dickenson;

5. To acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate any airport, air landing fields, structures, avigation facilities and other property incidental thereto within the territorial limits of the participating political subdivisions subject to the limitation that such power shall be limited to such items as may be necessary for the operation of the Breaks Regional Airport;

6. To construct, install, maintain and operate facilities for the servicing and storage of aircraft and for the accommodation of cargo, freight, mail, express, and similar items, and for the accommodation and comfort of air travelers, and for lease or sale to industrial or commercial users, and to purchase and sell equipment and supplies incidental to the operation of its airport facilities;

7. To grant to others the privilege to operate for profit concessions, leases, and franchises, including but not limited to the sale of airplanes, fuel, parts and equipment, maintenance of aircraft, the accommodation and comfort of persons using its facilities and the providing of ground transportation and parking facilities for such persons; such concessions, leases and franchises shall be exclusive or limited when deemed by the Authority necessary to further the public safety, improve the quality of air service, avoid duplication of service or conserve airport property and the airport operation;

8. To determine fees, rates, and charges for the use of its facilities;

9. To apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, this Commonwealth and political subdivisions, agencies and instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the Authority's facilities or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions and execute such agreements and legal instruments as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

10. To establish, operate and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce;

11. To appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

12. To contract with a participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 14 hereof, accounting services, including the annual independent audit required by § 12 hereof, procurement of goods and services, and to act as fiscal agent for the Authority. In the event of a contract for a participating political subdivision to act as fiscal agent, the Authority's employees shall be compensated, shall receive the same benefits, including pensions, and shall be subject to the personnel rules of said subdivision;

13. To establish personnel rules;

14. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

15. Subject to the provisions of any deed or deeds from the Town of Grundy to the Authority and any agreement or agreements among or between the Authority and any participating political subdivision, to sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein, if such disposition is in the public interest and in furtherance of the purposes of this act or if such property is not necessary for the purposes of the Authority;

16. To make, assume and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

17. a. To borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

b. The total indebtedness of the Authority at no time shall exceed the amount of $500,000, in principal, whether by purchase of encumbered property, direct loan, bonded indebtedness, or debt in any other form except as agreed to by each participating political subdivision by resolution of the governing body thereof, in which case the total amount of indebtedness shall be expressed in the resolution of each such governing body;

c. Notwithstanding any other provision of law, no interest or right in the real property conveyed, in any form, to the Authority by a participating political subdivision, shall be conveyed, pledged, or otherwise transferred by the Authority for the purpose of obtaining or securing any indebtedness, nor shall any such property be encumbered by the Authority unless and until such subdivision has approved the nature of, terms of, and amount of such conveyance, pledge, transfer or encumbrance, by resolution of the governing body of said subdivision;

18. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. To pay pensions and establish pension plans, pension trusts, and other compensation plans for any of its employees;

20. To purchase and maintain insurance or to provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such; and

21. To do all things necessary or convenient to the purposes of this act.

However, the powers of the Authority expressed in this act shall be limited to those powers necessary for the construction and operation of the Breaks Regional Airport. To that end, property acquired,

owned, or conveyed to the Authority, contracts entered into, financial assistance, indebtedness, rules and regulations adopted by the Authority and any other actions thereof may only pertain to said airport.

The grant of regulatory authority by this act, including regulations that displace, eliminate or limit competition by or among persons or entities, is based on the policy of the Commonwealth to provide for the safe, adequate, economical and efficient provision of air transportation and related facilities and services to the public. (2009, c. 694)

§ 8. Name of airport.

The name of the airport operated by the Authority shall be Breaks Regional Airport. (2009, c. 694)

§ 9. Rules and regulations.

The Authority shall have the power to adopt, amend, and repeal rules and regulations for the use, maintenance and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the Board of Directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

1. Make such rule, regulation, alteration, amendment or modification in convenient form available for public inspection in the office of the Authority for at least 10 days; and

2. Post in a public place a notice declaring the Board of Directors' intention to consider adopting such rule, regulation, alteration, amendment or modification and informing the public that the Authority will at a public meeting consider the adoption of such rule or regulation or such alterations, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least 10 days from the first day of the posting of the notice thereof. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to (i) traffic, including but not limited to motor vehicle speed limits and the location of and payment of public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) aircraft operation and maintenance shall have the force of law, as shall any other rule or regulation of the Authority that shall contain a determination by the Authority that it is necessary to accord the same the force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the traffic engineer or comparable official of the political subdivision in which such rules or regulations are to be enforced.

The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

All ordinances, rules and regulations duly adopted for the regulation, administration and operation of Breaks Regional Airport, in force at the effective date of this act shall remain in full force insofar as they or any part thereof are not inconsistent with the provisions of this act until amended or repealed in accordance with this act. (2009, c. 694)

§ 10. Police powers.

Authority employees meeting the minimum requirements of the Department of Criminal Justice Services shall be given special police power by the circuit court of any participating political subdivision. The authority conferred upon such special policemen shall be exercised only upon Authority facilities located within such participating political subdivision, and shall be in all terms consistent with the requirements of Chapter 17 of Title 15.2 of the Code of Virginia.

Such special policemen shall have all powers vested in police officers under Chapter 17 of Title 15.2 of the Code of Virginia and shall be responsible upon Authority facilities for enforcing Authority rules and regulations and all other applicable statutes, ordinances, rules, and regulations of the United States of America and agencies and instrumentalities thereof and this Commonwealth and political subdivisions, agencies and instrumentalities thereof.

Such special policemen may issue summons to appear, or arrest on view or without warrant as permitted by law, and conduct before any court of competent jurisdiction any person violating any rule or regulation of the Authority or other applicable statute, ordinance, rule or regulation.

For the purpose of enforcing such statutes, ordinances, rules and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the participating political subdivision wherein the offense was committed shall have jurisdiction to try a person charged with the violating of any such statutes, ordinances, rules or regulations. (2009, c. 694)

§ 11. Eminent domain.

The Authority is hereby granted full power to exercise the right of eminent domain within the participating political subdivisions in the acquisition of any lands, easements, privileges or other property interests that are necessary for constructing and operating an airport, including, where necessary to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport, avigation easements over lands or water outside the boundaries of its airport, even though such avigation easement may be either inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on said

land at the time of such acquisition. Proceedings for the acquisition of such land, easements and privileges by condemnation may be instituted and conducted in the name of the Authority in accordance with Title 25.1 of the Code of Virginia. However, prior to initiating such proceedings, the governing body of the participating political subdivision in which the subject property is located shall grant consent by resolution. (2009, c. 694)

§ 12. Reports.

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. (2009, c. 694)

§ 13. Procurement.

All contracts that the Authority may let for construction or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of the Code of Virginia. Upon completion of the construction of the Breaks Regional Airport, the Authority shall be subject to the same procurement procedures that apply to the Town of Grundy. (2009, c. 694)

§ 14. Deposit and investment of funds.

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act.

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for fiduciaries. (2009, c. 694)

§ 15. Authority to issue bonds.

The Authority shall have power and is hereby authorized to issue bonds from time to time in its discretion for any of its purposes, including the payment of all or any part of the cost of any of its facilities and the refunding of any bonds previously issued by it.

The Authority shall not issue bonds unless and until the maximum amount of such issue and the general purposes thereof have been approved by the governing body of each participating political subdivision. Subject to the foregoing, bonds may be issued under this act notwithstanding any debt or other limitation prescribed in any other statute and without obtaining the consent of any city, town, or

county government or any commission, board, bureau, or agency of the Commonwealth or of any of the foregoing, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things that are specifically required by this act.

The Authority may issue such types of bonds as it may determine, specifically bonds payable as to principal and interest (i) from its revenues generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds. Subject to the limitations set forth in § 7 of this act, any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, as such participating political subdivision, or other entities may be authorized to make under general law or by pledge of any income or revenues of the Authority, or where such mortgage has been approved by the participating political subdivisions, a mortgage of any facilities of the Authority.

Bonds of the Authority shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates and shall bear interest at such rate or rates as may be determined by the Authority, and may be made redeemable before maturity at the option of the Authority at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the conversion and reconversion into coupon bonds of any bonds registered as to both principal and interest and vice versa.

The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. (2009, c. 694)

§ 16. Resolution or trust indenture to secure bonds.

In connection with the issuance of bonds and in order to secure the payment of such bonds, the Authority shall have power:

1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents, or revenues;

2. To covenant to impose and maintain such schedule of fees, rents and charges as will produce funds sufficient to pay operating costs and debt service;

3. To covenant against pledging all or any part of its fees, rents, and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and powers in the fees, rents and revenues that are subject to a pledge;

5. To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or facilities of the Authority or any part thereof or with respect to limitations on its right to undertake additional projects;

6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

7. To covenant as to what other, or additional, debt may be incurred by it;

8. To provide for the terms, forms, registration, exchange, execution, and authentication of bonds;

9. To provide for the replacement of lost, destroyed, or mutilated bonds;

10. To covenant as to the use of any or all of its property, real or personal, subject to the continued use of such property for airport purposes;

11. To create or to authorize the creation of special funds in which there may be segregated: (i) the proceeds of any loan or grant; (ii) all of the fees, rents and revenues of any facility or facilities or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as reserve for such payments; and (v) any moneys held for any

other reserve or contingencies; and to covenant as to the use and disposal of the moneys held in such funds;

12. To redeem its bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

15. To covenant as to the maintenance of its facilities, the insurance to be carried thereon and the use and disposition of insurance moneys;

16. To vest in a bondholder the right, in the event of the failure of the Authority to observe or perform any covenant on its part to be kept or performed, to cure any such default, and, subject to the limitation on total indebtedness expressed in this act, to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the Authority with such interest, security and priority as may be provided in any trust indenture, lease or contract of the Authority with reference thereto;

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

18. To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition or obligation;

19. To covenant to surrender possession of all or any part of any facility or facilities acquired or constructed from bond proceeds, the revenues from which have been pledged upon the happening of any event of default, as defined in the contract, and to vest in a bondholder the right without judicial proceeding to take possession and to use, operate, manage, and control such facility or any part thereof, and to collect and receive all fees, rents, and revenues arising therefrom in the same manner as the Authority itself might do and to dispose of the moneys collected in accordance with the agreement of the Authority with such obligee, subject to the continued use of such facilities for airport purposes;

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as any purchaser of the bonds of the Authority may reasonably require; and

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of the Authority, that tend to make the bonds more marketable; notwithstanding that such covenant, acts or things may not be enumerated herein, it being the intention hereof to give the Authority power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of Virginia or this act. (2009, c. 694)

§ 17. Fees, rents and charges.

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary, be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. (2009, c. 694)

§ 18. Credit of Commonwealth and political subdivisions not pledged.
The bonds of the Authority shall not be a debt of the Commonwealth or any political subdivision thereof, other than the Authority, and neither the Commonwealth nor any political subdivision thereof, other than the Authority, shall be liable thereon, nor shall such bonds be payable out of any funds or properties other than those of the Authority.

All bonds of the Authority shall contain on the face thereof a statement to such effect. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. (2009, c. 694)

§ 19. Directors and persons executing bonds not liable thereon.
Neither the Board of Directors nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof. (2009, c. 694)

§ 20. Remedies of bondholder.
Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust indenture agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such trust indenture or agreement or resolution to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges. Any resolution authorizing the issuance of the Authority's bonds or trust indenture or agreement securing the same may limit or abrogate the individual right of action by the holders of such bonds or coupons appertaining thereto. (2009, c. 694)

§ 21. Taxation.
The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act. The bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof.

Persons, firms, partnerships, associations, corporations and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to, any leasehold tax on real property and taxes on tangible

personal property and machinery and tools, taxes for admission, taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling and taxes upon consumers of gas, electricity, telephone and other public utility services. (2009, c. 694)

§ 22. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (2009, c. 694)

§ 23. Appropriation by political subdivision.

Any participating political subdivision, or other political subdivision of the Commonwealth all or a part of which is located within 60 miles of an Authority facility, is authorized to provide services, to donate real or personal property and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority. The Authority may agree to assume, or reimburse a participating political subdivision for, any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority. With the consent of the governing body of the participating political subdivision, any such agreement may be made subordinate to the Authority's indebtedness to others. (2009, c. 694)

§ 24. Authority budget.

A. The Authority shall annually prepare and submit to the participating political subdivisions (i) a proposed operating budget showing its estimated general fund revenues and expenses on an accrual basis for the forthcoming fiscal year, and if such estimated expenses exceed such estimated revenues, the portion of the deficit proposed to be borne by each participating political subdivision, and (ii) a proposed capital budget showing its estimated expenditures for such fiscal year for assets costing more than $20,000 (or such higher amount as the Authority and the participating political subdivisions may determine) and having an estimated useful life of 20 years or more and the source of funds for such expenditures, including any amount requested from the participating political

subdivisions. No depreciation shall be included in the Authority's operating budget with respect to assets purchased by the Authority with funds appropriated to it for such purpose by a participating political subdivision and, for this determination, it shall be assumed that any appropriation so made is for the purchase of assets set forth in the applicable Authority budget to the extent such purchase price is included in the approved budget. Assets purchased by the Authority with bond proceeds shall be depreciated over the term of the bond issue in proportion to the maturities, including sinking fund installments, of the bond issue.

B. If the governing body of a participating political subdivision shall approve the Authority's proposed operating budget, it shall appropriate to the Authority such political subdivision's portion of such budget, subject to the availability of funds in regard to the budget of the political subdivision.

C. If the governing body of a participating political subdivision shall approve the Authority's proposed capital budget, it shall appropriate to the Authority such participating political subdivision's portion of the expenditures set forth therein. Any such appropriation may be reduced by the participating political subdivision's proportionate share of any grant funds received by the Authority for the purchase of assets included in the Authority's approved capital budget in excess of the grant funds shown in such capital budget as a source of funds for such expenditure, unless prohibited by the basic provider of the grant funds.

D. The Authority may expend any and all moneys within its control without obtaining the approval of the participating political subdivisions, but, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any political subdivision, the Authority shall not commit any participating political subdivision in an amount in excess of that appropriated to the Authority by the governing body of such political subdivision.

E. If at any time during any fiscal year it shall appear that the cash disbursements of the Authority will exceed its cash receipts for such fiscal year, including amounts appropriated to it by the participating political subdivisions, the Authority may request supplemental appropriations from the participating political subdivisions and any other political subdivision. (2009, c. 694)

§ 25. Allocation of deficit.

Any deficit budgeted by the Authority in any fiscal year, i.e., any excess of its estimated general fund expenses over its estimated general fund revenues, and the cost of any budgeted capital expenditures in excess of the amount shown as available therefor, as shown on the Authority's operating and capital budgets approved by the participating political subdivisions, shall be allocated among the participating political subdivisions as agreed upon by the participating political subdivisions and subject to the availability of funds in regard to the budgets of the political subdivisions. (2009, c. 694)

§ 26. Contracts with political subdivisions.

The Authority is authorized to enter into contracts with any one or more political subdivisions, which contracts may restrict the powers of the Authority otherwise granted by this act. Any participating political subdivision, or other political subdivision of the Commonwealth all or part of which is located within 60 miles of an Authority facility, is authorized to enter into contracts with the Authority, pursuant to which the Authority undertakes to provide the facilities and render the services specified therein. Any such contract or agreement may provide that the political subdivision will make payments to the Authority based on the services rendered by the Authority to the residents of such political subdivision, determined in such reasonable manner as the Authority and the political subdivision may mutually agree. Each political subdivision entering into such a service contract with the Authority is authorized to do everything necessary or proper to carry out and perform such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations. (2009, c. 694)

§ 27. Retirement benefits for certain employees formerly employed by a participating political subdivision.

When a local political subdivision joins the Authority, any employee of such local political subdivision who then becomes an employee of the Authority, if such employee is a member of a local retirement system, may elect to and may continue to be eligible to remain a member of such local retirement system in lieu of becoming a member of any retirement system with which the Authority may affiliate. Such election to remain a member of a local retirement system shall be made in writing within 120 days of such employee's political subdivision becoming a member of the Authority. In such event, service of such employee with the Authority shall be creditable as service with the participating political subdivision and shall be pursuant to all duly adopted ordinances and rules and regulations governing such retirement system. Any employee so electing shall not be entitled to any benefit under the Authority's retirement system, and the Authority shall pay the employer share of benefits provided the Authority's employees by such political subdivision. Nothing herein shall apply to any health and accident insurance plan or to the Federal Old Age and Survivors Insurance System. (2009, c. 694)

§ 28. Dissolution of Authority.

Whenever it shall appear to the Authority, or to any participating political subdivision that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political

subdivision. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia. (2009, c. 694)

§ 29. Agreement with Commonwealth and participating political subdivisions.
The Commonwealth and, by participating in the Authority, each participating political subdivision pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds. (2009, c. 694)

§ 30. Liberal construction.
Neither this act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of this Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds, notes or other obligations. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is expressly provided in this act.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act. (2009, c. 694)

§ 31. Application of local ordinances, service charges and taxes upon leaseholds.
Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control and fire prevention codes or from building regulations of a political subdivision in which such property is located.

Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom. (2009, c. 694)

§ 32. Existing contracts, leases, franchises, not impaired.
No provisions of this act shall relieve, impair or affect any right, duty, liability or obligation arising out of any contract, concession, lease or franchise now in existence except to the extent that such contract, concession, lease or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of or otherwise modify at any time any contract, concession, lease or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease or franchise consents to said renegotiation, renewal, extension or modification. (2009, c. 694)

Brookneal-Campbell County Airport Authority

Created
1979 Acts of Assembly, c. 344.

§ 1. Definitions.
As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

A. The word "Authority" shall mean the Brookneal-Campbell County Airport Authority hereinafter created or, if the Authority shall be abolished, the board, body, or commission or agency succeeding to the principal functions thereof or upon whom the powers given by this act to the Authority shall be conferred by law.

B. The word "project" shall mean an airport for general, commercial and private use constructed by the Authority under the provisions of this act, together with all necessary and convenient approaches, roads and streets used in connection with such airport.

C. The term "cost of the project" shall embrace the cost of construction, landscaping and conservation, the cost of acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the Authority for the construction and operation of the project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the Authority for a period not exceeding one year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, provision for working capital and a reserve for interest, other expenses necessary or incident to determining the feasibility or practicability of constructing the project, the financing of such construction and the placing of the project in operation.

D. The word "bonds" or the words "revenue bonds" shall mean revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this act. (1979, c. 344)

§ 2. Credit of Commonwealth and political subdivisions not pledged.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any county, city, district or political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any county, city, district or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the Commonwealth or any county, city or district therein or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the provisions of this act and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this act. (1979, c. 344)

§ 3. "Brookneal-Campbell County Airport Authority."

There is hereby created and constituted a political subdivision of the Commonwealth to be known as the "Brookneal-Campbell County Airport Authority." The exercise by the Authority of the powers conferred by this act in the construction, operation and maintenance of the project authorized by this act shall be deemed and held to be the performance of an essential governmental function.

The Authority shall consist of six members all of whom shall be appointed by their respective governing bodies in the county of Campbell and the town of Brookneal as hereinafter provided, all of whom shall be residents of such political subdivisions time of their appointment and during their tenure. Two of the members of the Authority first appointed shall continue in office for terms expiring on January thirty-one, nineteen hundred eighty-one, one from the county and the other from the town of Brookneal; two for terms expiring on January thirty-one, nineteen hundred eighty-two, one from the county and the other from the town of Brookneal; and two for a term expiring on January thirty-one, nineteen hundred eighty-three, one from the county and one from the town of Brookneal. They shall continue to serve until their successors, chosen from the same political subdivisions, shall be duly appointed and qualified. The successor of each such member shall be appointed for a term of three years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Authority shall be eligible for reappointment. Members of the Authority shall be subject to removal from office in like manner as are State, county, town and district officers under the provisions of § 24.1-79.1 et seq. of the Code of Virginia. The Authority shall annually elect one of its members as chairman and another as vice-

chairman and shall also elect annually a secretary-treasurer, who may or may not be a member of the Authority.

The secretary-treasurer shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates.

Four members of the Authority shall constitute a quorum and the affirmative vote of four members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

Before the issuance of any revenue bonds under the provisions of this act the secretary-treasurer of the Authority shall execute a surety bond in the penal sum of fifty thousand dollars, such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the Commonwealth as surety and to be approved by the Attorney General and filed in the office of the Secretary of the Commonwealth.

The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties. Each member shall also be paid the sum of fifty dollars per day for each day or portion thereof during which he is engaged in the performance of his duties. (1979, c. 344)

§ 4. General grant of powers.

The Authority is hereby authorized and empowered:

A. To adopt bylaws for the regulation of its affairs and the conduct of its business;

B. To adopt an official seal and alter the same at pleasure;

C. To determine, in its discretion the design standards and the materials of construction, and to construct, maintain, repair and operate the project;

D. To issue revenue bonds of the Authority for any of its purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

E. To fix and revise from time to time and charge and collect tolls, rates, fees, rentals and other charges for the use of the project;

F. To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

G. To employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

H. To enter upon any lands and premises for the purpose of making such surveys, soundings, borings and examinations as the Authority may deem necessary or convenient for its purposes, an entry for such purposes shall not be deemed an entry under any condemnation proceedings; provided, however, the Authority shall pay any actual damage resulting to such lands and premises as a result of such entry and activities as a part of the cost of the project;

I. To sue and be sued in its own name, plead and be impleaded;

J. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act; and

K. To do all acts and things necessary and convenient to carry out the powers expressly granted in this Act. (1979, c. 344)

§ 5. Acquisition of property.

A. The Authority is hereby authorized and empowered to acquire by purchase from funds provided under the provisions of this act, and such other monies as may be provided by federal, State and local governments, such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and the commissions of the Commonwealth, with the approval of the Governor, and the county of Campbell and the town of Brookneal, notwithstanding any contrary provisions of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court or other action or formality any real property which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including public highways and other real property already devoted to public use.

B. The Authority established hereunder is hereby granted full power to exercise the right of eminent domain in the acquisition of any lands, easements, privileges or other property interests which are necessary for airport and landing field purposes, including the right to acquire, by eminent domain, aviation easements over lands or water outside the boundaries of its airport or landing fields where necessary in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport and landing fields even though such aviation easement be inconsistent with the continued use of such land for acquisition, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on said

land at the time of such acquisition. Proceedings for the acquisition of such lands, easements and privileges by condemnation may be instituted and conducted in the name of the Commission in accordance with Title 25, as amended, of the Code of Virginia.

C. Title to any property acquired by the Authority shall be taken in the name of the Authority.

D. In any eminent domain proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the Authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security nor any act or obligation of the Authority shall impose any liability upon the Commonwealth or upon any county, or other political subdivision of the Commonwealth.

E. If the owner, lessee or occupier of any property to be condemned or otherwise acquired shall refuse to remove his property therefrom or give up possession thereof, the Authority may proceed to obtain possession in any manner provided by law. (1979, c. 344)

§ 6. Revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding such interest rate as is permissible by law, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bond and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as it he had remained in office until such delivery. Notwithstanding any other provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest and for the interchange of registered and coupon bonds.

The Authority may sell such bonds in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this act.

The proceeds of the bonds shall be used solely for the payment of the cost of the project and/or operating expenses and shall be disbursed in such manner and under such restrictions, it any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. It the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this act. (1979, c. 344)

§ 7. Trust agreement.

In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project, the rates of toll or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders. In

addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project. (1979, c. 344)

§ 8. Revenues.

The Authority is hereby authorized to fix, revise, charge and collect tolls or other charges for the use of the project and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the airport for placing thereon telephone, telegraph, electric light or power lines, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls or other charges shall be so fixed and adjusted in respect of the aggregate of tolls or other charges from the project as to provide a fund sufficient with other revenues, if any, to pay (i) the cost of maintaining, repairing and operating such project and (ii) the principal of and interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. The tolls and all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Any pledge made by the Authority pursuant to this chapter shall be governed by the laws of the Commonwealth. The use and disposition of monies to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1979, c. 344)

§ 9. Trust funds.

All monies received pursuant to the provisions of this act, whether as proceeds from the sale of bonds or as revenues, or as grants, appropriations or other funds provided by federal, State or local governments, shall be deemed to be trust funds to be held and applied solely as provided in this act. The Authority shall, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues to be received by a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this act, subject to such regulations as this act and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be

provided in the resolution authorizing the bonds or in the trust agreement securing such bonds. (1979, c. 344)

§ 10. Remedies.

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement made either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of tolls or other charges. (1979, c. 344)

§ 11. Exemption from taxation.

The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom; and the bonds issued under the provisions of this act, their transfer and income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof. (1979, c. 344)

§ 12. Revenue refunding bonds.

The Authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvement extensions or enlargements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable. (1979, c. 344)

§ 13. Act liberally construed.

This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1979, c. 344)

§ 14. Constitutional construction.

The provisions of this act are severable and it any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein. (1979, c. 344)

§ 15. Inconsistent laws inapplicable.
All other general or special laws inconsistent with any provision of this act are hereby declared to be inapplicable to the provisions of this act. (1979, c. 344)

Buchanan County Housing Development Corporation

Created
1982 Acts of Assembly, c. 524.

§ 1. Short title.
This act shall be known and may be cited as the Buchanan County Housing Development Corporation Act. (1982, c. 524)

§ 2. Finding and declaration of necessity.
It is hereby declared: (a) that there exists within Buchanan County a serious shortage of sanitary and safe residential housing at prices or rentals which persons and families of low and moderate income can afford; that this shortage has contributed to and will contribute to the creation and persistence of substandard living conditions and is inimical to the health, welfare and prosperity of the residents of Buchanan County; (b) that it is imperative that the supply of residential housing for such persons and families and for persons and families displaced by public actions or natural disaster be increased; (c) that private enterprise and investment have been unable without assistance to produce the needed construction or rehabilitation of sanitary and safe residential housing at prices or rentals which persons and families of low and moderate income can afford and to provide sufficient long-term mortgage financing for residential housing for occupancy by such persons and families; (d) that a concentration of persons and families of low and moderate income even in standard structures does not eliminate undesirable social conditions; (e) that the governing body of Buchanan County may in its discretion determine that it is necessary to the preservation of the financial viability of Buchanan County and the health, welfare and prosperity of its residents that the population of Buchanan County be maintained as economically mixed by providing housing for persons and families of other than low and moderate income in order to broaden the tax bases of such areas; (f) that in providing sanitary and safe residential housing at prices or rentals which persons and families of low and moderate income can afford it may at times be necessary or desirable to provide housing for persons and families with incomes in excess of those for persons of low and moderate income; (g) that private enterprise and investment be encouraged both to sponsor land development and build and

rehabilitate residential housing for such persons and families of low and moderate income and to build housing which will prevent the recurrence of slum conditions by housing persons of varied economic means in the same projects or area, and that private financing be supplemented by financing as provided in this chapter in order to help prevent the creation and recurrence of substandard living conditions and to assist in their permanent elimination throughout Buchanan County; and (h) that a critical shortage of sanitary and safe residential housing exists in Buchanan County because of the location and expansion of mineral extractive industries and related industries which require the proximity of a substantial work force of varying economic means.

It is further declared that in order to provide a fully adequate supply of sanitary and safe dwelling accommodations at rents, prices, or other costs which such persons or families can afford and to stabilize or recover a necessary economic mix in Buchanan County the legislature finds that it is necessary to create and establish a housing development corporation for the purpose of encouraging the investment of private capital and stimulating the construction and rehabilitation of residential housing to meet the needs of such persons and families or to stabilize such areas through the use of public financing, to provide construction and mortgage loans and to make provision for the purchase of mortgage loans and otherwise.

It is hereby further declared to be necessary and in the public interest that such housing development corporation provide for predevelopment costs, temporary financing, land development expenses and residential housing construction or rehabilitation by private sponsors for sale or rental to qualified persons and families as defined herein; further, to provide mortgage financing for the purposes of supplying sanitary and safe dwelling accommodations at rents, prices or other costs which such persons or families can afford or of stabilizing designated areas in Buchanan County, including without limitation, long-term federally insured mortgages; further, to increase the construction and rehabilitation of housing through the making of loans to or the purchase from mortgage lenders authorized to make loans in the Commonwealth of mortgage loans for residential housing for qualified persons and families as defined herein, further, to make housing available to such persons in order to stabilize or recover a necessary economic mix in Buchanan County and designated areas thereof; and further, to promote wise usage of land and other resources in order to preserve the quality of life we value so highly in Virginia.

It is hereby further declared that all of the foregoing are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned, or granted, and that such activities serve a public purpose in improving or otherwise benefiting the people of the Commonwealth of Virginia and Buchanan County; that the necessity of enacting the provisions hereinafter set forth is in the public interest and is hereby so declared as a matter of express legislative determination. (1982, c. 524)

§ 3. Definitions.

The following terms, when used or referred to in this act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Bonds" shall mean any bonds, notes, debentures, interim certificates, bond, grant and revenue anticipation notes, refunding bonds or notes or any other evidences of indebtedness of the Corporation.

(b) "Commonwealth" shall mean the Commonwealth of Virginia.

(c) "Corporation" shall mean the Buchanan County Housing Development Corporation created under this act.

(d) "County" shall mean Buchanan County, Virginia.

(e) "Economically mixed projects" shall mean any multi-family residential housing financed pursuant to Section 12 E of this act which is located in the county.

(f) "Governing body" shall mean the Board of Supervisors of the county.

(g) "Housing costs" means the sum total of all costs incurred in the development of a housing project, which costs shall include, but are not necessarily limited to: fair value of land owned by the sponsor, or cost of land acquisition and any buildings thereon, including payments for options, deposits, or contracts to purchase properties on the proposed housing site or payments for the purchase of such properties; cost of site preparation, demolition and development; architecture, engineering, legal, accounting, Corporation, and other fees paid or payable in connection with the planning, execution and financing of the housing project; cost of necessary studies, surveys, plans and permits; insurance, interest, financing, tax and assessment costs and other operating and carrying costs during construction; cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery and apparatus related to the real property; cost of land improvements, including without limitation, landscaping and off-site land development improvements, whether or not such costs have been paid in cash or in a form other than cash; necessary expenses in connection with initial occupancy of the housing project; a reasonable profit and risk fee in addition to job overhead to the general contractor and, if applicable, a limited profit housing sponsor; an allowance established by the Corporation for working capital and contingency reserves, and reserves for any anticipated operating deficits during the first two years of occupancy; the cost of such other items, including tenant relocation, if such tenant relocation costs are not otherwise being provided for, as the Corporation shall determine to be reasonable and necessary for the development of the housing project, less any and all net rents and other net revenues received from the operation of the real and personal property on the project site during construction.

(h) "Housing project" means any work or undertaking constituting residential housing, whether one or more units of single family residential housing or multi-family housing, which is designed and

financed pursuant to the provisions of this act for the primary purpose of providing sanitary, decent and safe dwelling accommodations for qualified persons and families, provided that such undertaking may include any buildings, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and such offices, and other nonhousing facilities incidental to such project such as administrative, community, health, educational and recreational facilities as the Corporation determines to be necessary, convenient or desirable.

(i) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, public bodies, trusts, firms, associations, or other legal entities or any combination thereof, corporations, cooperatives and condominiums, approved by the Corporation as qualified either to own, construct, acquire, rehabilitate, operate, manage or maintain a housing project whether nonprofit or organized for profit subject to the regulatory powers of the Corporation and other terms and conditions set forth in this act.

(j) "Land development" means the process of acquiring land for residential housing construction, and of making, installing, or constructing nonresidential housing improvements, including, without limitation, waterlines and water supply installations, sewer lines and sewage disposal and treatment installations, steam, gas and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, other related pollution control facilities, and other installations or works, whether on or off the site, which the Corporation deems necessary or desirable to prepare such land primarily for residential housing construction within the county.

(k) "Mortgage" means a mortgage deed, deed of trust, or other security instrument which shall constitute a lien in the Commonwealth on improvements and real property in fee simple, on a leasehold under a lease having a remaining term, which at the time such mortgage is acquired does not expire for at least that number of years beyond the maturity date of the interest-bearing obligation secured by such mortgage as is equal to the number of years remaining until the maturity date of such obligation or on personal property, contract rights or other assets.

(l) "Mortgage lender" means any bank or trust company, mortgage banker approved by the Federal National Mortgage Association, savings bank, national banking association, savings and loan association, or building and loan association, insurance company, credit unions, the federal government or other financial institutions or federal agencies or corporations which are authorized to and customarily provide service or otherwise aid in the financing of mortgages on residential housing located in the Commonwealth.

(m) "Mortgage loan" means an interest-bearing obligation secured by a mortgage.

(n) "Multi-family residential housing" means residential housing for rental occupancy by qualified persons and families, other than single family residential housing, as hereinafter defined.

(o) "Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin or sex, determined by the Corporation to require such assistance as is made available by this act on account of insufficient personal or family income taking into consideration, without limitation, such factors as follows: (a) the amount of the total income of such persons and families available for housing needs, (b) the size of the family, (c) the cost and condition of housing facilities available, (d) the ability of such persons and families to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing, and (e) if appropriate, standards established for various federal programs determining eligibility based on income of such persons and families.

(p) "Persons and families with incomes in excess of those for persons and families of low and moderate income" shall mean those persons and families (other than persons and families of low and moderate income) who reside or will reside in a housing project located in a housing development district created or an economically mixed project financed pursuant to this act.

(q) "Qualified persons and families" means (i) persons and families of low and moderate income in the County and (ii) persons and families with incomes in excess of those of persons and families of low and moderate income in housing development districts or in economically mixed projects.

(r) "Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(s) "Residential housing" means a specific work or improvement within the county, whether multi-family residential housing or single family residential housing, undertaken primarily to provide dwelling accommodations for qualified persons and families, including the acquisition, construction, rehabilitation, preservation or improvement of land; buildings and improvements thereto for residential housing, and such other nonhousing facilities as may be incidental or appurtenant thereto.

(t) "Single family residential housing" means residential housing consisting of four or fewer dwelling units including, without limitation, detached and attached dwelling units, condominiums, cooperatives, and manufactured homes as defined in Section 5401 et seq. of Title 42 of the United States Code, in which the person or family owning or intending to acquire such dwelling units, upon completion of the construction, rehabilitation or improvement thereof, also occupies or intends to occupy one of such dwelling units. (1982, c. 524)

§ 4. Creation of housing development corporation.
In the county there is hereby created a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in this act, to be known as the "Buchanan County Housing Development Corporation."

The Corporation hereby is constituted a public body corporate and political subdivision of the Commonwealth exercising public and essential governmental functions, and the exercise by the Corporation of the powers conferred by this act shall be deemed and held to the performance of an essential governmental function of the Commonwealth. (1982, c. 524)

§ 5. Appointment and tenure of directors; compensation; quorum; standard of conduct.
The governing body of the county shall appoint not more than nine or less than five persons as directors of the Corporation. The directors who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter directors shall be appointed as aforesaid for a term of office of four years except that all vacancies shall be filled for the unexpired term. No director of the Corporation may be an officer or employee of the county and all directors shall be residents of the county. A director shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any director shall be filed with the clerk of the county and such certificate shall be conclusive evidence of the due and proper appointment of such director.

A director shall receive no compensation for his services, but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

The powers of the Corporation shall be vested in the directors thereof in office from time to time. A majority of the directors shall constitute a quorum of the Corporation for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the Corporation upon a vote of a majority of the directors present, unless in any case the bylaws of the Corporation shall require a larger number. (1982, c. 524)

§ 6. Selection of chairman and other officers, agents and employees.
The governing body of the county shall designate which of the directors appointed shall be the first chairman, but when the office of the chairman of the Corporation thereafter becomes vacant, the directors of the Corporation shall select a chairman from among its directors. The directors shall select from among themselves a vice chairman, and may employ or retain a secretary, technical experts and such other officers, agents, consultants, attorneys and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation.

The directors of the Corporation shall be subject to the standards of conduct set forth in § 2.1-347 et seq. of the Code of Virginia and may be removed from office for neglect of duty or misconduct as provided therein. (1982, c. 524)

§ 7. Powers of Corporation generally.

The Corporation hereby is granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purposes, including, without limitation, the following:

(1) To sue and be sued in its own name;

(2) To have an official seal and to alter the same at pleasure;

(3) To have perpetual succession;

(4) To maintain an office at such place or places within the county as it may designate;

(5) To adopt and from time to time amend and repeal bylaws, not inconsistent with this act, to carry into effect the powers and purposes of the Corporation and the conduct of its business;

(6) To make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

(7) To acquire real or personal property, or any interest therein, by purchase, exchange, gift, assignment, transfer, foreclosure, lease or otherwise, including rights or easements; hold, manage, operate or improve real or personal property; sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or deed of trust or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;

(8) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities to effectuate the purposes of this act;

(9) To enter into agreements or other transactions with the federal government, the Commonwealth or any governmental agency thereof, the county or any municipality therein in furtherance of the purposes of this act, including but not limited to the development, maintenance, operation and financing of any housing project; to operate and administer loan programs of the federal government, the Commonwealth or any governmental agency thereof, the county or any municipality therein involving land development, the planning, development, construction or rehabilitation of housing projects, the acquisition, preservation, improvement or financing of existing residential housing or other forms of housing assistance for persons and families of low and moderate income in the county and persons and families with incomes in excess of those of persons and families of low and moderate income in housing development districts or economically mixed projects, however funded; and to operate and administer any program of housing assistance for persons and families of low and moderate income in the county and persons and families with

incomes in excess of those of persons and families of low and moderate income in housing development districts or economically mixed projects, however funded;

(10) To receive and accept aid, grants, contributions and cooperation of any kind from any source for the purposes of this act subject to such conditions, acceptable to the Corporation, upon which such aid, grants, contributions and cooperation may be made, including, but not limited to, rent supplement payments made on behalf of eligible persons or families or for the payment in whole or in part of the interest expense for a housing project or for any other purpose consistent with this act;

(11) To provide, contract or arrange for consolidated processing of any aspect of a housing project in order to avoid duplication thereof by either undertaking the processing in whole or in part for any department, agency or instrumentality of the United States, this Commonwealth or the county, or, in the alternative, to delegate that processing in whole or in part to any such department, agency or instrumentality;

(12) To provide advice and technical information;

(13) To employ architects, engineers, attorneys, accountants, housing, construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix their compensation;

(14) To procure insurance against any loss in connection with its property and other assets including mortgages and mortgage loans, in such amounts and from such insurers as it deems desirable;

(15) To invest funds in its custody or under its control as the manner provided in § 36-55.44 of the Code of Virginia and permit the investment of moneys not in its custody or under its control in any obligation which would be considered a lawful investment for fiduciaries as set forth in § 26-40 of the Code of Virginia;

(16) To borrow money and issue bonds to evidence indebtedness therefor as hereinafter provided;

(17) Subject to the requirements of any agreements with bondholders, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the Corporation is a party;

(18) Subject to the requirements of any agreements with bondholders, to enter into contracts with any mortgagor containing provisions enabling such mortgagor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where, by reason of other income or payment from any department, agency or instrumentality of the United States, this Commonwealth or the county, such reductions can be made without jeopardizing the economic stability of the housing project being financed;

(19) To procure or agree to the procurement of insurance or guarantees from the federal government or other financial institutions of the payment of any bonds issued by the Corporation, including the power to pay premiums or fees for any such insurance or guarantees;

(20) To make and enter into all contracts and agreements with mortgage lenders for the servicing and processing of mortgage loans pursuant to this act;

(21) To establish, revise from time to time and charge and collect fees and charges in connection with any agreements made by the Corporation under this act;

(22) To do any act necessary or convenient to the exercise of the powers herein granted or reasonably implied; and

(23) To invest in, purchase or make commitments to purchase securities or other obligations secured by or payable from mortgage loans on, or issued for the purpose of financing or otherwise assisting the financing of land development or housing projects for qualified persons or families. (1982, c. 524)

§ 8. Housing development districts; economically mixed projects.

(a) Whenever it appears to the governing body of the county that one or more portions of the county are deteriorating by reason of dilapidation, faulty arrangement or design, underutilization of space, excessive land coverage, deleterious land use or obsolete layout or that one or more portions of the county are experiencing a critical shortage of sanitary and safe residential housing because of the location and expansion of mineral extractive industries and related industries which require the proximity of a substantial work force of varying economic means, and in any such case that private enterprise and investment may not be expected, without assistance, to produce the construction or rehabilitation of sanitary and safe housing to meet the needs of persons and families of low and moderate income within the county, and to induce persons and families with incomes in excess of those of persons and families of low and moderate income in housing development districts to live or remain within such area and thereby help to stabilize or recover a desirable economic mix of persons therein and to provide a substantial work force for mineral extractive or related industries, such governing body may by resolution create a housing development district encompassing such portion of the county. Such resolution shall be conclusive as to the necessity for creating a housing development district.

(b) If the Corporation shall determine that a proposed housing project, within or without a housing development district, if any, may feasibly serve persons and families of low and moderate income only by effectively subsidizing the rentals of such persons and families through higher rentals charged to persons and families with incomes in excess of persons and families of low and moderate income or that, for any other reason, such proposed project is feasible only if a portion thereof, not to exceed eighty percent of the dwelling units therein, is to be rented to persons and families with incomes in

excess of those of persons and families of low and moderate income, it may by resolution declare such proposed housing project an economically mixed project, which resolution shall be conclusive of the facts determined therein.

(c) Prior to the creation of a housing development district by the county or the declaration of an economically mixed project by the Corporation, persons experienced in the field of mortgage finance shall be consulted by the Corporation in order to determine that private enterprise is unable, without assistance, to provide sufficient financing to meet the housing needs of the housing development district or to provide sufficient financing for the economically mixed project at interest rates producing rentals which qualified persons and families could afford. (1982, c. 524)

§ 9. Regulations; adoption procedures.

A. The Corporation shall have the power to adopt, to amend and to repeal regulations, not inconsistent with this act or other applicable laws, to carry into effect the powers and purposes of the Corporation and the conduct of its business. Such regulations shall be designed to effectuate the general purposes of this act and shall include the power to establish income guidelines for qualified persons and families. (1982, c. 524)

§ 10. Powers relative to making mortgage loans and temporary construction loans to housing sponsors and qualified persons and families.

The Corporation shall have all the powers necessary or convenient to carry out and effectuate the purpose and provisions of this act, including the following powers in addition to others herein granted:

(1) Enter into agreements and contracts with housing sponsors under the provisions of this section;

(2) Institute any action or proceeding against any housing sponsor or qualified persons and families receiving a loan under the provisions hereof, or owning any housing project hereunder in any court of competent jurisdiction in order to enforce the provisions of this act, the terms and provisions of any agreement or contract between the corporation and such recipients of loans under the provisions hereof, including without limitation provisions as to rental or carrying charges and income limits as applied to tenants or occupants, or to foreclose its mortgage, or to protect the public interest, qualified persons and families, stockholders or creditors of such sponsor. In connection with any such action or proceeding it may apply for the appointment of a trustee or receiver to take over, manage, operate and maintain the affairs of a housing sponsor and the Corporation through such agent as it shall designate is hereby authorized to accept appointment as trustee or receiver of any such sponsor when so appointed by a court of competent jurisdiction.

Subject to the terms of any applicable agreement, contract or other instrument entered into or obtained pursuant to this act, judgment of foreclosure shall not be entered unless the court to which application therefor is made shall be satisfied that the interest of the lienholders or holders of bonds or other obligations cannot be adequately secured or safeguarded except by the sale of the

property; and in such proceeding the court shall be authorized to make an order increasing the rental or carrying charges to be charged for the housing accommodations in the housing project involved in such foreclosure, or appoint a member of the Corporation or any officer thereof, as a receiver or trustee of the property, or grant such other and further relief as may be reasonable and proper.

(3) In the event of a judgment against any housing sponsor in any action not pertaining to the foreclosure of a mortgage, there shall be no sale of any of the real property included in any housing project hereunder of such housing sponsor except upon sixty days' written notice to the Corporation. Upon receipt of such notice the Corporation shall take steps as in its judgment may be necessary to protect the rights of all parties;

(4) In the event of violation by a housing sponsor of any provision of a loan, the terms of any agreement between the Corporation and the housing sponsor, the provisions of this act or of any rules or regulations duly promulgated pursuant to the provisions of this act, the Corporation may remove any or all of the existing directors or officers of such corporate housing sponsor and may appoint such person or persons whom the Corporation in its sole discretion deems advisable as new directors or officers to serve in the places of those removed notwithstanding the provisions of any other law and may designate a managing agent with complete and exclusive power to act on behalf of a defaulting partnership housing sponsor; provided, however, that any such directors or officers or managing agents so appointed by the Corporation shall serve only for a period coexistent with the duration of such violation or until the Corporation is assured in a manner satisfactory to it against violations of a similar nature or both. Officers or directors so appointed need not be stockholders or meet other qualifications which may be prescribed by the certificate of incorporation or by other laws governing such qualified housing sponsor.

(5) Foreclose under deeds of trust by powers of sale pursuant to Title 55 of the Virginia Code and amendments thereto;

(6) Make, undertake commitments to make and participate in the making of mortgage loans including without limitation federally insured mortgage loans to housing sponsors to finance the ownership and operation of housing projects intended for occupancy by qualified persons and families upon the terms and conditions set forth in subsections A and of § 12;

(7) Make, undertake commitments to make and participate in the making of mortgage loans including without limitation federally insured loans to qualified persons and families to finance the purchase or refinancing of single-family residential housing, upon the terms and conditions set forth in subsections A and C of § 12;

(8) Make, undertake commitments to make and participate in the making of mortgage loans, including without limitation federally insured mortgage loans to housing sponsors and qualified

persons and families to finance the construction, rehabilitation, preservation or improvement of housing projects intended, upon completion of such construction, rehabilitation, preservation or improvement for ownership or occupancy by qualified persons and families upon the terms and conditions set forth in subsections A and D of § 12;

(9) Make, undertake commitments to make and participate in the making of mortgage loans to finance the construction, rehabilitation, preservation or improvement of housing units within housing development districts or of economically mixed projects within or without a housing district, if any. (1982, c. 524)

§ 11. Loans to mortgage lender; terms and conditions of loans to mortgage lenders or purchase and sale to mortgage lenders of mortgage loans.

(1) The Corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted:

(a) To invest in, purchase or to make commitments to purchase, and take assignments from mortgage lenders, of notes and mortgages evidencing loans for the construction, rehabilitation, purchase, leasing or refinancing of housing projects for qualified persons and families in the county upon the terms set forth in this section.

(b) To make loans to mortgage lenders under terms and conditions requiring the proceeds thereof to be used by such mortgage lenders for the making of new mortgage loans to qualified persons and families, upon the terms set forth in this section.

(c) To make commitments to purchase, and to purchase, service and sell mortgages insured by any department, agency or instrumentality of the United States, and to make loans directly upon the security of any such mortgage, provided the new mortgage loans shall be used solely to finance or refinance the construction, rehabilitation, purchase or leasing of housing projects for qualified persons and families in the county;

(d) To sell, at public or private sale, with or without public bidding, any mortgage or other obligation held by the Corporation;

(e) To enter into mortgage insurance agreements with mortgage lenders in connection with the lending of money by such institutions to qualified persons and families for the purchase of residential housing;

(f) Subject to any agreement with bondholders to collect, enforce the collection of, and foreclose on any collateral securing its loans to mortgage lenders and acquire or take possession of such collateral and sell the same at public or private sale, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interest of the Corporation therein.

(2) No obligation of or owned by a mortgage lender shall be eligible for purchase or commitment to purchase by the Corporation from a mortgage lender hereunder if the date of said obligation precedes the date of the Corporation's commitment to purchase such obligation by such number of years as shall be determined by the Corporation and unless at or before the time of transfer thereof to the Corporation such mortgage lender certifies that the proceeds of sale or its equivalent shall be reinvested as provided in subsection (6) of this section, or invested as directed by the Corporation or the mortgage lender in short-term obligations pending such reinvestment.

(3) The Corporation shall purchase mortgage loans at a purchase price not greater than the outstanding principal balance; provided, however, that discount from the principal balance or the payment of a premium may be employed to effect a fair rate of return which in the opinion of the Corporation is consistent with the obligations of the Corporation hereunder and the purposes of this act. In addition to the aforesaid payment of outstanding principal balance, the Corporation shall pay the accrued interest due thereon, on the date the loan or obligation is delivered against payment therefor.

(4) Loans purchased or sold hereunder may include but shall not be limited to loans which are insured, guaranteed or assisted by the federal government or for which there is a commitment by the federal government to insure, guarantee or assist such loan.

(5) The Corporation shall from time to time adopt, modify or repeal rules and regulations governing the making of loans to mortgage lenders and the purchase and sale of mortgage loans and the application of the proceeds thereof, including rules and regulations as to any or all of the following:

(a) Procedures for the submission of requests or the invitation of proposals for the purchase and sale of mortgage loans or for loans to mortgage lenders;

(b) Limitations or restrictions as to number of family units, location or other qualifications or characteristics or residences to be financed by residential mortgage loans and requirements as to the income limits of qualified persons and families occupying such residences;

(c) Restrictions as to the interest rates on residential mortgage loans or the return realized therefrom by mortgage lenders;

(d) Requirements as to commitments by mortgage lenders with respect to residential mortgage loans;

(e) Schedules of any fees and charges necessary to provide for expenses and reserves of the Corporation; and

(f) Any other matters related to the duties and the exercise of the powers of the Corporation to purchase and sell mortgage loans or to make mortgage loans or other loans to mortgage lenders.

Such rules and regulations shall be designed to effectuate the general purposes of this act and the following specific objectives: (i) the expansion of the supply of funds in the county available for residential mortgage loans; (ii) the provision of the additional housing needed to remedy the shortage of adequate housing in the county and eliminate the existence of a large number of substandard dwellings; and (iii) the provision of a financing return and benefit necessary to assure mortgage lenders a financial return or benefit sufficient to induce such mortgage lenders to enter into arrangements with the Corporation for the financing of mortgage loans for residential housing projects under this act.

(6) The Corporation shall require as a condition of each loan to a mortgage lender and as a condition of the purchase or the making of a commitment to purchase mortgage loans from a mortgage lender that such mortgage lender within such period of time following the receipt of the proceeds as shall be prescribed by resolution, rules and regulations or other documents of the Corporation, shall have entered into written commitments to make, and shall thereafter proceed as promptly as practicable to make and disburse from such proceeds, mortgage loans on housing projects in the county having a stated maturity of not less than the term of the bonds issued to finance such housing projects in an aggregate principal amount equal to the amount of such proceeds. The Corporation may require the submission to it by each mortgage lender of evidence satisfactory to it of the making of such new mortgage loan on housing projects.

(7) The Corporation shall require that loans to mortgage lenders shall be additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security in such amounts as the Corporation shall by resolution determine to be necessary to assure the payment of such loans and the interest thereon as the same become due. Such collateral security shall consist of (a) direct obligations of, or obligations guaranteed by, the United States of America or the Commonwealth; (b) bonds, debentures, notes or other evidences of indebtedness, satisfactory to the Corporation, issued by any of the following: Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan Bank System, Export-Import Bank of Washington, Federal Land Banks, the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or the Government National Mortgage Association; (c) direct obligations of or obligations guaranteed by the Commonwealth; (d) mortgage loans insured or guaranteed by the federal government as to payment of principal and interest or (e) such other security as the Corporation shall determine by resolution to be adequate to assure the payment of principal of and interest on such loan. (1982, c. 524)

§ 12. Mortgage loan terms and conditions.

A. All mortgage loans made by the Corporation pursuant to § 10 of this act shall be subject to the following terms and conditions.

1. The ratio of mortgage loan principal amount to total housing costs and the amortization period of any mortgage loans made by the Corporation which are federally insured mortgages, in whole or in

part, or which are otherwise assisted or aided, directly or indirectly, by the federal government, shall be governed by the rules and regulations provided in or pursuant to the federal government program under which the mortgage loan or part thereof is insured, guaranteed, assisted or aided; but in no event shall such amortization period exceed fifty years.

2. A mortgage loan made by the Corporation may be prepaid to maturity after a period of years, and on such terms and conditions as are determined by the Corporation in its rules and regulations or in the resolution authorizing, or commitment for or documents relating to, such mortgage loan.

3. The Corporation shall have the authority to establish and modify from time to time the interest rates at which it shall make mortgage loans and commitments therefor. In addition to such interest charges, the Corporation may make and collect such fees and charges, including but not limited to reimbursement of the Corporation's financing costs, service charges, insurance premiums and mortgage insurance premiums, as the Corporation determines to be reasonable. No person shall, by way of defense or otherwise, avail himself of any of the provisions of Chapter 7 (§ 6.1-311 et seq.) or Chapter 7.1 (§ 6.1-330 et seq.) of Title 6.1 of the Code of Virginia to avoid or defeat the payment of any interest or fee which he shall have contracted to pay on any loan or forbearance of money made, directly or indirectly, or assisted in any manner by the Corporation under or pursuant to this act.

B. Mortgage loans made by the Corporation to housing sponsors to finance the ownership and operation of housing projects, pursuant to subsection (6) of § 10, shall be subject to the following terms and conditions in addition to those contained in subsection A of this section:

1. The principal amount of the Corporation's mortgage loan to a limited profit housing sponsor shall not exceed ninety-five percent of the total housing costs and to a nonprofit housing sponsor shall not exceed one hundred percent of the total housing costs, and the amortization period of such mortgage loans shall be as determined by the Corporation in its rules and regulations or in the resolution authorizing, or commitment for or documents relating to, such mortgage loan; but in no event shall such amortization period exceed fifty years.

2. The instrument evidencing the Corporation's mortgage loan and the mortgage securing any such mortgage loan shall be in such form and contain such terms and conditions as shall be prescribed or approved by the Corporation. The aforesaid mortgage and instrument evidencing such mortgage loan may contain exculpatory provisions relieving the housing sponsor or its principal or principals from personal liability if deemed desirable by the Corporation.

3. With respect to any such mortgage loan, the Corporation may require the housing sponsor and other parties related to the housing project financed by such mortgage loan to execute such agreements, assurances, guarantees and certifications as the Corporation shall determine to be necessary including, without limitation, agreements between the Corporation and such housing

sponsor and its partners, principals or stockholders to limitations established by the Corporation as to rentals and other charges, profits, fees, and use and disposition of the real property constituting the site of or relating to the housing project and other property of such housing sponsor to the extent more restrictive limitations are not provided by the law under which such housing sponsor is incorporated or organized.

C. Mortgage loans made by the Corporation to qualified persons and families to finance the purchase or refinancing of single-family residential housing, pursuant to subsection (7) of § 10, shall be subject to the following terms and conditions in addition to those contained in subsection A of this section:

1. The principal amount of such mortgage loan shall not exceed one hundred percent of the sales price or market value of the single-family residential housing, as determined or approved by or on behalf of the Corporation, and the amortization period of such a mortgage loan shall be as determined by the Corporation but in no event shall such amortization period exceed fifty years.

2. Such mortgage loan shall be made only after a determination that such mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and the resolution authorizing, or commitment for or documents relating to, such mortgage loan shall contain such a determination, which determination shall be conclusive of the facts determined therein.

3. The instrument evidencing any such mortgage loan and the mortgage securing any such mortgage loan shall be in such form and contain such terms and conditions as shall be prescribed or approved by the Corporation. With respect to any such mortgage loan, the Corporation may require the qualified person or family to execute such agreements, assurances, guarantees and certifications as the Corporation shall determine to be necessary including, without limitation, agreements between the Corporation and such qualified person or family relating to the use, occupancy, maintenance and sale of the single-family residential housing financed by such mortgage loan and the payment, prepayment and assignment of such mortgage loan.

D. Mortgage loans made by the Corporation to housing sponsors or qualified persons and families to finance the construction, rehabilitation, preservation or improvement of housing projects intended upon completion of such construction, rehabilitation, preservation or improvement, for ownership or occupancy by qualified persons and families, pursuant to subsection (8) of § 10 of this act, shall be subject to the following terms and conditions in addition to those contained in subsection A of this section:

1. The principal amount of such a mortgage loan to a limited profit housing sponsor shall not exceed ninety-five percent of the total housing costs and to a nonprofit housing sponsor or a qualified person or family shall not exceed one hundred percent of the total housing costs, and without regard to whether the Corporation intends to remain the lender in respect to such mortgage

loan throughout the amortization period thereof; the amortization period of such mortgage loan shall be as determined by the Corporation in its rules and regulations or in the resolution authorizing, or commitment for or documents relating to, such mortgage loan.

2. In considering any application for such mortgage loan, the Corporation shall give first priority to applications relating to housing developments or residential housing which are or will be well-planned and well-designed, and also shall give consideration to:

a. The comparative need for housing for qualified persons and families in the area proposed to be served by the housing project;

b. The ability of the applicant to construct, rehabilitate or improve and market or operate. manage and maintain the housing project;

c. The existence of zoning or other regulations to protect adequately the housing project against detrimental future uses which could cause undue depreciation in the value of the housing project;

d. The availability of adequate parks, recreational areas, utilities, schools, transportation and parking; and

e. The existence of housing plans in the county.

3. With respect to any such mortgage loan, the Corporation may require the housing sponsor, qualified persons or families, contractors, architects, marketing agents, management agent and other parties related to the housing project financed by such mortgage loan to execute such agreements, assurances, guarantees and certifications as the Corporation shall determine to be necessary including, without limitation, agreements between the Corporation and such housing sponsor and its partners, principals or stockholders or such qualified persons or families to limitations established by the Corporation as to rentals and other charges, profits, fees, the use and disposition of the real property constituting the site of or relating to the housing project and other property of such housing sponsor, and the use of disposition of franchises of such housing sponsor to the extent more restrictive limitations are not provided by the law under which such housing sponsor is incorporated or organized. The Corporation shall require the housing sponsor or persons or families receiving such mortgage loan, or the construction contractor, or both, to furnish such assurances of Completion of the construction, rehabilitation or improvement as determined by the Corporation in its rules and regulations or in the resolution authorizing, or commitment for or documents relating to, such mortgage loan.

4. With respect to the Corporation's mortgage loan, the provisions of paragraph 2 of subsection B of this section shall be applicable.

E. Mortgage loans made by the Corporation to finance the construction, rehabilitation, preservation or improvement of housing units within housing development districts or of economically mixed projects, pursuant to subsection (9) of § 10 of this act, shall be subject to the following terms and conditions in addition to those contained in subsection A of this section:

1. The principal amount of such mortgage loan shall not exceed ninety-five percent of the total housing costs, and the amortization period of such mortgage loan shall be as determined by the Corporation in its rules and regulations or in the resolution authorizing, or in the commitment for or documents relating to, such mortgage loan; but in no event shall such amortization period exceed fifty years.

2. Such mortgage loan shall be made only with respect to housing projects which, at the time of commitment for such mortgage loan, are proposed to be located within a housing development district or constitute all or a portion of an economically mixed project.

3. The instrument evidencing any such mortgage loan and the mortgage securing any such mortgage loan shall be in such form and contain such terms and conditions as shall be prescribed or approved by the Corporation. The aforesaid mortgage and instrument evidencing such mortgage loan may contain exculpatory provisions relieving a housing sponsor, if any, or its principal or principals from personal liability if deemed desirable by the Corporation.

4. The provisions of § 13 (1) shall not apply to a mortgage loan for housing projects within housing development districts or economically mixed projects. (1982, c. 524)

§ 13. Income limitations relative to housing projects.

(1) Occupancy in multi-family residential housing or ownership of single family residential housing projects financed pursuant to the provisions of this act shall be limited to persons and families of low or moderate income, except for housing projects within housing development districts or economically mixed projects.

(2) The Corporation shall make and publish rules and regulations from time to time governing the terms of tenant selection plans and income limits for persons eligible to occupy multi-family residential housing projects or own single family residential housing assisted by the Corporation in conformance with the provisions of this act and such income limits may vary with the size and circumstances of the person or family. (1982, c. 524)

§ 14. Procedure prior to financing of housing projects undertaken by housing sponsors.

A. Notwithstanding any other provision of this act, the Corporation is not empowered to finance any housing project undertaken by a housing sponsor, other than a housing project in a housing development district or an economically mixed project, unless, prior to the financing of any housing project hereunder, the Corporation finds:

(1) That there exists a shortage of decent, safe and sanitary housing at rentals or prices which persons and families of low and moderate income can afford within the general housing market area to be served by the proposed housing development.

(2) That private enterprise and investment have been unable, without assistance, to provide the needed decent, safe and sanitary housing at rentals or prices which persons or families of low and moderate income can afford or to provide sufficient mortgage financing for residential housing for occupancy by such persons or families.

(3) That the housing sponsor or sponsors undertaking the proposed housing development in the county will supply well-planned, well-designed housing for persons or families of low and moderate income and that such sponsors are financially responsible.

(4) That the housing development to be assisted pursuant to the provisions of this act will be of public use and provide a public benefit.

(5) That the housing project will be undertaken within the authority conferred under this act upon the Corporation and the housing sponsor or sponsors.

B. The Corporation shall also find, in connection with the financing of the new construction or substantial rehabilitation of any proposed multi-family residential housing project, that the governing body of the locality in which such housing project is to be located has not, within sixty days after written notification of the proposed financing has been sent the governing body by the Corporation, certified to the Corporation in writing its disapproval of the proposed multi-family residential housing. (1982, c. 524)

§ 15. Bonds.

(1) (a) The Corporation shall have power and is hereby authorized to issue from time to time its bonds in such principal amount as the Corporation shall determine to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on such bonds, establishment of reserves to secure such bonds, and all other expenditures of the corporation incident to and necessary or convenient to carry out its corporate purposes and powers.

(b) The Corporation shall have the power, from time to time, to issue (i) notes to renew notes and (ii) bonds to pay notes, including the interest thereon and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. The refunding bonds may be (i) exchanged for the bonds to be refunded or (ii) sold and the proceeds applied to the purchase, redemption or payment of such bonds.

(c) Except as may otherwise be expressly provided by the Corporation, every issue of its bonds shall be general obligations of the Corporation payable out of any revenues or moneys of the

Corporation, subject only to any agreements with the holders of particular bonds pledging any particular revenues. Bonds may be additionally secured by a pledge of any grant, contribution or guarantee from the federal government or any corporation, association, institution or person or a pledge of any money, income or revenue of the Corporation from any source.

(2) Bonds shall be authorized by resolution or resolutions of the Corporation, shall bear such date or dates and shall mature at such time or times as such resolution or resolutions may provide, except that no bond shall mature more than fifty years from the date of its issue. The bonds may be issued as series bonds payable in annual installments or as tent bonds or as a combination thereof. Bonds shall bear interest at such rate or rates, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. The bonds of the Corporation may be sold by the Corporation, at public or private sale, at such price or prices as the Corporation shall determine.

(3) Any resolution or resolutions authorizing any bonds or any issue thereof may contain provisions, which shall be a part of the contract or contracts with the holders thereof, as to:

(a) Pledging all or any part of the revenues of the Corporation to secure the payment of the bonds or of any issue thereof, subject to such agreements with bondholders of the Corporation as may then exist;

(b) Pledging all or any part of the assets of the Corporation, including mortgages and obligations securing the same, to secure the payment of the bonds or of any issue of bonds, subject to such agreements with bondholders of the Corporation as may then exist;

(c) The use and disposition of the gross income from mortgages owned by the Corporation and payment of principal of mortgages owned by the Corporation;

(d) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(e) Limitations on the purpose to which the proceeds of sale of bonds may be applied and pledging such proceeds to secure the payment of the bonds or of any issue thereof;

(f) Limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; and the refunding of outstanding or other bonds;

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated; the amount of bonds the holders of which must consent thereto; and the manner in which such consent may be given;

(h) Limitations on the amount of moneys to be expended by the Corporation for operating expenses of the Corporation;

(i) Vesting in a trustee or trustees and a bond registrar such property, rights, powers and duties of the trustee or bond registrar appointed by the bondholders pursuant to this act and limiting or abrogating the right of the bondholders to appoint a trustee or bond registrar under this Act or limiting the rights, powers and duties of such trustee;

(j) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the Corporation to the holders of the bonds in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the Commonwealth and the other provisions of this Act.

(k) Any other matters, of like or different character, which in any way affect the security, protection or source or method of payment of the holders of the bonds.

(4) Any pledge made by the Corporation shall be valid and binding from the time when the pledge is made; the Corporation's interest, then existing or thereafter obtained, in the revenues, moneys, mortgage loans, receivables, contract rights or other property or proceeds so pledged shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded, nor shall any filing be required with respect thereto.

(5) Neither the directors of the Corporation nor any other person executing such bonds shall be subject to any personal liability or accountability by reason of the issuance thereof.

(6) The Corporation, subject to such agreements with bondholders as may then exist, shall have power out of any funds available therefor to purchase bonds of the Corporation, which shall thereupon be cancelled, at a price not exceeding:

(a) If the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon, or

(b) If the bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to such date.

(7) In the discretion of the Corporation, the bonds may be secured by a trust indenture by and between the Corporation and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without the Commonwealth. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Corporation in relation to the exercise of its corporation powers and the custody, safeguarding and application of all moneys. The Corporation may provide by such trust indenture for the payment of the

proceeds of the bonds and the revenues to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine, giving consideration to the necessity or desirability of complying with any federal laws relating to the exemption from federal income taxation of interest on the bonds. All expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of the Corporation. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

(8) Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the bonds hereby are made negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the bonds for registration.

(9) In case any of the directors or officers of the Corporation whose signatures appear on any bonds or coupons shall cease to be such directors or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such directors or officers had remained in office until such delivery. (1982, c. 524)

§ 16. Exemption from taxation.

(1) As set forth in the declaration of finding and purpose herein, the Corporation will be performing an essential governmental function in the exercise of the powers conferred upon by this act, and the bonds of the Corporation issued and to be issued pursuant to this act, the transfer thereof, and the income therefrom including any profit made on the sale thereof and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received, pledged to pay or secure the payment of such bonds shall at all times be free from taxation and assessment of every kind by the Commonwealth and by the municipalities and all other political subdivisions of the Commonwealth.

(2) The property of the Corporation and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Corporation under the provisions of this act.

(3) Any housing project financed in whole or in part pursuant to the provisions of this act and owned by the Corporation shall be exempt from all property taxation and special assessments of the Commonwealth or political subdivisions thereof,. provided, however, that in lieu of such taxes, the Corporation may agree to make such payments to the Commonwealth or any political subdivision thereof as the Corporation finds consistent with the cost of supplying municipal services to the housing project and maintaining the economic feasibility of the housing project for qualified persons and families, which payments such bodies are hereby authorized to accept. (1982, c. 524)

§ 17. Commonwealth and Buchanan County not liable on bonds.

The bonds of the Corporation shall not be a debt or grant or loan of credit of the Commonwealth or the county, and neither the Commonwealth nor the county shall be liable thereon, nor shall they be

payable out of any funds other than those of the Corporation; and such bonds shall contain on the face thereof a statement to such effect. (1982, c. 524)

§ 18. Bonds as legal investments.

Bonds of the Corporation, shall be legal investments in which all public officers and public bodies of this Commonwealth, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks, and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the Commonwealth, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds are also hereby made securities which may properly and legally be deposited with and received by all public officers and bodies of the Commonwealth or any agency or political subdivisions of the Commonwealth and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law including but not limited to security for deposits pursuant to Chapter 23 (§ 2.1-359 et seq.) of Title 2.1 of the Code of Virginia and amendments thereto. (1982, c. 524)

§ 19. Agreement with Commonwealth.

The Commonwealth does hereby pledge to and agree with the holders of any bonds issued under this act that the Commonwealth will not limit or alter the rights hereby vested in the Corporation to fulfill the terms of any agreements made with the said holders thereof or in any way impair the rights and remedies of such holders until such bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The Corporation is authorized to include this pledge and agreement of the Commonwealth in any agreement with the holders of such bonds. (1982, c. 524)

§ 20. Reports.

At least once a year, the Corporation shall file with the clerk of the county a report of its activities for the preceding year, including a financial statement and a statement of the maximum income limits for qualified persons and families and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this act. All records of the Corporation shall be public records, and shall be open to inspection by the public during all business hours under such reasonable regulations as the Corporation may prescribe; provided that the term "records" shall include only completed contracts and transactions of the Corporation. (1982, c. 524)

§ 21. Liberal construction.

Neither this act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the Corporation might otherwise have under any laws of this Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds, notes and other obligations and refunding bonds under the provisions of this act need not comply with the requirements of any other law of the Commonwealth applicable to the issuance of bonds, notes and other obligations, and contracts for the construction and acquisition of any housing projects undertaken pursuant to this act need not comply with provisions of any other law of the Commonwealth applicable to contracts for the construction and acquisition of state-owned property. No proceedings, notice or approval shall be required for the issuance of any bonds, notes and other obligations or any instrument as security therefor, except as is provided in this act. (1982, c. 524)

§ 22. Inconsistent provisions in other laws superseded.

Insofar as the provisions of this act are inconsistent with the provisions of any other law, general, special or local; the provisions of this act shall be controlling. (1982, c. 524)

Buchanan County Tourist Train Development Authority

§ 15.2-6700.Buchanan County Tourist Train Development Authority established

The Buchanan County Tourist Train Development Authority, hereinafter referred to as the "Authority," is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter.

2003, c. 577.

§ 15.2-6701.Board of the Authority; qualifications; terms; quorum; records

All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Buchanan County Tourist Train Development Authority, hereinafter referred to as "the board." Initial appointments to the board shall begin July 1, 2003. The board shall consist of 22 members appointed by the governing body of Buchanan County as follows: two representatives from the governing body of Buchanan County, 19 citizen members, at least three of whom shall be residents of Buchanan County, and one member of the General Assembly representing Buchanan County, who shall serve as an ex officio, voting member. All board members shall serve for a term of four years and may be reappointed for additional terms. The term of any member of the board shall immediately terminate if the member no longer meets the eligibility criteria of the initial appointment. Vacancies shall be filled for the unexpired term.

The board shall elect from its membership a chairman, a vice-chairman, and from its membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The members of the board shall receive no salary, unless specifically authorized by the governing body of Buchanan County. Four members of the board shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing bodies of Buchanan County and all adjacent counties and the Auditor of Public Accounts and shall be open to public inspection.

2003, c. 577; 2004, cc. 35, 158.

§ 15.2-6702.Executive director; staff

The Authority shall appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received or appropriated.

2003, c. 577.

§ 15.2-6703.Powers of Authority

The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at pleasure;

3. To contract and be contracted with;

4. To employ and pay compensation to such employees and agents, including attorneys, as the board deems necessary in carrying on the business of the Authority;

5. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

6. To borrow money and to accept contributions, grants, and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth or any private person, foundation or financial institution;

7. To issue bonds in accordance with applicable law;

8. To receive and expend moneys on behalf of tourist train development; and

9. To cooperate with any private or governmental entities in the states of West Virginia, Kentucky, Tennessee, or North Carolina in the development of a tourist train and theme park.

2003, c. 577; 2004, cc. 35, 158.

§ 15.2-6704.Authority of localities

Localities are hereby authorized to lend or donate money or other property or services to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality.

2003, c. 577.

BVU Authority

§ 15.2-7200.Short title

This chapter shall be known and may be cited as the BVU Authority Act.

2010, cc. 117, 210.

§ 15.2-7201.Creation; public purpose

There is hereby created a political subdivision of the Commonwealth known as the BVU Authority.

The BVU Authority is created for the express purpose of receiving, by operation of this chapter, the powers, assets, and debts of that separately managed and financed division of the City of Bristol, Virginia, heretofore known as Bristol Virginia Utilities and to provide the services Bristol Virginia Utilities has provided or may lawfully provide. The General Assembly therefore deems this to be an entity conversion and for all purposes the BVU Authority is the same entity as Bristol Virginia Utilities, which is hereby converted to the BVU Authority. The BVU Authority shall exercise the rights and duties as hereinafter set out to provide the various utility services it currently lawfully provides all subject to the limitations as are herein set forth or referenced.

2010, cc. 117, 210.

§ 15.2-7202.Definitions

As used in this chapter, unless the context requires a different meaning:

"Authority" means the BVU Authority created by entity conversion of Bristol Virginia Utilities by this chapter.

"Board," "Authority Board," or "Board of Directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, bond acceptance notes, or other evidence of financial indebtedness either issued or assumed by the Authority pursuant to this chapter.

"Bristol Virginia Utilities Board" means the Board of Directors of Bristol Virginia Utilities governing that entity until the Authority Board takes office on July 1, 2010.

"City" means the City of Bristol, Virginia.

"City Council" means the City Council of the City of Bristol, Virginia.

"Commission" means the Virginia State Corporation Commission.

"Commonwealth" means the Commonwealth of Virginia.

"Infrastructure" means all property, whether attached to real property or not, now used by Bristol Virginia Utilities and hereafter used by the Authority for the provision of (i) electric, water, sewer, telecommunications, internet, and cable television services and (ii) all other utility services the Authority may lawfully provide.

"MLEC" means any city, county, or town certificated to provide local exchange and/or interexchange telecommunications services pursuant to § 56-265.4:4 and any authority granted such powers pursuant to § 15.2-7209.

"Political subdivision" means, when referring to an entity other than the Authority, a locality, authority, or other public body of the Commonwealth or of any state in which the Authority does business.

"Utility," "utilities," or "utility services" means and includes electric, water, sewer, and telecommunications, internet and cable television services, including all other services that might be lawfully rendered by use of its fiber optic system.

2010, cc. 117, 210; 2016, cc. 724, 725.

§ 15.2-7203.BVU Authority; operating name or names

The name of the Authority shall be BVU Authority.

The BVU Authority is hereby authorized to operate under the names BVU, BVU OptiNet, CPC OptiNet, and BVU Focus. The name of the Authority and any division or operating name may be changed upon approval of a simple majority of the Board. The Board may adopt additional operating names in the future. The Authority shall comply with requisite fictitious name recording requirements for any areas in which it is doing business.

2010, cc. 117, 210; 2016, cc. 724, 725.

§ 15.2-7204.Divisions

The Board may create such divisions of the Authority as it deems expedient to perform such services as are authorized by statute.

2010, cc. 117, 210.

§ 15.2-7205.(Contingent expiration date -- see note) Board of Directors; membership

A. The powers of the Authority shall be vested in the Authority Board of Directors consisting of seven directors. The number of directors shall not be altered by the Authority Board.

B. The Authority Board will initially take office on July 1, 2010. However, beginning on July 1, 2016, the Authority Board shall be constituted as follows:

1. One director who is a citizen of the City of Bristol, Virginia, and is not a member of the Bristol City Council, appointed by the Speaker of the House of Delegates.

2. One director who is a member of the Bristol City Council, appointed by the Bristol City Council to serve a four-year term coterminous with his term on the Council.

3. One director who is a citizen of Washington County and is not a member of the Washington County Board of Supervisors, appointed by the Senate Committee on Rules.

4. One director who is a citizen of the City of Bristol, Virginia, who is engaged in business and is not a member of the Bristol City Council, appointed by the Authority Board. However, the first such director shall be appointed by the Bristol City Council for a term that ends the sooner of July 1, 2017, or the date upon which the Authority Board appoints a director to this position to serve the remainder of the initial four-year term. The Authority Board shall appoint a director to this position thereafter.

5. One director who is a member of the Washington County, Virginia, Board of Supervisors, appointed by the Washington County Board of Supervisors to serve a four-year term coterminous with his term on the Board of Supervisors.

6. One director who is a member of the Abingdon Town Council, appointed by the Abingdon Town Council to serve a four-year term coterminous with his term on the Town Council.

7. One director who is a Scott County citizen and is not a member of the Scott County Board of Supervisors, appointed by the Speaker of the House of Delegates.

C. The four-year term of all directors shall begin July 1, 2016. The term of Authority Board membership for any director thereafter shall be four years.

D. Each director who is a member of the Abingdon Town Council, Bristol City Council, or Washington County Board of Supervisors may serve as many terms as the appointing governing body decides as long as the appointee remains a member of the relevant governing body. The governing body may appoint a different member of the Council or Board of Supervisors at the end of any appointee's four-year Council or Board term or upon the exit of the member from the governing body. In the latter case, the new appointee shall serve for the remainder of the term vacated by an exiting member of the governing body.

E. If funds are available, each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties. Such expense allowance shall constitute a cost of operation and maintenance of such utility systems and shall be prorated among each of the systems it manages using the "Three-Factor" allocation method approved by the Commission. The three factors consist of the percentages that each division comprises of total plant in service, total operating revenues, and total customer accounts. Once each operating division's percentage of each of the three factors is calculated, the sum of the three factors divided by three results in the operating division's share of the total direct or indirect costs.

2010, cc. 117, 210; 2016, cc. 724, 725.

§ 15.2-7205.(Contingent effective date -- see notes) Board of Directors; membership

A. The powers of the Authority shall be vested in the Authority Board of Directors consisting of five directors. The number of directors shall not be altered by the Authority Board.

B. The Authority Board shall be constituted as follows:

1. One director who is a citizen of the City of Bristol, Virginia, and is not a member of the Bristol City Council, appointed by the Speaker of the House of Delegates.

2. One director who is a member of the Bristol City Council, appointed by the Bristol City Council to serve a four-year term coterminous with his term on the Council.

3. One director who is a citizen of Washington County and is not a member of the Washington County Board of Supervisors, appointed by the Senate Committee on Rules.

4. One director who is a citizen of the City of Bristol, Virginia, who is engaged in business and is not a member of the Bristol City Council, appointed by the Authority Board. However, the first such director shall be appointed by the Bristol City Council for a term that ends the sooner of July 1, 2017, or the date upon which the Authority Board appoints a director to this position to serve the remainder of the initial four-year term. The Authority Board shall appoint a director to this position thereafter.

5. One director who is a member of the Washington County, Virginia, Board of Supervisors, appointed by the Washington County Board of Supervisors to serve a four-year term coterminous with his term on the Board of Supervisors.

C. The four-year term of all directors shall begin July 1, 2016. The term of Authority Board membership for any director thereafter shall be four years.

D. Each director who is a member of the Bristol City Council or Washington County Board of Supervisors may serve as many terms as the appointing governing body decides as long as the appointee remains a member of the relevant governing body. The governing body may appoint a different member of the Council or Board of Supervisors at the end of any appointee's four-year Council or Board term or upon the exit of the member from the governing body. In the latter case, the new appointee shall serve for the remainder of the term vacated by an exiting member of the governing body.

E. If funds are available, each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties. Such expense allowance shall constitute a cost of operation and maintenance of such utility systems and shall be prorated among each of the systems it manages using the "Three-Factor" allocation method approved by the Commission. The three factors consist of the percentages that each division comprises of total plant in service, total operating revenues, and total customer accounts. Once each operating division's percentage of each of the three factors is calculated, the sum of the three factors divided by three results in the operating division's share of the total direct or indirect costs.

2010, cc. 117, 210; 2016, cc. 724, 725.

§ 15.2-7206.(Contingent expiration date -- see note) Organization; compensation

A. The following provisions apply to the Board of Directors:

1. Five of the directors shall constitute a quorum. No vacancy in the Board of Directors shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

2. The Board shall hold regular meetings at such times and places as may be established by its bylaws. The Board shall hold its meetings as provided in § 2.2-3707.

3. The Board shall hold its first organizational meeting on July 1, 2010.

4. The Board shall adopt bylaws governing the conduct of business by the Board and the Authority. Proposed bylaws shall be made available before being duly adopted at each annual meeting. The Board is authorized to adopt bylaws governing the amendment of bylaws at any time.

5. The Board shall annually elect a chairman and a vice-chairman from its membership and a secretary of the Board from either its membership or the staff of the Authority at its annual meeting. The terms of such officers shall be for one year.

6. The Board shall deal with Authority employees solely through the president. The Board shall not give orders to any of the subordinates of the president, either publicly or privately.

7. The Board shall not direct the appointment or removal of any Authority contractor or employee other than the president.

8. The Board may appoint committees from among its membership in accordance with its bylaws.

9. No Board member shall receive any financial compensation for service on the Board. The Board may reimburse members for reasonable expenses they incur while serving on the Board. Any member seeking reimbursement shall itemize and document by receipts such expenses pursuant to subsection E of § 15.2-7205.

10. The Board shall adopt a travel and expense policy that applies to Board members and Authority employees and addresses what expenditures are appropriate in furtherance of the activities of the Authority.

11. The Board shall adopt a conflict of interest policy addressing the acceptance by Board members or Authority employees of gifts of travel or entertainment from any vendor that seeks or maintains a contract with the Authority.

12. Each member of the Board shall file with the president a disclosure form containing a statement of economic interests as provided in § 2.2-3117 according to the schedule required by § 2.2-3115.

B. The following provisions apply to the president:

1. The Board shall continue to appoint and contract with a president to manage the operations of the Authority, and the contract with the president that is in effect as of January 1, 2016, shall continue in effect and be binding upon the Authority.

2. The term of the president's employment contract shall not exceed three years. The board may vote to renew the contract of the president for additional terms not to exceed three years each.

3. The president's employment contract shall not contain a severance payout upon termination amounting to more than 12 months of his base salary.

4. The president shall have the sole authority to hire, fire, and manage such staff and contractors as the president deems expedient to the operation of the Authority, subject to the availability of budgeted funds, and to assign such positions, titles, powers, and duties at such salaries as the president deems most effective for the efficient operation of the Authority.

5. The president shall not have the power to enter into an employment contract with any employee of the Authority unless the Board ratifies such contract by a majority vote in an open meeting. Such contract shall be subject to the term and severance payout restrictions applicable to the president's contract as provided in subdivisions 2 and 3.

6. The Board may appoint an employee as acting president during any period of vacancy. The Board shall advertise the vacancy of the presidency and accept applications from candidates interested in filling the vacancy.

C. The Board shall vote annually to retain outside legal counsel to advise the Authority on legal matters. The legal counsel shall be licensed to practice law in the Commonwealth, shall not be an employee of the Authority, and shall be separate from and independent of any legal counsel for the City of Bristol, Scott County, or Washington County. The legal counsel shall provide annual training to the Board on the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

D. The Board may authorize the position of executive vice-president, to be filled and managed by the president.

E. Notwithstanding the quorum requirement in subsection A, any decision of the Board related to the provision, use, operation, or maintenance of water or sewer systems shall be made by a majority vote of the three members of the Board representing the City of Bristol, Virginia, and the director who is a member of the Washington County Board of Supervisors.

2010, cc. 117, 210; 2016, cc. 724, 725.

§ 15.2-7206.(Contingent effective date -- see note) Organization; compensation

A. The following provisions apply to the Board of Directors:

1. Three of the directors shall constitute a quorum. No vacancy in the Board of Directors shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

2. The Board shall hold regular meetings at such times and places as may be established by its bylaws. The Board shall hold its meetings as provided in § 2.2-3707.

3. The Board shall hold its first organizational meeting on July 1, 2010.

4. The Board shall adopt bylaws governing the conduct of business by the Board and the Authority. Proposed bylaws shall be made available before being duly adopted at each annual meeting. The Board is authorized to adopt bylaws governing the amendment of bylaws at any time.

5. The Board shall annually elect a chairman and a vice-chairman from its membership and a secretary of the Board from either its membership or the staff of the Authority at its annual meeting. The terms of such officers shall be for one year.

6. The Board shall deal with Authority employees solely through the president. The Board shall not give orders to any of the subordinates of the president, either publicly or privately.

7. The Board shall not direct the appointment or removal of any Authority contractor or employee other than the president.

8. The Board may appoint committees from among its membership in accordance with its bylaws.

9. No Board member shall receive any financial compensation for service on the Board. The Board may reimburse members for reasonable expenses they incur while serving on the Board. Any member seeking reimbursement shall itemize and document by receipts such expenses pursuant to subsection E of § 15.2-7205.

10. The Board shall adopt a travel and expense policy that applies to Board members and Authority employees and addresses what expenditures are appropriate in furtherance of the activities of the Authority.

11. The Board shall adopt a conflict of interest policy addressing the acceptance by Board members or Authority employees of gifts of travel or entertainment from any vendor that seeks or maintains a contract with the Authority.

12. Each member of the Board shall file with the president a disclosure form containing a statement of economic interests as provided in § 2.2-3117 according to the schedule required by § 2.2-3115.

B. The following provisions apply to the president:

1. The Board shall continue to appoint and contract with a president to manage the operations of the Authority, and the contract with the president that is in effect as of January 1, 2016, shall continue in effect and be binding upon the Authority.

2. The term of the president's employment contract shall not exceed three years. The board may vote to renew the contract of the president for additional terms not to exceed three years each.

3. The president's employment contract shall not contain a severance payout upon termination amounting to more than 12 months of his base salary.

4. The president shall have the sole authority to hire, fire, and manage such staff and contractors as the president deems expedient to the operation of the Authority, subject to the availability of budgeted funds, and to assign such positions, titles, powers, and duties at such salaries as the president deems most effective for the efficient operation of the Authority.

5. The president shall not have the power to enter into an employment contract with any employee of the Authority unless the Board ratifies such contract by a majority vote in an open meeting. Such contract shall be subject to the term and severance payout restrictions applicable to the president's contract as provided in subdivisions 2 and 3.

6. The Board may appoint an employee as acting president during any period of vacancy. The Board shall advertise the vacancy of the presidency and accept applications from candidates interested in filling the vacancy.

C. The Board shall vote annually to retain outside legal counsel to advise the Authority on legal matters. The legal counsel shall be licensed to practice law in the Commonwealth, shall not be an employee of the Authority, and shall be separate from and independent of any legal counsel for the City of Bristol, Virginia, or Washington County. The legal counsel shall provide annual training to the Board on the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

D. The Board may authorize the position of executive vice-president, to be filled and managed by the president.

E. Notwithstanding the quorum requirement in subsection A, any decision of the Board related to the provision, use, operation, or maintenance of water or sewer systems shall be made by a majority vote of the three members of the Board representing the City of Bristol, Virginia, and the director who is a member of the Washington County Board of Supervisors.

2010, cc. 117, 210; 2016, cc. 724, 725.

§ 15.2-7207.Powers generally

A. The Authority is hereby granted all powers reasonably necessary or appropriate to carry out the purposes of this chapter in order to provide electric, water, sewer, and telecommunication and related services, including without limitation, cable television internet, and all other services that might be lawfully rendered by use of the Authority's fiber optic system, subject to all applicable limitations and restrictions thereon. Such powers include, without limitation, except as set forth hereafter, the following:

1. To adopt bylaws for the regulation of its affairs and the conduct of its business;

2. To sue and be sued in the Authority's name;

3. To adopt a corporate seal and alter the same at its pleasure;

4. To maintain offices at such places as it may designate;

5. To appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

6. To establish personnel rules;

7. To make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

8. To borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

9. To provide electric, water, sewer, and telecommunication and related services, including without limitation, cable television, internet, and all other services that might be lawfully rendered by use of the Authority's fiber optic system as set forth in § 15.2-7208 subject to all applicable restrictions and limitations thereon;

10. To determine fees, rates, and charges for the services and products it provides, subject only to such state or federal regulation as the Tennessee Valley Authority (TVA) or other cognizant state or federal agency may impose by order, rulemaking, contract or otherwise, including, without limitation, electric, water and sewer, and internet and cable television services, including all other services that might be rendered by use of its fiber optic system, furnished by the Authority. MLEC telephone service, including rates, is regulated by the Commission. All rate increases for services other than electric, which are set by the TVA, and telephone, which are set by the Commission and applicable law, shall require a favorable vote at two meetings, one of which must be a regular meeting of the BVU Authority Board;

11. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and utility services and governing the conduct of persons and organizations using its facilities or obtaining its utility services and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities and services, as authorized by the enacting body of such rules, regulations, ordinances, and statutes. The civil penalty for violation of any such rules and regulations shall be set forth in the rules and may be enforced by the Authority by direct action in terminating services and by the imposition of monetary penalties to be billed to the customer. The Authority may request the governing body of each locality in which it does business to impose by ordinance such penal liability for violation of such rules and regulations as such body deems appropriate;

12. Subject to subdivision 20, to apply for and accept gifts or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, this Commonwealth and political subdivisions, agencies and

instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of its infrastructure or for the payment of principal of any indebtedness of the Authority, interest thereon, or other cost incident thereto, or for the operation of any of its services, or for any other purpose of the Authority, and to this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

13. Subject to subdivision 15 and all existing limitations and restrictions thereon, to acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate electric, water, sewer, telecommunications, internet and cable television services, including all other services that might be rendered by use of its fiber optic system, and other infrastructure and facilities that are owned or managed by the Authority within the territorial areas in which it operates or provides services;

14. To construct, install, maintain, and operate facilities and infrastructure for managing its utility, consulting and operational management services. The Authority shall have the power and duty to manage and operate the electric, public lighting, water, sewerage, telecommunications, internet and cable television services, including all other services that might be rendered by use of its fiber optic system directly subject to all existing limitations and restrictions thereon, or it may subcontract such functions. The Authority shall construct, maintain, and operate all facilities necessary thereto; shall sell and distribute to the public electric power, light, water, sewer, telecommunications, internet and cable television, and other services as they now exist or may exist in the future subject to all existing limitations and restrictions thereon; and shall collect the rates and charges provided for all such services;

15. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property and dispose of any or all such properties as is deemed appropriate by the Board, including, notwithstanding the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), executing, assigning, or transferring, without implementing the provisions of the Virginia Public Procurement Act, any internal contract between the divisions of the Authority that following such execution, assignment, or transfer will be between the Authority and the purchaser of the Authority's assets. The Authority shall have the power of eminent domain to acquire property and easements as needed for its electric power, light, water, and sewer services within the areas it provides or can provide such services. The power of eminent domain shall not include the power to acquire existing telecommunications, internet or cable facilities, which is expressly prohibited, and the Authority shall not accept or receive any telecommunications, internet or cable facilities from an entity that acquired such facilities by use of eminent domain for the purpose of conveying them to the Authority;

16. To purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee, or agent of the Authority and on behalf of the Authority itself against any liability asserted against it or him or incurred by it or him in any such capacity or arising out of his status as such;

17. To establish and charge such fees as it deems appropriate for attachment to or inclusion in the Authority's infrastructure, including but not limited to its poles, conduits, and co-location sites, subject to all existing limitations and restrictions thereon;

18. To fund economic development projects and, in advance of economic development projects, to enter into contracts, to borrow money and to do all other such acts as will allow it to encourage and support economic development.

Before the Authority expends any funds for an economic development project that is funded in whole or in part by funds allocated by the Board pursuant to a power purchase agreement with the Tennessee Valley Authority, a determination shall be made that the electric system benefit is expected to be commensurate with the expenditure.

Within 30 days of the end of the Authority's fiscal year, the Authority shall publish on its website the details of any incentive awarded to an economic development project;

19. To have police powers on all of the properties of the Authority within the Commonwealth, exercised through appointment of an armed conservator of the peace. The president of the Authority may apply to the circuit court for any locality in which the Authority has property for the appointment of one or more special conservators of the peace under procedures specified by Chapter 2 (§ 19.2-12 et seq.) of Title 19.2 or any successor provisions. Any such special conservator of the peace shall have, within the lands and facilities controlled by the Authority, the powers, functions, duties, responsibilities, and authority of any other armed conservator of the peace. Nothing in this section shall be construed to prevent the conservator of the peace currently serving Bristol Virginia Utilities from continuing as an armed special conservator of the peace for the Authority during the remainder of his term, if not removed for cause; and

20. To build or facilitate the building of, as the first broadband priority of the Authority, wired broadband infrastructure to serve residents in the Authority's lawful service area who are not served by any wired broadband service provider. The president of the Authority shall annually provide the Board with a report detailing (i) the number of requests for broadband services received from residents in unserved areas, (ii) the number of such requests for which the Authority has provided a connection to broadband services, and (iii) the costs of providing such broadband service.

B. The Authority is authorized to (i) operate only in Virginia and Tennessee; (ii) offer broadband services only in Sullivan, Unicoi, and Washington Counties, Tennessee; the City of Bristol, Virginia; and Bland, Buchanan, Dickenson, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe

Counties in Virginia, together with any towns located in such counties; and (iii) offer cable television services or other video services only within the electric utility service territory of Bristol Virginia Utilities as it existed on December 31, 2009, in the City of Bristol, Virginia, Scott County, and Washington County, including within the Town of Abingdon. Notwithstanding the geographic limitations of this subsection, the Authority shall have the right to sell any of its non-electric utility services at wholesale to an independent third party in which the Authority has no ownership or management interest and no economic interest apart from the sale of utility services, to allow such independent third party to distribute and sell the utility services at retail in areas outside of the Authority's geographic limitations.

C. Whenever any grant, loan, or application for such grant or loan includes or refers to funding for broadband deployment, the Authority shall ensure that (i) funds are allocated to the maximum extent possible to projects that expand broadband deployment to areas, residents, or businesses that are unserved by wired broadband; (ii) in any funding of grants for broadband deployment that include areas already served by wired broadband, such areas already served are incidental to and are crossed only for the purpose of reaching an unserved area; and (iii) any broadband network built will be operated on an open-access basis, available to multiple broadband providers, with dark fibers and capacity sufficient for competitive broadband providers to lease the same from the Authority at commercially reasonable rates.

D. The Authority shall not seek to become or establish a wireless service authority under the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) or contract for services with such an authority.

E. The Authority shall not solicit or contract with any locality or other entity possessing the power of eminent domain in order to cause such a third party to exercise its power of eminent domain to acquire any easements or other property where the Authority itself lacks such power.

F. The Authority shall not have the power to make charitable donations.

2010, cc. 117, 210; 2016, cc. 724, 725; 2018, c. 839.

§ 15.2-7208.Powers

Unless limited elsewhere in this chapter, the Authority shall have those powers possessed by the City of Bristol necessary and convenient for the provision of electric, water and sanitary sewer services, and those powers possessed by the Bristol Virginia Utilities Board and the division of the city known as Bristol Virginia Utilities as they existed on July 1, 2001, in the Charter of the City of Bristol, Virginia, and the general laws of the Commonwealth. Unless limited elsewhere in this chapter, the Authority shall also possess all those powers, subject to the limitations and restrictions thereon, as granted to the City, the Bristol Virginia Utilities Board, and BVU by Chapter 479 of the Acts of Assembly of 2002, Chapters 539, 546, and 677 of the Acts of Assembly 2003, Chapter 586 of the Acts of Assembly of

2004, Chapter 258 of the Acts of Assembly of 2005, Chapters 607 and 682 of the Acts of Assembly of 2007, and Chapters 99 and 323 of the Acts of Assembly of 2008.

2010, cc. 117, 210; 2016, cc. 724, 725.

§ 15.2-7209.Authority deemed to be an MLEC

A. The establishment of the BVU Authority is deemed to be an entity conversion and all assets of, tariffs on file with the Commission, and all certificates authorizing the furnishing of Local Exchange Telephone Service and the furnishing of interexchange telecommunications services, granted to and held by Bristol Virginia Utilities and the City of Bristol, Bristol Virginia Utilities Division are hereby deemed to be transferred to BVU Authority without further application by BVU Authority to the Commission. The Commission shall issue appropriate documentation to effectuate this transfer without further action on behalf of BVU Authority. It is further deemed that the Authority has met all conditions precedent to qualify for such certificates and the powers granted therein and the limitations, restrictions, and requirements set forth thereto continuing in full force and effect.

B. BVU Authority will be deemed to be an MLEC.

C. Upon enactment of this chapter, the Authority shall file a name change with the Commission.

D. No bond shall be required of BVU Authority by the Commission.

2010, cc. 117, 210.

§ 15.2-7210.Transfer of properties and debt

All of the properties, infrastructure, and other assets used by Bristol Virginia Utilities for any of its utility services or otherwise, whether held in its name or in the name of the City of Bristol, Virginia, are hereby transferred to the Authority and declared to be held by the Authority as its property. The portion of the City's debt that was incurred for the benefit of Bristol Virginia Utilities is hereby declared to be the debt of the Authority. That debt will be the sole responsibility of the Authority. The Authority will either assume that debt or issue new bonded indebtedness to pay it off as soon as practical and in accordance with all bond covenants in the BVU bonds on the City's financial statements.

2010, cc. 117, 210.

§ 15.2-7211.Reports

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Such audited financial reports will be provided to the Commonwealth Auditor of Public Accounts and to each participating political subdivision each year and shall be open to public inspection.

2010, cc. 11, 210.

§ 15.2-7212.Procurement

All contracts that the Authority may let for professional services, nonprofessional services, or goods, materials, and equipment shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.). Nothing herein will be construed to prevent the Authority from adopting a small purchases policy in keeping with such Act. If the Authority is procuring pursuant to a federal grant or program that requires compliance with federal procurement law, then the Authority may procure in compliance with federal law. If the Authority in the exercise of its powers is procuring in another state for use in that state, the Authority may procure in compliance with that state's procurement law.

2010, cc. 117, 210.

§ 15.2-7213.Deposit and investment of funds

All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds or any contract between the Authority and TVA, be invested in securities that are considered lawful investments for fiduciaries.

2010, cc. 117, 210.

§ 15.2-7214.Authority to issue bonds

The Authority shall have the power to issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority infrastructure and facilities; including the payment or retirement of bonds previously issued by it and including the costs of the issuance of such bonds. The Authority may issue such types of bonds as it may determine, including, without limitation, bonds payable, both as to principal and interest: (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts of certain designated operations or facilities whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured (a) by a pledge of any grant or contribution from the Commonwealth, or any political subdivision, agency, or instrumentality thereof, any federal agency or any unit, private corporation, co-partnership, association, or individual, or other entity, or (b) by mortgage or encumbrance of any property or facilities of the Authority. Unless otherwise provided in the proceedings authorizing the issuance of the bonds, or in the trust indenture securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of the Authority. Bonds may be executed and delivered by the Authority at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered, book entry, or bearer form either as to principal or interest or both, may be payable in such installments and at such time or

times, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times, and at such place or places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the Board of Directors in authorizing each particular bond issue including any designation of an agent or officer of the Authority to establish such provisions under guidelines established by the Authority.

If deemed advisable by the Board of Directors, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the Board of Directors of the Authority to be most advantageous, and the Authority may pay all costs, premiums, and commissions that its Board of Directors may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the Board of Directors may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, including insurance costs, premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby.

All bonds shall be signed on behalf of the Authority by the chairman or vice-chairman of the Authority, or shall bear the facsimile signature of such officer, and shall bear the official seal of the Authority, or a facsimile thereof shall be impressed or imprinted thereon and shall be attested to by the manual or facsimile signature of the secretary (or the secretary-treasurer) or assistant secretary (or assistant secretary-treasurer) of the Authority. Any coupons attached thereto shall bear the signature or facsimile signature of such chairman. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile signature nevertheless shall be valid and sufficient for all purposes

as if such officer had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities or infrastructure for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities or infrastructure for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this chapter.

All bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia (§ 8.1A-101 et seq.), subject only to provisions respecting registration of the bonds.

The interest income from and any profit made on the sale of the obligations issued under the provisions of this Act shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county, or other political subdivision thereof.

2010, cc. 117, 210.

§ 15.2-7215.Credit of Commonwealth and political subdivisions not pledged

Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth of Virginia, or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefor as herein authorized. All such bonds shall state on their face that neither the Commonwealth of Virginia nor any political subdivisions

thereof, nor the Authority, are obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of such bonds, the redemption premium, if any, thereon, or the interest thereon or other costs incident thereto.

All expenses incurred in carrying out the provisions of this chapter shall be payable solely from the funds of the Authority and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall be available to the Authority.

Bonds issued pursuant to the provisions of this Act shall not constitute indebtedness within the meaning of any debt limitation or restriction.

2010, cc. 117, 210.

§ 15.2-7216.Directors and persons executing bonds not liable thereon

Neither the Board of Directors nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof.

2010, cc. 117, 210.

§ 15.2-7217.Security for payment of bonds; default

The principal of and interest on any bonds issued by the Authority shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture covering all or any part of the Authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the Board of Directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any trust indenture executed as security therefor, may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the directors, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any trust indenture of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of such remedies.

2010, cc. 117, 210.

§ 15.2-7218.Bonds as legal investments

All bonds issued under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital, under their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

2010, cc. 117, 210.

§ 15.2-7219.Contracts concerning interest rates and investments

The Authority may enter into any contract that the Board of Directors determines to be necessary or appropriate to place the obligation or investment of the Authority, as represented by the bonds or the investment of their proceeds, in whole or in part, on the interest rate, cash flow, or other basis desired by the Authority, which contract may include, without limitation, interest rate swap agreements, future contracts and contracts providing for payments based upon levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Authority in connection with, or incidental to, entering into or maintaining any (i) agreement that secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts may contain such payment, security, default, remedy, and other terms as determined by the Authority. Any money set aside and pledged to secure payments of bonds or any contracts entered into pursuant to this section may be invested in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 and may be pledged to and used to service any of the contracts or agreements entered into pursuant to this section.

2010, cc. 117, 210.

§ 15.2-7220.Taxation

The exercise of the powers granted by this Act shall in all respects be presumed to be for the benefit of the public, for the increase of their commerce and for the promotion of their health, safety, welfare, convenience, and prosperity, and as the operation and maintenance of any service that the Authority is authorized to provide will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this Act and the bonds issued under the provisions of this Act, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations, and organizations leasing property of

the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted including but not limited to any leasehold tax on real property and taxes on the sale of utility services and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling, and taxes upon consumers of gas, electricity, telephone, and other public utility services. The Authority shall continue to pay or impute any taxes presently paid or imputed by Bristol Virginia Utilities and to collect and remit all taxes presently collected and remitted by Bristol Virginia Utilities.

2010, cc. 117, 210.

§ 15.2-7221.Sovereign immunity

No provisions of this chapter nor act of an authority, including the procurement of insurance or self-insurance, shall be deemed a waiver of any sovereign immunity to which the Authority or its directors, officers, employees, or agents are otherwise entitled.

2010, cc. 117, 210.

§ 15.2-7222.Appropriation by political subdivision

Any political subdivision of the Commonwealth is authorized to provide services, to donate real or personal property, and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act of 1991 (§ 15.2-2600 et seq.) or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

2010, cc. 117, 210.

§ 15.2-7223.Contracts with political subdivisions

The Authority is authorized to enter into contracts with the Commonwealth, with the states it operates within, with any one or more political subdivisions within and without the Commonwealth, and with any other person or entity for any legal purpose.

2010, cc. 117, 210.

§ 15.2-7224.Application of local ordinances, service charges, and taxes upon leaseholds

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located, except as otherwise specifically excluded herein. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the

Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom.

2010, cc. 117, 210.

§ 15.2-7225.Existing contracts, leases, franchises, etc., not impaired

No provisions of this Act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence, including all contracts entered into by Bristol Virginia Utilities except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession, lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease, or franchise consents to such renegotiation, renewal, extension, or modification. The Authority shall be obligated for the performance of any contract of Bristol Virginia Utilities now in existence in accordance with its terms, and such contracts shall remain in full force and effect.

2010, cc. 117, 210.

§ 15.2-7226.Liberal construction

Neither this chapter nor anything contained herein is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this chapter is cumulative to any such powers, provided, however, that nothing in the foregoing provision shall be deemed to have expanded the powers of the Authority to provide and operate telecommunication and related services, including without limitation, cable television, internet, and all other services that might be rendered by use of the Authority's fiber optic system, beyond existing restrictions and limitations thereon. This chapter does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws.

2010, cc. 117, 210; 2015, c. 709.

Capital Region Airport Commission

History

1975 Acts of Assembly, c. 537; repealed 1980, c. 380.

Current

1980 Acts of Assembly, c. 380.

Amendments

1985, c. 117 (§ 6)
1986, c. 410 (§§ 8, 13)

1997, c. 658 (§ 11)
1998, c. 588 (§§ 9, 14, 16)
2001, cc. 331, 344 (§§ 7, 15)
2014, c. 672 (§§ 10, 15)

§ 1. Short title.

This act shall be known and may be cited as the "Capital Region Airport Commission Act." (1980, c. 380)

§ 2. Purpose of act; finding and declaration of necessity.

It is the intent of the General Assembly by the passage of this act to continue the Capital Region Airport Commission, heretofore created by and pursuant to Chapter 537 of the Acts of the 1975 General Assembly, as amended, the governing bodies of the city of Richmond and the county of Henrico having declared a need for an airport commission for establishing or operating one or more airports for such participating political subdivisions, and to confer upon such Commission all powers necessary or incident to the ownership and operation of such airports, to the end that such Commission may promote the welfare, convenience and prosperity of the inhabitants of the participating political subdivisions and this Commonwealth, and the increase of their commerce.

It is hereby found and declared that the ownership and operation by the Commission of modern and efficient air transportation and related facilities are proper and essential governmental functions and public purposes for which public moneys may be spent and private property acquired through the power of eminent domain. (1980, c. 380)

§ 3. Definitions.

As used in this act the following words and terms have the following meanings, unless a different meaning clearly appears from the context:

1. "Act" means this Capital Region Airport Commission Act.

2. "Bonds" means any bonds, notes, debentures, or other evidences of financial indebtedness issued by the Commission pursuant to this act.

3. "Commission" means the Capital Region Airport Commission created by and pursuant to Chapter 537 of the Acts of Assembly of 1975, as amended, and continued by this act.

4. "Commonwealth" means the Commonwealth of Virginia.

5. "Facility" means any and all airports, terminals, runways, hangars, loading facilities, repair shops, parking areas, facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies and airlines, and industrial and commercial facilities, purchased, constructed or otherwise acquired or operated by the Commission pursuant to the provisions of this act. Any facility may consist of or include any or all

buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, aviation rights, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

6. "Participating political subdivision" means any of the city of Richmond, the counties of Henrico, Charles City, Chesterfield, Goochland, Hanover, New Kent, or Powhatan or the town of Ashland, which may join or have joined the Commission pursuant to § 5 of this act.

7. "Political subdivision" means a county, municipality or other public body of this Commonwealth. (1980, c. 380)

§ 4. Continuation of Commission.

The Capital Region Airport Commission created by and pursuant to Chapter 537 of the Acts of Assembly of 1975, as amended, is hereby continued as a political subdivision of the Commonwealth with such public and corporate powers as are set forth in this act. (1980, c. 380)

§ 5. Participating political subdivisions.

The city of Richmond and the county of Henrico are the initial participating political subdivisions. Any of the counties of Charles City, Chesterfield, Goochland, Hanover, New Kent, or Powhatan or the town of Ashland may by resolution of its governing body join the Commission and become a participating political subdivision upon the condition that it first contribute, or make arrangements satisfactory to the Commission for a contribution, to the Commission that amount determined by the Commission to reflect such political subdivision's interest in the value of the Commission's properties.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance or misfeasance or nonfeasance by or on the part of the Commission or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Commission and any political subdivision. (1980, c. 380)

§ 6. Appointment, tenure and compensation of Commissioners.

The powers of the Commission shall be vested in the Commissioners thereof in office from time to time. The governing body of each participating political subdivision shall appoint the number of commissioners, who may be members of the governing body, set forth opposite its name below, each to serve for a term of four years or until his successor be appointed and qualified, subject however to the right of the governing body of each political subdivision to remove at any time any Commissioner appointed by it and appoint a successor Commissioner:

The city of Richmond	four Commissioners
The county of Henrico	four Commissioners
The county of Chesterfield	four Commissioners

The county of Hanover	two Commissioners
Each other participating political subdivision	one Commissioner

The governing body of any participating political subdivision may compensate each Commissioner appointed by it in an amount not to exceed three thousand dollars annually. Each Commissioner may be reimbursed by the Commission for the amount of actual expenses incurred by him in the performance of his duties. (1980, c. 380; 1985, c. 117)

§ 7. Organization.

A majority of the Commissioners in office shall constitute a quorum. No vacancy in the membership of the Commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the Commission.

The Commissioners shall annually elect from their membership a chairman and a vice-chairman and, from their membership or not as they desire, a secretary and a treasurer or a secretary-treasurer, and such other officers as they may deem appropriate. The Commissioners shall appoint an airport administrator, who shall not be a Commissioner and whose title shall be president and chief executive officer. He shall administer, manage, and direct the affairs and activities of the Commission in accordance with the policies and under the control and direction of the Commissioners. He shall, in addition, have such other powers and perform such other duties as may be delegated to him by the Commissioners, including powers and duties involving the exercise of discretion.

The Commissioners may make and from time to time amend and repeal bylaws, not inconsistent with this act, governing the manner in which the Commission's business may be transacted and in which the power granted to it may be enjoyed. The Commissioners may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees. (1980, c. 380; 2001, cc. 331, 344)

§ 8. Powers.

The Commission is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purposes of this act, including, for purposes of illustration, the following:

1. To sue and be sued in its own name;

2. To have perpetual succession;

3. To adopt a corporate seal and alter the same at its pleasure;

4. To maintain offices at such places as it may designate;

5. To acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate any airports, air landing fields, structures, air navigation facilities and other property incidental thereto within the territorial limits of the participating political subdivisions;

6. To construct, install, maintain and operate facilities for the servicing and storage of aircraft and for the accommodation of cargo, freight, mail, express, etc., and for the accommodation and comfort of air travelers, and for lease or sale to industrial or commercial users, and to purchase and sell equipment and supplies as an incident to the operation of its airport facilities;

7. To grant to others the privilege to operate for profit concessions, leases and franchises, including but not limited to the sale of airplanes, fuel, parts and equipment, the accommodation and comfort of persons using its facilities and the providing of ground transportation and parking facilities for such persons, and such concessions, leases, and franchises shall be exclusive or limited when it is necessary to further the public safety, improve the quality of service, avoid duplication of service, or conserve airport property and the airport's resources;

8. To determine fees, rates, and charges for the use of its facilities;

9. To apply for and accept gifts, or grants of money or gifts, grants, or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, this Commonwealth and political subdivisions, agencies and instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the Commission's facilities or for the payment of principal of any indebtedness of the Commission, interest thereon or other cost incident thereto, and to this end the Commission shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

10. To establish, operate and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce;

11. To appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

12. To establish personnel rules;

13. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

14. Subject to the provisions of the Deed and Agreement among the City of Richmond, the County of Henrico, and the Commission, made as of January one, nineteen hundred seventy-six, as it may be amended, to sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein, if such disposition is in the public interest and

in furtherance of the purposes of this act or if such property is not necessary for the purposes of the Commission;

15. To make and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

16. To borrow money, as hereinafter provided and, provided such borrowing shall mature within one year, to borrow money for the purpose of meeting casual deficits in its revenues;

17. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

18. To pay pensions and establish pension plans, pension trusts, and other compensation plans for any of its employees;

19. To purchase and maintain insurance on behalf of any person who is or was a Commissioner, officer, employee or agent of the Commission against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such; and

20. To do all things necessary or convenient to the purposes of this act. (1980, c. 380; 1986, c. 410)

§ 9. Rules and regulations.

The Commission shall have the power to adopt, amend, and repeal rules and regulations for the use, maintenance and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Commission shall by unanimous vote of all Commissioners present determine that an emergency exists, the Commission shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

a. Make such rule, regulation, alteration, amendment, or modification in convenient form available for public inspection in the office of the Commission for at least ten days;

b. Publish a notice in a newspaper of general circulation published in the participating political subdivisions declaring the Commission's intention to consider adopting such rule, regulation, alteration, amendment, or modification and informing the public that the Commission will hold a public hearing at which any person may appear and be heard for or against the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least ten days from the day of the publication thereof; and

c. Hold the public hearing on the day and at the time specified in such notice or any adjournment thereof, and hear persons appearing for or against such rule, regulation, alteration, amendment, or modification.

The Commission's rules and regulations shall be available for public inspection in the Commission's principal office.

The Commission's rules and regulations relating to: a. Traffic, including but not limited to motor vehicle moving violations and the location of and payment for public parking; b. Access to Commission facilities, including but not limited to solicitation, handbilling, and picketing; and c. Aircraft operation and maintenance; shall have the force and effect of law, as shall any other rule or regulation of the Commission which shall contain a determination by the Commission that it is necessary to accord the same the force and effect of law in the interest of the public safety; provided, however, that with respect to motor vehicle traffic rules and regulations, the Commission shall obtain the approval of the traffic engineer or comparable official of the political subdivision in which such rules or regulations are to be enforced. The violation of any rule or regulation of the Commission relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred; all other violations of the Commission's rules and regulations having the force and effect of law shall be punishable as misdemeanors. (1980, c. 380; 1998, c. 588)

§ 10. Police powers.

The Commission may exercise full law-enforcement powers upon all property owned, managed, leased, or maintained by or under the control of the Commission; establish and maintain a police department; and employ police officers to enforce the laws of the Commonwealth and all rules and regulations of the Commission. The Commission's police force and its police officers shall have all the powers vested in local police forces and police officers under Virginia law. Any person appointed and employed as a Commission police officer pursuant to this section must meet the training requirements established by the Department of Criminal Justice Services under § 9.1-102 and the requirements of § 9.1-114.

Such police officers may issue summons to appear, or arrest on view or on information without warrant as permitted by law, and conduct before any court of competent jurisdiction any person violating any rule or regulation of the Commission or other applicable statute, ordinance, rule, or regulation.

For the purpose of enforcing such statutes, ordinances, rules, and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the participating political subdivision wherein the offense was committed shall have jurisdiction to try a person charged with the violating of any such statutes, ordinances, rules, and regulations. (1980, c. 380; 2014, c. 672)

§ 11. Eminent domain; right of entry.

The Commission is hereby granted full power to exercise within the participating political subdivisions the right of eminent domain in the acquisition of any lands, easements, privileges or other property interests which are necessary for airport and landing field purposes, including the right to acquire by eminent domain, avigation easements over lands or water outside the boundaries of its airport or landing fields where necessary in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport and landing fields even thought such avigation easement be inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition. Proceedings for the acquisition of such lands, easements and privileges by condemnation may be instituted and conducted in the name of the Commission in accordance with Title 25 of the Code of Virginia.

The authorized agents and employees of the Commission may enter upon any lands, waters, and premises within the participating political subdivisions for the purpose of making surveys, or obtaining environmental samplings as they may deem necessary for the purposes of this chapter, and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending. The Commission shall make reimbursement for any actual damage resulting to such lands, waters, and premises as a result of such activities. The Commission shall disclose the results of any such environmental samplings to the property owner if requested. (1980, c. 380; 1997, c. 658)

§ 12. Reports.

The Commission shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. (1980, c. 380)

§ 13. Construction contracts.

All contracts that the Commission may let for construction or materials shall be subject to the Virginia Public Procurement Act, § 11-35 et seq. of the Code of Virginia. This section shall not apply to contracts relating to the construction of facilities by tenants on land leased from the Commission. (1980, c. 380; 1986, c. 410)

§ 14. Deposit and investment of funds.

All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as

provided in this act. All moneys of the Commission shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act.

Funds of the Commission not needed for immediate use or disbursement may, subject to the provisions of any contract between the Commission and the holders of its bonds, be invested in securities which are considered lawful investments for fiduciaries. (1980, c. 380; 1998, c. 588)

§ 15. Authority to issue bonds.

The Commission shall have power and is hereby authorized to issue bonds from time to time in its discretion for any of its purposes, including the payment of all or any part of the cost of any of its facilities and the refunding of any bonds previously issued by it.

Bonds may be issued under this act notwithstanding any debt or other limitation prescribed in any statute and without obtaining the consent of any city, town, or county government or any commission, board, bureau, or agency of the Commonwealth or of any of the foregoing, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act.

The Commission may issue such types of bonds as it may determine, including, without limiting the generality of the foregoing, bonds payable as to principal and interest: (i) from its revenues generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, as such participating political subdivision, or other entities may be authorized to make under general law or by a pledge of any income or revenues of the Commission, or where such mortgage has been approved by the participating political subdivisions, a mortgage of any facilities of the Commission.

Bonds of the Commission shall be authorized by resolution and may be issued in one or more series, may be dated, may mature at such time or times not exceeding forty years from their date or dates, may be subject to redemption or repurchase at such price or prices and under such terms and conditions, and may contain such other provisions, all as determined by the Commission before their issuance or in such manner as the Commission may provide. The bonds may bear interest at such rate or rates as may be determined by the Commission or in such manner as the Commission may provide, including the determination by reference to indices or formulas or by agents designated by the Commission under guidelines established by it. The Commission shall determine the form of the

bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the conversion and reconversion into coupon bonds of any bonds registered as to both principal and interest and vice versa. The Commission may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Commission.

Prior to the preparation of definitive bonds, the Commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. (1980, c. 380; 2001, cc. 331, 344; 2014, c. 672)

§ 16. Resolution or trust indenture to secure bonds.

In connection with the issuance of bonds and/or in order to secure the payment of such bonds, the Commission shall have power:

1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents, or revenues;

2. To covenant to impose and maintain such schedule of fees, rents and charges as will produce funds sufficient to pay operating costs and debt service;

3. To covenant against pledging all or any part of its fees, rents, and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and powers in the fees, rents and revenues from which are subject to a pledge;

5. To covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any facility or facilities of the Commission or any part thereof or with respect to limitations on its right to undertake additional projects;

6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

7. To covenant as to what other, or additional, debt may be incurred by it;

8. To provide for the terms, form, registration, exchange, execution, and authentication of bonds;

9. To provide for the replacement of lost, destroyed, or mutilated bonds;

10. To covenant as to the use of any or all of its property, real or personal, subject to the continued use of such property for airport purposes;

11. To create or to authorize the creation of special funds in which there may be segregated: (i) the proceeds of any loan or grant; (ii) all of the fees, rents, and revenues of any facility or facilities or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as reserve for such payments; and (v) any moneys held for any other reserve or contingencies; and to covenant as to the use and disposal of the moneys held in such funds;

12. To redeem its bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

15. To covenant as to the maintenance of its facilities, the insurance to be carried thereon and the use and disposition of insurance moneys;

16. To vest in a bondholder the right, in the event of the failure of the Commission to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the Commission with such interest, security and priority as may be provided in any trust indenture, lease or contract of the Commission with reference thereto;

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

18. To covenant as to the rights, liabilities, powers, and duties arising upon the breach of it of any covenant, condition, or obligation;

19. To covenant to surrender possession of all or any part of any facility or facilities acquired or constructed from bond proceeds, the revenues from which have been pledged upon the happening of any event of default, as defined in the contract, and to vest in a bondholder the right without judicial proceeding to take possession and to use, operate, manage, and control such facility or any part thereof, and to collect and receive all fees, rents, and revenues arising therefrom in the same manner as the Commission itself might do and to dispose of the moneys collected in accordance with the agreement of the Commission with such obligee, subject to the continued use of such facilities for airport purposes;

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as any purchaser of the bonds of the Commission may reasonably require;

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the Commission tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the Commission power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of the Commonwealth or this act; and

24. In connection with, or incidental to, the issuance or carrying of notes or bonds or the acquisition or carrying of any investments, to enter into swap agreements or other contracts or arrangements that the Commission determines to be necessary or appropriate to place obligations or investments of the Commission, as represented by notes, bonds or investments of the Commission, in whole or in part, on the interest rate, currency, cash flow or other basis desired by the Commission or to hedge payment, currency, rate, spread or other exposure. Such contracts or arrangements may be entered into by the Commission in connection with, or incidental to, entering into or maintaining (i) any agreement that secures notes or bonds of the Commission and is authorized or permitted by

law or (ii) any investment, or contract providing for any investment, otherwise authorized or permitted by law.

Such contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commission, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate.

In connection with or incidental to any of these contracts or arrangements, the Commission may enter into credit enhancement or liquidity agreements with such terms and conditions as it shall determine. (1980, c. 380; 1998, c. 588)

§ 17. Fees, rents and charges.

The Commission is hereby authorized to and shall fix, revise, charge, and collect fees, rents and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Commission, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall, to the extent necessary, be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Commission shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Commission irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Commission. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. (1980, c. 380)

§ 18. Credit of Commonwealth and political subdivisions not pledged.

The bonds of the Commission shall not be a debt of the Commonwealth or any political subdivision thereof, other than the Commission, and neither the Commonwealth nor any political subdivision thereof, other than the Commission, shall be liable thereon, nor shall such bonds be payable out of any funds or properties other than those of the Commission. All bonds of the Commission shall contain on the face thereof a statement to such effect. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. (1980, c. 380)

§ 19. Commissioners and persons executing bonds not liable thereon.

Neither the Commissioners nor any person executing the bonds shall be liable personally on the Commission's bonds by reason of the issuance thereof. (1980, c. 380)

§ 20. Remedies of bondholders.

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust indenture agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such trust indenture or agreement or resolution to be performed by the Commission or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges. Any resolution authorizing the issuance of the Commission's bonds or trust indenture or agreement securing the same may limit or abrogate the individual right of action by the holders of such bonds or coupons appertaining thereto. (1980, c. 380)

§ 21. Exemption from taxation.

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of any project which the Commission is authorized to undertake will constitute the performance of an essential governmental function, the Commission shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act and the bonds issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. (1980, c. 380)

§ 22. Bonds as legal investments.

Bonds issued by the Commission under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be

deposited with and received by any State or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1980, c. 380)

§ 23. Appropriation by political subdivision.

Any participating political subdivision, or other political subdivision of the Commonwealth all or a part of which is located within sixty miles of a Commission facility, is authorized to provide services, to donate real or personal property and to make appropriations to the Commission, for the acquisition, construction, maintenance, and operation of the Commission's facilities. Any such political subdivision is hereby authorized to issue its bonds in the manner provided in the Public Finance Act or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Commission.

The Commission may agree to assume, or reimburse a participating political subdivision for, any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Commission. With the consent of the governing body of the participating political subdivision any such agreement may be made subordinate to the Commission's indebtedness to others. (1980, c. 380)

§ 24. Commission budget.

A. The Commission shall annually prepare and submit to the participating political subdivisions (i) a proposed operating budget showing its estimated general fund revenues and expenses on an accrual basis for the forthcoming fiscal year, and, if such estimated expenses exceed such estimated revenues, the portion of the deficit proposed to be borne by each participating political subdivision, and (ii) a proposed capital budget showing its estimated expenditures for such fiscal year for assets costing more than ten thousand dollars (or such higher amount as the Commission and the participating political subdivisions may determine) and having an estimated useful life of twenty years or more and the source of funds for such expenditures, including any amount requested from the participating political subdivisions. No depreciation shall be included in the Commission's operating budget with respect to assets purchased by the Commission with funds appropriated to it for such purpose by a participating political subdivision and, for this determination, it shall be assumed that any appropriation so made is for the purchase of assets set forth in the applicable Commission budget to the extent such purchase price is included in the approved budget. Assets purchased by the Commission with bond proceeds shall be depreciated over the term of the bond issue in proportion to the maturities, including sinking fund installments, of the bond issue.

B. If the governing body of a participating political subdivision shall approve the Commission's proposed operating budget, it shall appropriate to the Commission such political subdivision's portion of such deficit. If during any fiscal year the Commission shall receive general fund revenues in excess of those estimated by the Commission in its approved budget for such year, the budgeted deficit for

such fiscal year shall automatically be reduced and, except as herein provided, the appropriation of each participating political subdivision shall be proportionately reduced. Notwithstanding the foregoing, with the consent of the governing bodies or chief financial officers of the participating political subdivisions, all or a portion of such appropriations may be maintained so as to enable the Commission to expend such excess revenues for its proper purposes.

C. If the governing body of a participating political subdivision shall approve the Commission's proposed capital budget, it shall appropriate to the Commission such participating political subdivision's portion of the expenditures set forth therein. Any such appropriation shall automatically be reduced by the participating political subdivision's proportionate share of any grant funds received by the Commission for the purchase of assets included in the Commission's approved capital budget in excess of the grant funds shown in such capital budget as a source of funds for such expenditure, unless prohibited by the basic provider of the grant funds.

D. The Commission may expend any and all moneys within its control without obtaining the approval of the participating political subdivisions, but, except as otherwise provided in this act with respect to contracts and agreements between the Commission and any political subdivision, the Commission shall not commit any participating political subdivision in an amount in excess of that appropriated to the Commission by the governing body of such political subdivision.

E. If at any time during any fiscal year it shall appear that the cash disbursements of the Commission will exceed its cash receipts for such fiscal year, including amounts appropriated to it by the participating political subdivisions, the Commission may request supplemental appropriations from the participating political subdivisions and any other political subdivision. (1980, c. 380)

§ 25. Allocation of commission deficit among participating political subdivisions.

Any deficit budgeted by the Commission in any fiscal year, i.e., any excess of its estimated general fund expenses over its estimated general fund revenues, and the cost of any budgeted capital expenditures in excess of the amount shown as available therefor, as shown on the Commission's operating and capital budgets approved by the participating political subdivisions, shall be allocated among the participating political subdivisions in proportion to their respective populations as most recently before such fiscal year determined by The Tayloe Murphy Institute of Government. In the event the appropriation of any participating political subdivision is insufficient to pay its portion of the deficit incurred in any fiscal year, the allocation of any deficit for any succeeding fiscal year shall take into account the cumulative deficiency attributable to such participating political subdivision; provided, however, that no participating political subdivision shall be required to pay to the Commission in any fiscal year any amount in excess of that appropriated to the Commission by the governing body of such participating political subdivision. (1980, c. 380)

§ 26. Contracts with political subdivisions.

The Commission is authorized to enter into contracts with any one or more political subdivisions, which contracts may restrict the powers of the Commission otherwise granted by this act. Any participating political subdivision, or other political subdivision of the Commonwealth all or a part of which is located within sixty miles of a Commission facility, is authorized to enter into contracts with the Commission, pursuant to which the Commission undertakes to provide the facilities and render the services specified therein. Any such contract or agreement may provide that the political subdivision will make payments to the Commission based on the services rendered by the Commission to the residents of such political subdivision, determined in such reasonable manner as the Commission and the political subdivision may mutually agree. Each political subdivision entering into such a service contract with the Commission is authorized to do everything necessary or proper to carry out and perform such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations. (1980, c. 380)

§ 27. Retirement benefits for certain employees formerly employed by a participating political subdivision.

Any employee of a political subdivision who upon such political subdivision's becoming a participating political subdivision has before July one, nineteen hundred eighty, become an employee of the Commission and elected to be treated as an employee of such participating political subdivision for the sole purpose of being so entitled, shall be entitled to the benefits provided by such political subdivision to its employees under its retirement system. In such event, service of such employee with the Commission shall be creditable as service with the participating political subdivision and compensation received by such employee shall be deemed paid by the participating political subdivision for all purposes of the benefit programs of the participating political subdivision. Any employee so electing shall not be entitled to any benefit under the Commission's retirement system, and the Commission shall pay the employer share of benefits provided the Commission's employees by such political subdivision. Nothing herein shall apply to any health and accident insurance plan or to the Federal Old Age and Survivors Insurance System. (1980, c. 380)

§ 28. Dissolution of Commission.

Whenever it shall appear to the governing body of any participating political subdivision that the need for the Commission no longer exists, it may petition the circuit court of a participating political subdivision for the dissolution of the Commission. If the court shall determine that the need for the Commission as set forth in this act no longer exists and that all debts and pecuniary obligations of the Commission have been fully paid or provided for, it may enter an order dissolving the Commission.

Upon such dissolution, the court shall order the assets of the Commission distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Commission.

The Commission, each participating political subdivision and all holders of the Commission's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court an appeal shall lie to the Virginia Supreme Court. (1980, c. 380)

§ 29. Agreement with Commonwealth and participating political subdivisions.
The Commonwealth and, by participating in the Commission, each participating political subdivision pledge to and agree with the holders of any bonds issued by the Commission that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Commission to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Commission is authorized to include this pledge and agreement in any contract with the holders of the Commission's bonds. (1980, c. 380)

§ 30. Liberal construction.
Neither this act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the Commission might otherwise have under any laws of this Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds, notes or other obligations, and contracts for the construction and acquisition of any facility undertaken pursuant to this act need not comply with the provisions of any other law applicable to contracts for the construction and acquisition of State-owned property. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is expressly provided in this act. The provisions of this act are severable, and, if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act. (1980, c. 380)

§ 31. Application of zoning ordinances, service charges and taxes upon leaseholds.
Nothing herein contained shall be construed to exempt the Commission's property from any applicable zoning ordinance of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Commission from any service charge authorized by the General Assembly pursuant to Article X, Section 6(g) of the Constitution of Virginia, or exempt any lessee of any of the Commission's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom. (1980, c. 380)

Charlottesville-Albemarle Airport Authority

History

1984 Acts of Assembly, c. 390; amended 1995, c. 286; repealed 2003, c. 864.

Editor's note: The 2003 act provides that "nothing in this act shall invalidate any action, rule or regulation heretofore taken or made by the Charlottesville-Albemarle Airport Authority, and the Charlottesville-Albemarle Airport Authority, as provided for in this act, shall in all respects be the successor in interest to the Charlottesville-Albemarle Airport Authority created by and pursuant to Chapter 390 of the Acts of Assembly of 1984, as amended by Chapter 286 of the Acts of Assembly of 1995."

Current

2003 Acts of Assembly, c. 864.

§ 1. Short title.

This act shall be known and may be cited as the "Charlottesville-Albemarle Airport Authority Act." (2003, c. 864)

§ 2. Purpose of act; finding and declaration of necessity.

It is the intent of the General Assembly by the passage of this act to continue the Charlottesville-Albemarle Airport Authority, heretofore created by and pursuant to Chapter 390 of the Acts of the 1984 General Assembly, as amended by and pursuant to Chapter 286 of the Acts of the 1995 General Assembly, the governing bodies of the City of Charlottesville and the County of Albemarle having declared a need for an airport authority for establishing or operating an airport for such participating political subdivisions, and to confer upon such Authority all powers necessary or incident to the ownership and operation of such airport, to the end that such Authority may promote the welfare, convenience and prosperity of the inhabitants of the participating political subdivisions and this Commonwealth, and the increase of their commerce. It is hereby found and declared that the ownership and operation by the Authority of modern and efficient air transportation and related facilities are proper and essential governmental functions and public purposes for which public moneys may be spent and private property acquired through the power of eminent domain. (2003, c. 864)

§ 3. Definitions.

As used in this act the following words and terms have the following meanings, unless a different meaning clearly appears from the context:

"Act" means this Charlottesville-Albemarle Airport Authority Act.

"Airport" means the Charlottesville-Albemarle Airport, owned and operated by the Charlottesville-Albemarle Airport Authority.

"Authority" means the Charlottesville-Albemarle Airport Authority created by and pursuant to Chapter 390 of the Acts of Assembly of 1984, as amended, and continued by this act, or, should the Authority be abolished, the board, body, commission or agency succeeding to the principal

functions thereof or upon whom the powers given by this act to the Authority shall be conferred by law.

"Bonds" or "revenue bonds" means bonds and notes, or refunding bonds and notes, or bond anticipation notes, debentures, or other evidences of financial indebtedness issued by the Authority pursuant to this act.

"Commonwealth" means the Commonwealth of Virginia.

"Cost" means, as applied to any Airport facilities, the cost of acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interests, the cost of lease payments, the cost of construction, the cost of demolishing, removing or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of any extensions, enlargements, additions and improvements, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to and during construction, and, if deemed advisable by the Authority, for a period not exceeding one year after completion of such construction, the cost of engineering, financial and legal services, plans, specifications, studies, traffic studies, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing Authority facilities, administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions and improvements, the cost of bond issuance and other devices designed to enhance the creditworthiness of the bonds, and such other expenses as may be necessary or incidental to the construction of Authority facilities, the financing of such construction and the placing of Authority facilities in operation. Any obligation or expenses incurred by the Commonwealth or any agency thereof, with the approval of the Authority, for studies, surveys, borings, preparation of plans and specifications, or other work or materials in connection with the construction of Authority facilities may be regarded as part of the cost of the Authority facilities and may be reimbursed to the Commonwealth or such agency out of funds available therefore or the proceeds of the revenue bonds issued for such Authority facilities.

"Facility" and "facilities" mean and refer to the various buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, water rights, air rights, franchises, machinery, equipment, furnishings, landscaping, easements, utilities, approaches, roadways, etc., comprising the Airport, now existing or hereafter acquired or constructed or caused to be constructed by the Authority under this act, and other facilities necessary or desirable in connection therewith or incidental thereto, including, without limitation: any and all terminals, runways, hangars, loading facilities, repair shops, parking areas, facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies and airlines, aeronautical, industrial and commercial facilities, and navigational aids and facilities.

"Participating political subdivision" means and refers to the City of Charlottesville and the County of Albemarle.

"Political subdivision" means a county, municipality or other public authority of this Commonwealth. (2003, c. 864)

§ 4. Continuation of authority.

The Charlottesville-Albemarle Airport Authority created by and pursuant to Chapter 390 of the Acts of Assembly of 1984, as amended by Chapter 286 of the Acts of Assembly of 1995, is hereby continued as a political subdivision of the Commonwealth with such public and corporate powers as are set forth in this act. (2003, c. 864)

§ 5. Liability of political subdivisions.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance or misfeasance or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any political subdivision. (2003, c. 864)

§ 6. Appointment, tenure and composition of governing board; other officers.

The powers of the Authority shall be vested in the membership of a governing board, which board shall have three members. One member shall be the City Manager of the City of Charlottesville, or his principal assistant, as chosen by the city council; one member shall be the County Executive of the County of Albemarle, or his principal assistant, as chosen by the county board of supervisors; and one member shall be chosen jointly by the governing bodies of the participating political subdivisions from the membership of the Charlottesville-Albemarle Joint Airport Commission hereafter provided for. The member chosen from the Commission shall serve at the pleasure of the governing bodies of the participating political subdivisions. Each member shall continue to serve until his successor shall be duly appointed and qualified. The Authority shall annually elect one of its members to serve as chairman, and another member to serve as vice chairman. The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance at the meetings of the Authority, or while otherwise engaged in the discharge of their duties, but they shall otherwise serve without compensation.

The Authority shall also elect annually a secretary-treasurer, who may or may not be a member of the Authority. The secretary-treasurer shall keep minutes of the Authority's meetings and shall be custodian of all books, documents and papers of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates. Before the issuance

of any revenue bonds under the provisions of this act the secretary-treasurer shall execute a surety bond in the penal sum of $50,000, such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the Commonwealth as surety and to be approved by the Attorney General and filed in the office of the Secretary of the Commonwealth.

The members may annually, from their membership or not as they desire, designate or employ other officers as they deem appropriate. (2003, c. 864)

§ 7. Organization.

A. Two members of the Authority shall constitute a quorum. The affirmative vote of two members shall be necessary for any action taken by the Authority; however, the Authority shall not issue bonds, or otherwise borrow money, except upon the unanimous affirmative vote of all three of its members. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority, and no vacancy in the membership of the Authority shall impair the validity of any bonds or other evidences of indebtedness previously issued by the Authority in compliance with the requirement of unanimous action.

B. The members shall appoint a chief executive officer, who shall not be a member, who shall exercise such powers and duties as may be delegated to him by the members, including powers and duties involving the exercise of discretion.

C. The Authority shall keep minutes of its meetings and suitable records of all its financial transactions.

D. The governing bodies of the City of Charlottesville and the County of Albemarle, by the adoption of identical ordinances, shall establish a Charlottesville-Albemarle Joint Airport Commission, to consist of seven members. The members shall be citizens of the City of Charlottesville or of the County of Albemarle who hold no other municipal or county office. Three members shall be appointed by the Charlottesville City Council; three members shall be appointed by the Albemarle County Board of Supervisors; and one member shall be appointed by the joint action of the Council and Board of Supervisors. Such identical ordinances shall provide for compensation, if any, of Commission members, terms of office, filling of vacancies, staff, and rules and regulations for Commission governance. The Commission shall be advisory only to the Authority in its operation of the Airport. (2003, c. 864)

§ 8. Powers.

For the purpose of acquiring, operating, maintaining, developing, promoting and protecting the Airport, the Authority shall have all necessary or convenient powers, including, but not limited to, the power:

1. To sue and be sued in its own name, plead and be impleaded;

2. To have perpetual succession;

3. To adopt an official seal and alter the same at its pleasure;

4. To maintain offices at such places as it may designate;

5. To adopt, amend or repeal bylaws for the regulation of its affairs and the conduct of its business;

6. To appoint one or more advisory committees;

7. To plan, design, establish, construct, enlarge, improve, develop, maintain, equip, operate, insure and protect the Airport and its facilities, and to purchase, lease and sell equipment and supplies as an incident to the operations thereof;

8. To acquire by purchase, gift, devise, bequest, exchange, option, lease as lessee, condemnation or otherwise, and to accept, title to or any interests in real and personal property, and in connection therewith to assume or take subject to any indebtedness secured by such property. Title to property acquired by the Authority shall be taken in the name of the Authority;

9. To hold and dispose of real and personal property, and any interests therein, in the exercise of its powers and the performance of its duties under this act, including, without limitation: to sell, at public or private sale, exchange, lease as lessor, mortgage, pledge or subordinate interest in any such property;

10. To construct, install, maintain, operate, use, lease or sell property for aeronautical, commercial and industrial facilities, or to permit such construction, installation, maintenance, operation, and to lease or sell such facilities to aeronautical, commercial or industrial users, all on terms established by the Authority;

11. To grant to others the privilege to operate for-profit concessions, leases and franchises, including but not limited to: the sale of airplanes, fuel, parts and equipment; the accommodation and comfort of persons using authority facilities; and the provision of ground transportation services and parking facilities for such persons. Such concessions, leases, and franchises may be exclusive or limited when necessary to further the public safety, improve the quality of service, avoid duplication of service, or conserve airport property and the Airport's resources, and where any such exclusive or limited contract would be consistent with applicable federal laws or requirements;

12. To determine, fix, revise, charge, and collect rates, fees (including, without limitation, boarding fees on passengers boarding aircraft at the Airport, where the trip of such passenger originates at the Airport), rentals, other charges for the use of the Airport and its facilities;

13. To apply for, receive and accept such payments, appropriations, grants, gifts, loans, advances, and other funds, properties and services as may be transferred or made available to it by the United

States government, the Commonwealth and the subdivisions, agencies and instrumentalities thereof, or any other public or private entity or individual. To this end, the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient or desirable, or imposed as a condition thereto;

14. To establish, operate and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce;

15. To appoint, employ or engage, in its discretion, such employees, managers, superintendents, advisors, consultants and agents as may be necessary or appropriate, including, without limitation: consulting engineers, architects, attorneys, accountants, construction and financial experts, and investment bankers, and to fix their duties and compensation;

16. To establish personnel rules, and to fix the duties, compensation and benefits of employees; to pay pensions and establish pension plans, pension trusts, and other compensation and benefit plans for any of its employees;

17. To make and enter into all contracts, leases, and agreements necessary or desirable to the performance of its duties and the execution of its powers under this act, including, without limitation, contracts for governmental services on a reimbursable basis with other political subdivisions or with the United States. Any such contracts may be exclusive or limited when it is necessary to further the public safety, improve the quality of service, avoid duplication of services, or conserve airport property and the airport environment, provided that such an exclusive or limited contract would be consistent with applicable federal laws and requirements;

18. To borrow money on a short-term basis and issue from time to time its notes therefor, payable on such terms, conditions or provisions as it may deem advisable;

19. To issue revenue bonds of the Authority for any of its purposes, and to refund its bonds, all as provided in this act;

20. To adopt, amend, and repeal rules and regulations for the use, maintenance and operation of its facilities, and governing the conduct of persons and organizations using its facilities, and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities through civil, criminal or other appropriate penalties or proceedings, including, without limitation: rules and regulations governing the operation and parking of motor vehicles on or over any way or place open to the use of the public for purposes of vehicular travel; rules and regulations establishing speed limits on or over any way or place open to the use of the public for purposes of vehicular travel; and rules and regulations governing the operation of taxicabs, consistent with the authority set forth within the provisions of §§ 46.2-2062, 46.2-2065, and 46.2-2067 of the Code of Virginia, so long as such rules and regulations governing the operation of taxicabs are not in conflict with any ordinance enacted by the County of Albemarle;

21. To purchase and maintain insurance on behalf of any person who is or was a member, officer, employee or agent of the Authority, to protect against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such; and

22. To do all things necessary or convenient to carry out the purposes of this act and the powers expressly granted herein. (2003, c. 864)

§ 9. Rules and regulations.

A. The Authority shall have the power to adopt, amend, and repeal rules and regulations pertaining to the use, maintenance and operation of its facilities and governing the conduct of persons using its facilities, including, without limitation, the power to specify penalties for violations thereof and the power to enforce such rules and regulations through appropriate legal and administrative proceedings.

B. The Authority's rules and regulations relating to (i) motor vehicle traffic and parking, including but not limited to motor vehicle speed limits and the location of and payment for public parking; (ii) access to and use of Authority facilities, including but not limited to solicitations, picketing and the conduct of commercial activities; and (iii) aircraft operation and maintenance shall have the force and effect of law, the same as an ordinance enacted by a locality, as shall any other rule or regulation of the Authority that contains a determination by the Authority that it is necessary in the interest of public safety to accord the rule or regulation the same force and effect of law. The rules of criminal procedure and evidence that apply throughout the Commonwealth shall apply to the initiation and adjudication of any case involving the violation of any Authority rule or regulation having the force or effect of law.

C. Unless the Authority shall by unanimous vote of all members present determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation having the force or effect of law, or the alteration, amendment or modification of any such rule or regulation:

1. Make such rule, regulation, alteration, amendment, or modification in convenient form available for public inspection in the office of the Authority for at least 10 days;

2. Publish a notice in a newspaper of general circulation in the participating political subdivisions in which the Authority's facilities are located, declaring the Authority's intention to consider adopting such rule, regulation, alteration, amendment, or modification and informing the public that the Authority will hold a public hearing at which any person may appear and be heard for or against the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least 10 days from the day of the publication thereof; and

3. Hold the public hearing on the day and at the time specified in such notice or any adjournment thereof, and hear persons appearing for or against such rule, regulation, alteration, amendment, or modification.

D. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

E. The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be classified, tried and punished in the same manner as if it had been committed on the public highways and roads of the County of Albemarle. The violation of any other Authority rule or regulation having the force and effect of law shall be a Class 1 misdemeanor, unless a lesser criminal penalty is set by the Authority in the rule or regulation.

F. The courts of this Commonwealth shall take judicial notice of all the Authority's regularly adopted rules and regulations. For the convenience of any court that may regularly hear cases arising under the Authority's rules and regulations having the force and effect of law, the Authority may certify to the clerk of such court an authentic copy of such rules and regulations. Any such certification, when signed by the Authority's secretary, shall be accepted as evidence of the rules and regulations therein stated.

G. With respect to the violation of any statute of the Commonwealth, local ordinance of the participating political subdivision in which the Authority's facilities are located, or of any Authority rule or regulation having the force and effect of law occurring at the Authority facilities:

1. The matter shall be within the jurisdiction of the state courts of the County of Albemarle, the same as other traffic and criminal offenses occurring within said county;

2. The attorney for the Commonwealth shall have authority to prosecute such offenses in the name of the Commonwealth or County of Albemarle, as appropriate, and the county attorney, if otherwise authorized to prosecute offenses in the name of the County, shall have authority to prosecute such offenses in the name of the County; and

3. Sheriffs and clerks of the courts shall provide those same services and exercise those same powers with respect to the Authority facilities within their jurisdiction as for their political subdivision. (2003, c. 864)

§ 10. Police powers.

A. The Authority is authorized to establish and maintain a regular police force and to confer police powers to be exercised with respect to offenses occurring on the Authority facilities upon its employees meeting the minimum requirements of the Department of Criminal Justice Services. Such police officers shall have all powers vested in police officers under Chapter 17 of Title 15.2, Chapter 11 of Title 16.1, Title 18.2, Title 19.2 and Title 46.2 of the Code of Virginia, as those titles may be amended from time to time, and shall be responsible upon the Authority facilities and within 300 yards of the Authority facilities for enforcing the laws of the Commonwealth, the Authority's rules and regulations and all other applicable statutes, ordinances, rules and regulations. Such police officers may issue summons to appear, or arrest on view or on information without warrant as permitted by

law, and conduct before any judicial officer of competent jurisdiction any person violating, upon or within any Airport facilities, any rule or regulation of the Authority, any ordinance or regulation of the participating political subdivision in which the Authority facilities are located, or any other law of the Commonwealth. The sheriff and police force of the County of Albemarle shall have concurrent jurisdiction with the police force established herein at the Authority facilities.

B. The Department of State Police shall exercise the same powers upon Authority facilities as elsewhere within the Commonwealth.

C. The Authority may enter into reciprocal or mutual aid agreements with the participating political subdivision in which the Authority facilities are located, the Commonwealth or the United States government, or any agency thereof, or any combination of the foregoing, for cooperation in the furnishing of police services. (2003, c. 864)

§ 11. Eminent domain; acquisition of property.

A. The Authority is authorized to acquire, by purchase, lease, gift, condemnation or otherwise, within or without its boundaries, all such real or personal property, including land, waters, and any easements, interests or privileges therein, as may be necessary for Airport facilities and purposes, including, without limitation: airport landing fields and runways, and such aviation easements and other interests and privileges outside the boundaries of the Airport, as may be reasonably necessary to ensure safe approaches and the safe operation thereof and to adequately locate and mark objects or structures or uses of land that are hazardous to aircraft; navigation aids and facilities; facilities referenced within § 25-232.2 of the Code of Virginia; streets and roads; and water, sewer and other utility facilities. Any lands, easements or privileges acquired, owned, controlled or occupied by the Authority under the provisions of this act are hereby declared to be acquired, owned, controlled or occupied for a public purpose, and as a matter of public necessity; and such lands, easements and privileges so acquired, owned, controlled or occupied are hereby declared to be acquired, owned, controlled or occupied for public, governmental purposes, and to be within the definition of property acquired for public uses as such term is used in Article I, Section 11 of the Constitution of Virginia.

B. The Authority is hereby granted full power to exercise the right of eminent domain in the acquisition of lands and easements, or other real and personal property, or any interests or privileges therein, within or without its boundaries, which are necessary for Airport facilities and purposes. Proceedings for the acquisition of any property by condemnation may be instituted and conducted in the name of the Authority in accordance with Title 25 of the Code of Virginia.

C. In connection with any project wherein the power of eminent domain may be exercised, the Authority, acting through its duly authorized officers, agents or employees, is hereby authorized to enter upon any land, water or premises for the purpose of making surveys, borings, soundings, appraisals or examinations for the purpose of determining the suitability of such property for the

project involved, and such entry shall not be deemed a trespass, but the Authority shall make reimbursement for any actual damages resulting from such entry. Provided, however, that unless written permission shall have previously been obtained, the Authority shall not enter upon any such land, water or premises until it has, by certified mail, requested permission from the owner thereof to effect such entry, 15 days prior to the date such entry is proposed to be made. Such date shall be set forth in the request for permission for entry. In the event written permission from such owner is not received prior to the time such entry is proposed, the Authority shall, by certified mail, notify such owner that it proposes to enter such land, water, or premises on a date not less than 15 days from the date such notice is mailed.

D. All public agencies and commissions of the Commonwealth, with the approval of the Governor, and each of the participating political subdivisions are authorized, without the necessity for any advertisement, order, court action, or other action or formality, are hereby authorized and empowered to: lease, lend, grant, donate, transfer or convey to the Authority, upon such terms and conditions as may be mutually agreed upon, any real, personal, or mixed property, including money, which may be necessary or convenient to the effectuation of the purposes of the Authority, including public highways and other property already devoted to public use; to provide services to the Authority; and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Airport facilities. The Authority may agree to assume, or may agree to reimburse a participating political subdivision for, any indebtedness incurred by such political subdivision with respect to property conveyed by it to the Authority. With the consent of the governing body of such political subdivision, any such agreement may be made subordinate to the Authority's indebtedness to others.

E. The powers herein granted to the Authority include the power to establish, maintain and operate the Airport, its landing areas and other air navigation facilities, in, over and upon any public waters of the Commonwealth, or any submerged land under such public waters, within the limits or jurisdiction of, or bordering on, the participating political subdivisions.

F. Lands, easements, privileges and other property interests may be acquired by the Authority using the procedures in §§ 33.1-133 through 33.1-136 of the Code of Virginia, where applicable. (2003, c. 864)

§ 12. Contracts with political subdivisions.

The Authority is authorized to enter into contracts with any political subdivision, or with the United States government, for the joint exercise of any powers, privileges or authority enjoyed by the Authority and such political subdivisions or United States government, or for the provision of facilities or services specified within such contract. Such contracts may restrict the powers of the Authority otherwise granted by this act. Any such contract may provide for monetary payments or other consideration as mutually agreed by the parties. Any such contract or agreement with a political subdivision may provide that the political subdivision will make payments to the Authority based on

the services rendered by the Authority to the residents of such political subdivision, determined in such reasonable manner as the Authority and the political subdivision may mutually agree. Each political subdivision entering into a contract with the Authority is authorized to do everything necessary or proper to carry out and perform such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations. (2003, c. 864)

§ 13. Trust funds.

All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds, as revenues, or as grants, appropriations or other funds provided by federal, state or local governments, shall be deemed to be trust funds to be held and applied solely as provided in this act. The Authority may, in the resolution authorizing any bonds, or within the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues of the Authority to a trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds and hold and apply the same to the purposes of this act, subject to such regulations as this act and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds. Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for fiduciaries. (2003, c. 864)

§ 14. Revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of any Authority Facilities. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the Authority, and may be subject to redemption or repurchase before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The bonds may bear interest payable at such time or times and at such rate or rates as determined by the Authority or as determined in such manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by it. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the

delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provisions of this act or any recitals in any bonds issued under the provisions of this section, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this act.

Proceeds of revenue bonds shall be used solely for payment of the cost of Authority facilities, including improvements, and operating expenses, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts, certificates or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated, destroyed or lost. Bonds may be issued under the provisions of this section without obtaining the consent of any agency of the Commonwealth, and without any other proceedings, conditions or things not specifically required by this section. (2003, c. 864)

§ 15. Refunding bonds.

The Authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and if deemed advisable by the Authority, for either or both of the following additional purposes: constructing improvements, extensions or enlargement of any Authority facilities in connection with which the bonds to be refunded shall have been issued, and paying all or any part of the cost of any additional Authority facilities. The issuance of such bonds, the maturities and other details thereof, the rights of the holders

thereof, and the rights, duties and obligations of the Authority in respect to the same, shall be governed by the provisions of this act insofar as the same may be applicable. Revenue refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this act and, if sold, the proceeds thereof may be applied to the purchase, redemption or payment of such outstanding bonds. (2003, c. 864)

§ 16. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (2003, c. 864)

§ 17. Credit of Commonwealth and political subdivisions not pledged.

Revenue bonds issued under the provisions of this act shall not constitute a debt of the Commonwealth or of any political subdivision thereof, nor shall they constitute a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof. Such bonds shall be payable solely from the funds herein provided therefor. The issuance of revenue bonds under the provisions of this act shall not directly, indirectly, or contingently obligate the Commonwealth or any political subdivision to the payment thereof or to the levy or pledge of any form of taxation whatever. All such revenue bonds shall contain a statement on their face substantially to this effect. Expenses incurred by the Authority in carrying out the provisions of this act shall be payable from funds provided under the provisions of this act, and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this act. (2003, c. 864)

§ 18. Trust agreement.

In the discretion of the Authority, any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the fees and other revenues to be received, but shall not convey or mortgage the Airport or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance,

repair, operation and insurance of the Airport and its facilities, the rates or fees or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth that may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the Airport. (2003, c. 864)

§ 19. Revenues.

The Authority is hereby authorized to fix, revise, charge and collect fees or other charges for the use of the Airport and its facilities, to contract with any person, partnership, association or corporation desiring the use of any part thereof (including the right-of-way adjoining the Airport, for placing thereon telephone, telegraph, electric light or power lines), and to fix the terms, conditions, rents and fees or other charges for such use. Such fees or other charges shall be so fixed and adjusted in respect of the aggregate of fees or other charges from the Airport as to provide a fund sufficient with other revenues, if any, (i) to pay the cost of maintaining, repairing and operating the Airport and its facilities, (ii) to pay the principal of and interest on such bonds as the same shall become due and payable, and (iii) to create reserves for such purposes. The fees and other charges and all other revenues derived from the Airport, except such part thereof as may be necessary to pay the cost of maintenance, repair and operation and provide such reserves as may be provided for in the resolution authorizing the issuance of any bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund that is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees and other charges and other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such

sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (2003, c. 864)

§ 20. Remedies of bondholders.

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth, or granted by this act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of fees or other charges. (2003, c. 864)

§ 21. Members and persons executing bonds not liable thereon.

Neither the members of the Authority nor any person executing the bonds shall be liable personally on the Authority's bonds by reason of the issuance thereof. (2003, c. 864)

§ 22. Exemption from taxation.

The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the Airport by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the Airport or its facilities, or any property acquired or used by the Authority under the provisions of this act, or upon the income therefrom. Any bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth of Virginia and by any municipality, county or other political subdivision thereof. (2003, c. 864)

§ 23. Jurisdiction of courts; liability for torts.

A. The courts of the Commonwealth shall have original jurisdiction of all actions brought by or against the Authority, and those courts shall, in all cases, apply the law of the Commonwealth.

B. The Authority shall not be liable for any torts occurring in the performance by it, or any of its members, officers, employees and agents, committed or occurring in the performance of a governmental function.

C. Nothing in this act shall be construed as a waiver by the Commonwealth, or of any of its political subdivisions, including the Authority, of any immunity from suit. (2003, c. 864)

§ 24. Liberal construction.

This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof. Neither this act nor anything herein contained is or shall be

construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of this Commonwealth. This act shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds, notes or other obligations, and contracts for the construction and acquisition of any facility undertaken pursuant to this act need not comply with the provisions of any other law applicable to contracts for the construction and acquisition of state-owned property. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is expressly provided within this act. All general or special laws inconsistent with any provisions of this act are hereby declared to be not applicable to the provisions of this act. (2003, c. 864)

§ 25. Constitutional construction.
The provisions of this act are severable, and if any provisions hereof shall be held unconstitutional by a court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had any such unconstitutional provisions not been included herein. (2003, c. 864)

§ 26. Application of zoning ordinances, service charges and taxes upon leaseholds.
Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning ordinance of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom. (2003, c. 864)

Chesapeake Airport Authority

Created
1966 Acts of Assembly, c. 133.

Amendments
1971, c. 96 (§ 6)
1971, c. 245 (provided effective date for 1971, c. 96)
1975, c. 194 (§ 3)
1984, c. 326 (§ 1)
2017, cc. 541, 557 (§ 3)

§ 1. Definitions.

As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Chesapeake Airport Authority hereinafter created or, if the Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or upon whom the powers given by this act to the Authority shall be conferred by law.

(b) The word "project" shall mean an airport for general, commercial and private use constructed by the Authority under the provisions of this act, together with all necessary and convenient approaches, roads and streets used in connection with such airport.

The word "project" as used in this act shall included one or more airport. The singular "an airport" or similar terms shall be deemed to include the plural. It is the intent of the General Assembly by this amendment to authorize the Authority to construct, purchase or otherwise acquire one or more airports and to finance, maintain, repair and operate same.

(c) The term "cost of the project" shall embrace the cost of construction, landscaping and conservation, the cost of acquisition of all land, rights of way, property, rights, easements and interests acquired by the Authority for the construction and operation of the project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the Authority for a period not exceeding one year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of costs and of revenues, provision for working capital and a reserve for interest, other expenses necessary or incident to determining the feasibility or practicability of constructing the project, administrative expenses, and such other expenses as may be necessary or incident to the construction of the project, the financing of such construction and the placing of the project in operation.

(d) The word "bonds" or the words "revenue bonds" shall mean revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this act.

(e) The word "owner" shall include all individuals, copartnerships, associations or corporations and also municipalities, political subdivisions and all public agencies and instrumentalities having any title or interest in any property, rights, easements and interests authorized to be acquired by this act. (1966, c. 133; 1984, c. 326)

§ 2. Credit of the Commonwealth and political subdivisions not pledged.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any county, city, district or political subdivision thereof, or a pledge of

the faith and credit for the Commonwealth, or of any county, city, district or political subdivision thereof, but such bonds shall be payable solely from the funs herein provided therefor from tolls and revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the Commonwealth or any county, city or district therein or any political subdivision therefor to levy or to pledge any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect. (1966, c. 133)

§ 3. "Chesapeake Airport Authority."

There is hereby created and constituted a political subdivision of the Commonwealth to be known as the "Chesapeake Airport Authority". The exercise by the Authority of the powers conferred by this act in the construction, operation and maintenance of the project authorized by this act shall be deemed and held to be the performance of an essential governmental function.

The Authority shall consist of seven members, all of whom shall be appointed by the council of the city of Chesapeake. Four of the members of the Authority first appointed shall continue in office for terms expiring on June thirty, nineteen hundred sixty-nine, and three for terms expiring on June thirty, nineteen hundred sixty-eight the term of each such member to be designated by said council and to continue until his successor shall be duly appointed and qualified. On and after July one, nineteen hundred seventy-five, the membership of the Authority shall increase to nine members and there shall be appointed by the city council two additional members, one of whom shall serve until June thirty, nineteen hundred seventy-nine and the other to serve until June thirty, nineteen hundred seventy-eight. The successor of each such member shall be appointed for a term of five years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Authority shall be eligible for reappointment; however, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Authority member shall work for the Authority within one year after serving as a member. Members of the Authority shall be subject to removal from office in like manner as are State, county, town and district officers under the provisions of §§ 15.1-63 to 15.1-66, inclusive, of the Code of Virginia. The Authority shall annually elect one of its members as chairman and another as vice-chairman and shall also elect annually a secretary-treasurer, who may or may not be a member of the Authority.

The secretary-treasurer shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the

Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates.

Five members of the Authority shall constitute a quorum and the affirmative vote of five members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

Before the issuance of any revenue bonds under the provisions of this act the secretary-treasurer of the Authority shall execute a surety bond in the penal sum of fifty thousand dollars, such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the Commonwealth as surety and to be approved by the Attorney General and filed in the office of the Secretary of the Commonwealth.

The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties. Each member shall also be paid the sum of twenty dollars per day for each day or portion thereof during which he is engaged in the performance of his duties, with the maximum payable to any one member in any one calendar year of fifteen hundred dollars. (1966, c. 133; 1975, c. 194; 2017, cc. 541, 557)

§ 4. General grant of powers.

The Authority is hereby authorized and empowered:

(a) to adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to determine the location of the project, to determine, in its discretion and without reference to any other provisions of any State law, the design standards and the materials of construction, and to construct, maintain, repair and operate the project;

(d) to issue revenue bonds of the Authority for any of its purposes, payable solely from the tolls and revenues pledges for their payment, and to refund its bonds, all as provided in this act;

(e) to fix and revise from time to time and charge and collect tolls, rates, fees, rentals and other charges for the use of the project;

(f) to acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

(g) to employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(h) to enter upon any lands and premises for the purpose of making such surveys, soundings, borings and examinations as the Authority may deemed necessary or convenient for its purposes, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings; provided, however, the Authority shall pay any actual damage resulting to such lands and premises as a result of such entry and activities as a part of the cost of the project;

(i) to sue and be sued in its own name, plead and be impleaded;

(j) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act; and

(k) to do all acts and things necessary or convenient to carry out the powers expressly granted in this act. (1966, c. 133)

§ 5. Acquisition of property.

(a) The Authority is hereby authorized and empowered to acquire by purchase solely from funds provided under the provisions of this act, such lands, structures, property, rights, rights of way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and the commissions of the Commonwealth, with the approval of the Governor, and the city of Chesapeake, notwithstanding any contrary provisions of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court or other action or formality, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public highways and other real property already devoted to public use.

(b) The Authority is authorized and empowered to acquire by the exercise of the power of eminent domain limited to the definition of "project" as set forth herein, any lands, property, rights, rights of way, franchises, easement and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any person, copartnership, association, public service, public utility or other corporation, or of the county deemed necessary or convenient for the construction or the efficient operation of the project or property damaged or destroyed, whenever a reasonable price cannot be agreed upon or whenever the Authority cannot agree on the terms of purchase or settlement with the owner or owners because of the incapacity of such owner or owners are nonresidents of the Commonwealth, or are unknown, or are unable to convey valid title to such property. Such proceedings shall be in accordance with and subject to the provisions of any and all laws of the Commonwealth applicable to the exercise of the power of eminent domain in the name of

the State Highway Commissioner and subject to the provisions of § 25-233 of the Code of Virginia, 1950, as fully as if the Authority were a corporation possessing the power of eminent domain; provided, however, that title to any property condemned by the Authority shall immediately vest in the Authority, and the Authority shall be entitled to the immediate possession of such property upon the deposit with the clerk of the court in which such condemnation proceedings are originated, of the total amount of the appraised price of the property and court costs and fees as provided by said laws, notwithstanding that any of the parties to such proceedings shall appeal from any occasion in such condemnation proceedings. Whenever the Authority shall make such deposit in connection with any condemnation proceeding, the making of such deposit shall not preclude the Authority from appealing any decision rendered in such proceedings. Upon the deposit with the clerk of the court of the appraised price, any person or person entitled thereto may, upon petition to the court, be paid his or their pro rata share of 90% of such appraised price. The acceptance of such payment shall not preclude such person or persons from appealing any decision rendered in such proceedings. If the appraisement is greater or less than the amount finally determined by the decision in such proceeding or by an appeal, the amount of the increase or decrease shall be paid by or refunded to the Authority.

The terms "appraised price" and "appraisement" as used in this section mean the value determined by two competent real estate appraisers appointed by the Authority for such purposes.

The acquisition of any such property by condemnation or by the exercise of the power of eminent domain shall be and is hereby declared to be a public use of such property.

(c) Title to any property acquired by the Authority shall be taken in the name of the Authority.

(d) In any eminent domain proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the Authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security nor any act or obligation of the Authority shall impose any liability upon the Commonwealth or upon any county, or other political subdivision of the Commonwealth.

(e) If the owner, lessee or occupier of any property to be condemned or otherwise acquired shall refuse to remove his property therefrom or give up possession thereof, the Authority may proceed to obtain possession in any manner provided by law. (1966, c. 133)

§ 6. Revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall earn interest at such rate or

rates shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bond and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this act.

The proceeds of the bonds shall be used solely for the payment of the cost of the project, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance f such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error or of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provision of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this act. (1966, c. 133; 1971, c. 96)

§ 7. Trust agreement.

In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project, the rates of toll or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project. (1966, c. 133)

§ 8. Revenues.

The Authority is hereby authorized to fix, revise, charge and collect tolls or other charges for the use of the project and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right of way adjoining the airport for placing thereon telephone, telegraph, electric light or power lines, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls or other charges shall be so fixed and adjusted in respect of the aggregate of tolls or other charges from the project as to provide a fund sufficient with other revenues if any, to pay (a) the cost of maintaining, repairing and operating such project and (b) the principal of and interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. The tolls and all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair and operating and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such

pledge shall be valid and binding from the time when the pledge is made; the tolls and other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution or any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund hall b subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1966, c. 133)

§ 9. Trust funds.

All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. The Authority shall, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues to be received by a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall at as trustee of the funds, and hold and apply the same to the purposes of this act, subject to such regulations as this act and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds. (1966, c. 133)

§ 10. Remedies.

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such agreement or resolution to be performed by the Authority or by an officer or agent thereof including the fixing, charging and collection of tolls or other charges. (1966, c. 133)

§ 11. Exemption from taxation.

The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the Authority shall not

be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivisions thereof. (1966, c. 133)

§ 12. Revenue refunding bonds.

The Authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable. (1966, c. 133)

§ 13. Act liberally construed.

This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1966, c. 133)

§ 14. Constitutional construction.

The provisions of this act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein. (1966, c. 133)

§ 15. Inconsistent laws inapplicable.

All other general or special laws inconsistent with any provisions of this act are hereby declared to be inapplicable to the provisions of this act. (1966, c. 133)

Chesapeake Bay Bridge and Tunnel District and Commission

§ 33.2-2200.Definitions

As used in this chapter, unless the context requires a different meaning:

"Bonds" means bonds, notes, bond anticipation notes, or other obligations of the District, notwithstanding any contrary provision in this chapter, which may be issued in certificated or uncertificated form as current interest or capital appreciation bonds, or a hybrid thereof, and may bear interest at a rate, which may be fixed, zero, or at a floating or variable rate of interest established by reference to indices or formulae, that may be in excess of the rate now permitted by law and payable at such times as the Commission may determine. Bonds may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal and premium, if any, and interest on the bonds. Bonds may be sold in such manner and for such price as the Commission may determine to be for the best interests of the District.

"Commission" means the governing body of the District known as the Chesapeake Bay Bridge and Tunnel Commission.

"Cost," as applied to the project, means any or all of the following: the cost of construction; the cost of the acquisition of all land, rights-of-way, property, rights, franchises, easements, and interests acquired by the Commission for such construction; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of all machinery and equipment; provision for reasonable working capital, financing charges, and interest prior to and during construction; and, if deemed advisable by the Commission, for a period not exceeding one year after completion of construction, the cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, and other expenses necessary or incident to determining the feasibility or practicability of constructing the project; administrative expenses; and such other expenses as may be necessary or incident to the construction of the project, the financing of such construction, and the placing of the project in operation. Any obligation or expense hereafter incurred by the Commonwealth Transportation Board with the approval of the Commission for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of the project shall be regarded as a part of the cost of the project and shall be reimbursed to the Commonwealth Transportation Board out of the proceeds of revenue bonds issued for the project as authorized in this chapter.

"District" means the political subdivision of the Commonwealth known as the Chesapeake Bay Bridge and Tunnel District.

"Owner" includes all persons as defined in § 1-230 having any interest or title in and to property, rights, franchises, easements, and interests authorized to be acquired by this chapter.

"Project" means a bridge or tunnel or a bridge and tunnel project, including the existing bridge and tunnel crossing operated by the Commission and all or a part of an additional and generally parallel bridge and tunnel crossing, from any point within the boundaries of the District to a point in the County of Northampton, including such approaches and approach highways as the Commission deems necessary to facilitate the flow of traffic in the vicinity of such project or to connect such project with the highway system or other traffic facilities in the Commonwealth, and including all overpasses, underpasses, interchanges, entrance plazas, toll houses, service stations, garages, restaurants, and administration, storage, and other buildings and facilities that the Commission may deem necessary for the operation of such project, together with all property, rights, franchises, easements, and interests that may be required by the Commission for the construction or the operation of such project.

1956, c. 714; 1959, Extra Session, c. 24; 1990, c. 203; 2014, c. 805.

§ 33.2-2201.Chesapeake Bay Bridge and Tunnel District

The Chesapeake Bay Bridge and Tunnel District is hereby created as a political subdivision of the Commonwealth. The District shall comprise the area included in the boundaries of the Counties of Accomack and Northampton; within the corporate limits of the Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, and Virginia Beach; and the area of Chesapeake Bay between these political subdivisions. This entity may sue and be sued under the name Chesapeake Bay Bridge and Tunnel District. Through its governing board, the Chesapeake Bay Bridge and Tunnel Commission, the District may plead and be impleaded and contract with individuals, partnerships, associations, private corporations, municipal corporations, political subdivisions of the Commonwealth, and the federal government or any agency thereof having any interest or title in and to property, rights, easements, or franchises authorized to be acquired by this chapter.

1954, c. 693; 1956, c. 462; 1962, c. 605; 2014, c. 805.

§ 33.2-2202.Chesapeake Bay Bridge and Tunnel Commission

The Chesapeake Bay Bridge and Tunnel Commission is hereby created as the governing board of the Chesapeake Bay Bridge and Tunnel District created by this chapter. The Commission shall consist of the following 11 members: one member of the Commonwealth Transportation Board, two members from Accomack County, two members from Northampton County, one member from the City of Chesapeake, one member from the City of Hampton, one member from the City of Newport News, one member from the City of Norfolk, one member from the City of Portsmouth, and one member from the City of Virginia Beach. The members of the Commission appointed under the provisions of this section shall be residents of the counties or cities from which they are appointed.

Commission members shall be appointed by the Governor, subject to confirmation by both houses of the General Assembly. Commission members shall be appointed to four-year terms. Any member of the Commission shall be eligible for reappointment to a second four-year term, but shall be ineligible

for appointment to any additional term except for appointment to fill vacancies for portions of unexpired terms. When a vacancy occurs, the Governor shall appoint a new member to complete the unexpired portion of the term, subject to confirmation by both houses of the General Assembly.

The Commission shall select a chairman, vice-chairman, secretary, and treasurer annually from its membership and as provided in its bylaws. Meetings of the Commission shall be held upon the call of the chairman or as otherwise provided in the bylaws of the Commission. Any member of the Commission may be removed from office for cause by the Governor. Each member of the Commission, immediately following his appointment, shall take an oath of office, prescribed by Article II, Section 7 of the Constitution of Virginia, before any judge, clerk, or deputy clerk of any court of record; any judge of a district court in the Commonwealth; the Secretary of the Commonwealth or his deputy; or a member of the State Corporation Commission. No member of the Commission shall receive any salary, but members are entitled to expenses and per diem pay as provided in §§ 2.2-2813 and 2.2-2825. Six members of the Commission shall constitute a quorum. The records of the Commission shall be public records. The Commission is authorized to do all things necessary or incidental to the performance of its duties and the execution of its powers under this chapter. The route for any bridge or tunnel, or combination thereof, built by the Commission shall be selected subject to the approval of the Commonwealth Transportation Board.

1954, c. 693; 1956, c. 462; 1962, c. 405; 1998, c. 548; 2000, cc. 238, 705; 2014, c. 805.

§ 33.2-2203.General powers of the Commission

The Commission is hereby authorized and empowered:

1. To establish, construct, maintain, repair, and operate the project, provided that no such project shall be constructed unless adequate provision is made for the retirement of any revenue bonds issued by the Commission;

2. To determine the location, character, size, and capacity of the project; to establish, limit, and control such points of ingress to and egress from the project as may be necessary or desirable in the judgment of the Commission to ensure the proper operation and maintenance of the project; and to prohibit entrance to such project from any point or points not so designated. The Commission shall coordinate its plans with those of the Commonwealth Transportation Board insofar as practicable;

3. To secure all necessary federal authorizations, permits, and approvals for the construction, maintenance, repair, and operation of the project;

4. To make regulations for the conduct of its business;

5. To acquire, by purchase or condemnation in the name of the District, hold, and dispose of real and personal property for the corporate purposes of the District;

6. To acquire full information to enable it to establish, construct, maintain, repair, and operate the project;

7. To employ consulting engineers, a superintendent or manager of the project, and such other engineering, architectural, construction, and accounting experts, and inspectors, attorneys, and other employees as may be deemed necessary and, within the limitations prescribed in this chapter, to prescribe their powers and duties and fix their compensation;

8. To pay, from any available moneys, the cost of plans, specifications, surveys, estimates of cost and revenues, legal fees, and other expenses necessary or incident to determining the feasibility or practicability of financing, constructing, maintaining, repairing, and operating the project;

9. To issue revenue bonds of the District, for any of its corporate purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this chapter;

10. To fix, revise, charge, and collect tolls and other charges for the use of the project;

11. To make and enter into all contracts or agreements, as the Commission may determine, that are necessary or incidental to the performance of its duties and to the execution of the powers granted under this chapter;

12. To accept loans and grants of money or materials or property at any time from the United States of America or the Commonwealth or any agency or instrumentality thereof;

13. To adopt an official seal and alter the same at its pleasure and to make, amend, and repeal bylaws and regulations not inconsistent with law to carry into effect the powers and purposes of the Commission;

14. To sue and be sued and to plead and be impleaded, all in the name of the District;

15. To exercise any power usually possessed by private corporations performing similar functions, including the right to expend, solely from funds provided under the authority of this chapter, such funds as may be considered by the Commission to be advisable or necessary in advertising its facilities and services to the traveling public; and

16. To do all acts and things necessary or incidental to the performance of its duties and the execution of its powers under this chapter.

1956, c. 714; 2014, c. 805.

§ 33.2-2204.Additional powers of the Commission

The Commission has the power:

1. To construct grade separations at intersections of the project with public highways and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and

adjusting the lines and grades of such highways shall be ascertained and paid by the Commission as a part of the cost of the project.

2. To change the location of any portion of any public highway. The Commission shall cause the portion of the public highway to be reconstructed at such location as the Commission deems most favorable and of substantially the same type and in as good condition as the original highway. The cost of such reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the Commission as a part of the cost of the project.

Any public highway affected by the construction of the project may be vacated or relocated by the Commission in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the Commission as a part of the cost of the project.

3. To enter upon any lands, waters, and premises in the Commonwealth, along with its authorized agents and employees, for the purpose of making surveys, soundings, drillings, and examinations as they may deem necessary or convenient for the purposes of this chapter, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings that may be then pending. The Commission shall make reimbursement for any actual damage resulting to such lands, waters, and premises as a result of such activities.

4. To make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (herein called "public utility facilities") of any public utility in, on, along, over, or under the project. When public utility facilities that are or may be located in, on, along, over, or under the project should be relocated in the project, or should be removed from the project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the Commission, provided that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the Commission as a part of the cost of the project. In case of any such relocation or removal of facilities, the public utility owning or operating the facilities, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location.

The Commonwealth hereby consents to the use of all lands owned by it, including lands lying under water, that are deemed by the Commission to be necessary for the construction or operation of the project.

1956, c. 693; 2014, c. 805.

§ 33.2-2205.Regulations of the Commission; enforcement

The Commission shall have power:

1. To adopt and enforce reasonable regulations that, after publication one time in full in a newspaper of general circulation published in or having general circulation in the City of Virginia Beach and a newspaper of general circulation published in or having general circulation in the County of Northampton and when posted where the using public may conveniently see such regulations, shall have the force and effect of law as to (i) maximum and minimum speed limits applicable to motor vehicles using the project and other property under control of the Commission; (ii) the types, kinds, and sizes of the vehicles that may use the project; (iii) the nature, size, type, or kind of materials or substances that shall not be transported through or over the project; and (iv) such other regulations as may be necessary or expedient in the interest of public safety with respect to the use of the project.

2. To punish a violation of the regulations provided for in subdivision 1 as follows:

a. If a violation would have been a violation of law or ordinance if committed on any public street or highway in the locality in which such violation occurred, it shall be tried and punished in the same manner as if it had been committed on such public street or highway.

b. If a violation occurs within one jurisdiction and is punishable within another jurisdiction, the court trying the case shall, if the accused is found guilty, apply the punishment that is prescribed for offenses occurring within the jurisdiction of the court trying the case.

c. All other violations shall be punishable as a Class 1 misdemeanor.

3. To appoint and employ police to enforce within the area under the control of the Commission the regulations adopted by the Commission and the laws of the Commonwealth. Such police shall have the powers vested in police officers under §§ 15.2-1704 and 52-8, which sections shall apply, mutatis mutandis, to police appointed pursuant to this chapter.

Such police appointed by the Commission may issue summons to appear, or arrest on view or on information without warrant as permitted by law, within the jurisdiction of the Commonwealth, and conduct before any police or county court of any political subdivision into which the project extends any person violating, within or upon the project or other property under the control of the Commission, any rule or regulation of the Commission or any law of the Commonwealth pertaining to the regulation and control of highway traffic on any bridge or tunnel owned or operated by the Commission, including all entrance or exit plazas and approaches adjacent or appurtenant thereto and any rule or regulation regarding the payment of tolls.

4. For the purpose of enforcing such laws and regulations, the courts of the City of Virginia Beach and the County of Northampton have concurrent jurisdiction of criminal offenses that constitute violations of the laws and regulations of the Commission.

1954, c. 693; 1962, c. 228; 1964, c. 348; 2014, c. 805; 2015, c. 256.

§ 33.2-2206.Acquisition of property

The Commission is hereby authorized and empowered to acquire by purchase, whenever it deems such purchase expedient, solely from funds provided under the authority of this chapter, such lands, structures, rights-of-way, property, rights, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, that are located within the Commonwealth as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the District.

All localities and political subdivisions and all public agencies and commissions of the Commonwealth, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant, or convey to the District at the Commission's request upon such terms and conditions as the proper authorities of such localities, political subdivisions, agencies, or commissions of the Commonwealth may deem reasonable and fair and without the necessity for any advertisement, order of court, or other action or formality, other than the regular and formal action of the authorities concerned, any real property that may be necessary or convenient to the effectuation of the authorized purposes of the Commission, including public highways and other real property already devoted to public use.

Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown, or unable to convey valid title, the Commission is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements, and other property, including public lands, parks, playgrounds, reservations, highways, or parkways, or parts thereof or rights therein, of any person, partnership, association, railroad, public service, public utility or other corporation, municipality, or political subdivision deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration of public or private property damaged or destroyed. Such proceedings shall be in accordance with and subject to the provisions of any and all laws applicable to condemnation of property in the name of the Commissioner of Highways under the laws of the Commonwealth. Title to any property acquired by the Commission shall be taken in the name of the District. In any condemnation proceedings, the court having jurisdiction of the suit, action, or proceeding may make such orders as may be just to the Commission and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Commission to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the Commission shall impose any liability upon the District except as may be paid from the funds provided under the authority of this chapter.

If the owner, lessee, or occupier of any property to be condemned refuses to remove his personal property therefrom or give up possession thereof, the Commission may proceed to obtain possession in any manner provided by law.

With respect to any railroad property or right-of-way upon which railroad tracks are located, any powers of condemnation or of eminent domain may be exercised to acquire only an easement interest therein, which is located either sufficiently far above or sufficiently far below the grade of any railroad track upon such railroad property so that neither the proposed project nor any part thereof, including any bridges, abutments, columns, supporting structures, and appurtenances, nor any traffic upon it interferes in any manner with the use, operation, or maintenance of the trains, tracks, works, or appurtenances or other property of the railroad nor endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the institution of condemnation proceedings for such easement over or under such railroad property or right-of-way, plans and specifications of the proposed project showing compliance with the above-mentioned above or below grade requirements and showing sufficient and safe plans and specifications of such overhead or undergrade structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within 30 days to approve the plans and specifications so submitted, the matter shall be submitted to the State Corporation Commission, as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below the tracks. Said overhead or undergrade structure and appurtenances shall be constructed only in accordance with such plans and specifications and in accordance with such elevations or distances above or below the tracks so approved by the railroad or the State Corporation Commission. A copy of the plans and specifications approved by the railroad or the State Corporation Commission shall be filed as an exhibit with the petition for condemnation. The cost of any such overhead or undergrade projects and appurtenances and any expense and cost incurred in changing, adjusting, relocating, or removing the lines and grades of such railroad in connection with the project shall be paid by the Commission as a part of the cost of the project.

1956, c. 714; 2014, c. 805.

§ 33.2-2207.Consent of Commonwealth to use subaqueous soil of the Chesapeake Bay

The Commonwealth hereby consents to the use by the Commission, in any manner whatsoever in the performance of its duties, of all lands lying under the waters of the Chesapeake Bay that are within the Commonwealth and are deemed by the Commission to be necessary for the construction or operation of the project.

1954, c. 693; 2014, c. 805.

§ 33.2-2208.Revenue bonds

The Commission is hereby authorized to provide by resolution for the issuance of revenue bonds of the District for any one or more of the following purposes: (i) paying all or a part of the cost of all or a part of the project and (ii) refunding any outstanding revenue bonds of the District that have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate not exceeding six percent per year payable semiannually, shall mature at such time, not exceeding 40 years from their date, as may be determined by the Commission, and may be made redeemable before maturity, at the option of the Commission, at such price and under such terms and conditions as may be fixed by the Commission prior to the issuance of the bonds. The principal and interest of such bonds may be made payable in any lawful medium. The Commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination of the bonds and the place of payment of principal and interest thereof, which may be at any bank or trust company within or outside of the Commonwealth. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such officer before the delivery of the bonds, his signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. All revenue bonds issued under the provisions of this chapter shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion of any bonds registered as to both principal and interest into coupon bonds. The Commission may sell such bonds in such manner and for such price as it may determine to be for the best interest of the District, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six percent per year computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding from such computations the amount of any premium to be paid on redemption of any bonds prior to maturity. The proceeds of such bonds shall be disbursed for the purposes for which such bonds shall have been issued under such restrictions, if any, as the resolution authorizing the issuance of such bonds or the trust indenture provided for in this chapter. If the bonds of a particular issue, by error of estimates or otherwise, are less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose. If the proceeds of the bonds of any issue exceed the amount required for the purpose for

which such bonds are issued, the surplus shall be paid into the funds hereinafter provided for the payment of principal and interest of such bonds. Prior to the preparation of definitive bonds, the Commission may, under like restrictions, issue temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The Commission may also provide for the replacement of any bond that becomes mutilated or that has been destroyed or lost. Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than the proceedings, conditions, and things that are specified and required by this chapter.

1956, c. 714; 1959, Extra Session, c. 24; 2014, c. 805.

§ 33.2-2209.Bonds not to constitute a debt or pledge of taxing power

Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the District or of the Commonwealth or of any county, city, district, or political subdivision thereof, or a pledge of the faith and credit of the District or of the Commonwealth or of any county, city, district, or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from tolls and other revenues. The issuance of revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the District, the Commonwealth, or any county, city, district, or political subdivision thereof to levy or to pledge any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect.

1956, c. 714; 2014, c. 805.

§ 33.2-2210.Trust indenture

In the discretion of the Commission any bonds issued under the provisions of this chapter may be secured by a trust indenture by and between the Commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the Commonwealth. Such trust indenture or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage the project or any part thereof. Such trust indenture or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the project in connection with which such bonds have been authorized, the rates of toll to be charged, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth that may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Commission. Any such trust indenture may set forth the rights and remedies of the bondholders and of the trustee and may

restrict the individual right of action by bondholders. In addition to the foregoing, any such trust indenture or resolution may contain such other provisions as the Commission may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust indenture or resolution may be treated as a part of the cost of the operation of the project.

1956, c. 714; 2014, c. 805.

§ 33.2-2211.Revenues

The Commission is hereby authorized to fix, revise, charge, and collect tolls for the use of the project, and to contract with any person, partnership, association, or corporation desiring the use thereof, and to fix the terms, conditions, rents, and rates of charges for such use.

Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the project in connection with which the bonds of any issue have been issued under the provisions of this chapter as to provide a fund sufficient with other revenues, if any, to pay (i) the cost of maintaining, repairing, and operating the project and (ii) the principal of and the interest on such bonds as the same become due and payable, and to create reserves for such purposes. Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the Commonwealth. The tolls and all other revenues derived from the project in connection with which the bonds of any issue have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust indenture securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust indenture in a sinking fund that is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls or other revenues or other moneys so pledged and thereafter received by the Commission shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Commission, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Commission. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture. Except as may otherwise be provided in such resolution or such trust indenture, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

1956, c. 714; 2014, c. 805.

§ 33.2-2212.Cessation of tolls

When the bonds issued for the project and the interest thereon have been paid, or a sufficient amount has been provided for their payment and continue to be held for that purpose, the Commission shall cease to charge tolls for the use of the project, and thereafter the project shall be free, provided that the Commission shall thereafter charge tolls for the use of the project in the event that tolls are required for maintaining, repairing, and operating the project due to the lack of funds from sources other than tolls.

1954, c. 693; 2014, c. 805.

§ 33.2-2213.Transfer to Commonwealth

Except as provided in this section, when all bonds issued under the provisions of this chapter in connection with the project and the interest thereon have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof has been set aside in trust for the benefit of the bondholders, the project, if then in good condition and repair, shall become a part of the primary state highway system and shall thereafter be maintained by the Commonwealth Transportation Board free of tolls. The Commission may, in any resolution or trust indenture authorizing or securing bonds under the provisions of this chapter, provide for combining the project and any public ferry service then being operated by the Commission for financing purposes, and for the continuance of tolls on the project and such public ferry service until all such bonds and the interest thereon have been paid or a sufficient amount for such purposes has been set aside in trust for the benefit of the bondholders.

1956, c. 714; 2014, c. 805.

§ 33.2-2214.Trust funds

All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The resolution authorizing the bonds of any issue or the trust indenture securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as trustee of such moneys and shall hold and apply the moneys for the purposes provided in this chapter, subject to such regulations as this chapter and such resolution or trust indenture may provide.

1956, c. 714; 2014, c. 805.

§ 33.2-2215.Remedies

Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent the rights herein given may be restricted by such trust indenture or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such trust indenture or the

resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust indenture or resolution to be performed by the Commission or by any officer thereof, including the fixing, charging, and collecting of tolls.

1956, c. 714; 2014, c. 805.

§ 33.2-2216.Governmental function; exemption from taxation

The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the Commonwealth and for the increase of their commerce and prosperity and is a public purpose, and as the operation and maintenance of the project will constitute the performance of essential governmental functions, the Commission shall not be required to pay any taxes or assessments upon the project or any property acquired by the Commission or under its jurisdiction, control, possession, or supervision, or upon its activities in the operation and maintenance of the project, or used by the Commission under the provisions of this chapter, or upon the income therefrom, and the bonds issued under the provisions of this chapter, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from all state and local taxation within the Commonwealth.

1956, c. 714; 2014, c. 805; 2015, c. 256.

§ 33.2-2217.Repealed

Repealed by Acts 2015, c. 256, cl. 9.

§ 33.2-2218.Bonds eligible for investment

Bonds issued by the District under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is or may be authorized by law.

1956, c. 714; 2014, c. 805.

§ 33.2-2219.Protection from competition

No franchise, right, or privilege shall be granted or authorized by the Commonwealth or by any political subdivision or court thereof for the acquisition, establishment, construction, maintenance, repair, or operation of any bridge or tunnel or bridge and tunnel facility from any point within the boundaries of the District to a point in the County of Northampton, except to the Commission so long as any bonds issued under this chapter remain outstanding or until provision is first made for the payment of the principal and the interest and the premium, if any, due and payable upon all such

bonds, provided that such prohibition does not apply to any ferry that may be established for the exclusive transportation of railroad cars, or of railroad passengers holding through tickets, or to projects heretofore authorized under the Transportation Development and Revenue Bond Act (§ 33.2-1700 et seq.).

1956, c. 714; 2014, c. 805.

§ 33.2-2220.Miscellaneous; penalties

A. Any action taken by the Commission under the provisions of this chapter may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

B. The project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Commission. The project shall also be policed and operated by such force of police, toll-collectors, and other operating employees as the Commission may in its discretion employ.

C. All other police officers of the Commonwealth and of each locality or political subdivision of the Commonwealth through which any project, or portion thereof, extends shall have the same powers and jurisdiction within the limits of such projects as they have beyond such limits and shall have access to the project at any time for the purpose of exercising such powers and jurisdiction.

D. All private property damaged or destroyed by the construction of the project or any part thereof shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.

E. On or before the last day of February in each year, the Commission shall make an annual report of its activities during the preceding calendar year to the Governor. In each report, the Commission shall set forth a complete operating and financial statement covering its operations during the year. The Commission shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants, and the cost thereof may be treated as a part of the cost of construction or operation of the project. The records, books, and accounts of the Commission shall be subject to examination and inspection by duly authorized representatives of the Governor, the Commonwealth Transportation Board, the governing bodies of the political subdivisions constituting the District, and any bondholder at any reasonable time, provided the business of the Commission is not unduly interrupted or interfered with by such action.

F. Any member, agent, or employee of the Commission who contracts with the Commission or District or is interested, either directly or indirectly, in any contract with the Commission or District or in the sale of any property, either real or personal, to the District shall be punished by a fine of not more than $1,000 or by imprisonment for not more than one year, or both.

G. Any person who uses the project and fails or refuses to pay the toll provided therefor shall be punished by a fine of not more than $100 or by imprisonment for not more than 30 days, or both. In addition, the Commission shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof until the amount of such toll and all charges in connection therewith shall have been paid.

1956, c. 714; 2014, c. 805.

§ 33.2-2221.Liberal construction

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

1956, c. 714; 2014, c. 805.

§ 33.2-2222.Repealed

Repealed by Acts 2015, c. 709, cl. 2.

Chesapeake Bay Commission

§ 30-240.Chesapeake Bay Commission created

The Chesapeake Bay Commission, hereinafter designated as "Commission," is hereby created as a tristate legislative commission.

1980, c. 662, § 62.1-69.5; 2004, c. 1000.

§ 30-241.Members

The Commission shall consist of 21 members, seven from Virginia, seven from Maryland and seven from Pennsylvania. In each state, five of the members shall be members of the General Assembly. In Virginia, two Senators appointed by the Senate Committee on Rules and three Delegates appointed by the Speaker of the House of Delegates shall serve as members. The Governor of Virginia or his designee shall serve as a member. In addition, the Senate Committee on Rules and the Speaker of the House of Delegates shall jointly appoint one Virginia member who is not a legislator or an employee of the executive branch. In Maryland, two senators designated by the President of the Senate and three delegates designated by the Speaker of the House of Delegates shall serve as members. The Governor of Maryland or his designee shall serve as a member. In addition, the President of the Senate and the Speaker of the House of Delegates shall jointly select one Maryland member who is not a legislator or an employee of the executive branch. In Pennsylvania, two senators designated by the President pro tempore of the Senate and three representatives designated by the Speaker of the House of Representatives shall serve as members. The Governor of Pennsylvania or his designee shall serve as a member. In addition, the President pro tempore of the Senate shall select one Pennsylvania member who is not a legislator or an employee of the executive branch.

1980, c. 662, § 62.1-69.6; 1985, c. 149; 2004, c. 1000.

§ 30-242.Terms

Legislators serving as members of the Commission shall serve terms coterminous with their current terms of office. The nonlegislative members shall serve at the pleasure of their respective appointing authorities for a term of not more than four years. Nonlegislative members may be reappointed at the end of the four-year term.

1980, c. 662, § 62.1-69.7; 1985, c. 149; 2004, c. 1000.

§ 30-243.Compensation and expenses; generally

The Commission members shall serve without compensation from the Commission but may be reimbursed by the Commission for necessary expenses incurred in and incident to the performance of their duties. In addition, Commission members from each state may receive from their respective states, any other compensation to which they may be entitled under the laws of the respective states.

1980, c. 662, § 62.1-69.8; 1985, c. 149; 2004, c. 1000.

§ 30-244.Compensation and expenses; Virginia delegation

The legislative representatives of Virginia to the Commission shall receive such compensation as provided in § 30-19.12 and the nonlegislative citizen representatives of Virginia shall receive such compensation as provided in § 2.2-2813 for their services. All members shall be entitled to reimbursement for all reasonable and necessary expenses incurred in their performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the members shall be provided from existing appropriations to the Commission for such purpose.

2004, c. 1000.

§ 30-245.Meetings and voting

Commission meetings shall be held at least once each quarter, and at such other times as the Commission may determine. In order to constitute a quorum for the transaction of any business, at least 11 Commission members, including at least three Commission members from each state, must be present. Approval of proposed action shall require the majority vote of the Commission members present.

1980, c. 662, § 62.1-69.9; 1985, c. 149; 2004, c. 1000.

§ 30-246.Organization, internal procedures and delegation of powers; officers and employees as state employees

A. The Commission members shall serve as the governing body of the Commission, and, except as hereinafter provided, shall exercise and discharge all powers, functions and responsibilities assigned to the Commission. The Commission shall provide for the organization of internal procedures of the Commission and to this end shall adopt suitable bylaws. The Commission shall have a chairman and two vice-chairmen, chosen by the respective delegation, whose offices shall rotate annually among the signatory states and may at no time be held by members from the same signatory. The Commission may maintain one or more offices for the transaction of its business. The Commission may, without regard to the civil service or the laws of any signatory relative to public officers and employees, create and abolish offices, employments and positions as it deems necessary for the purposes of the Commission, affix and provide for the duties, conditions of employment, qualifications, appointment, removal, term, compensation, and other rights and benefits of the Commission's officers and employees, and shall appoint the principal officers of the Commission and allocate among them administrative functions, powers, and duties. The Commission may delegate to the officers and employees of the Commission any powers, functions and responsibilities under this agreement as it deems suitable, except that it may not delegate its power to make recommendations to the respective legislatures, to issue reports or to adopt the annual expense budget.

B. Every full-time officer or employee of the Commission on a salary basis shall be eligible for pension and health and related insurance offered to employees of one of the member states, provided that such officer or employee so elects within 30 days of commencing employment; and provided that the Commission allocates funds in its budget for the employer share of these benefits.

1980, c. 662, § 62.1-69.10; 1982, c. 54; 1985, c. 149; 2004, c. 1000.

§ 30-247.Purposes

The purposes of the signatories in enacting this Agreement are to assist the legislatures of Virginia, Maryland, and Pennsylvania in evaluating and responding to problems of mutual concern relating to the Chesapeake Bay; to promote intergovernmental cooperation; to encourage cooperative coordinated resource planning and action by the signatories and their agencies; to provide, where appropriate, through recommendation to the respective legislature, uniformity of legislative application; to preserve and enhance the functions, powers and duties of existing offices and agencies of government; and to recommend improvements in the existing management system for the benefit of the present and future inhabitants of the Chesapeake Bay region.

1980, c. 662, § 62.1-69.11; 1985, c. 149; 2004, c. 1000.

§ 30-248.Powers

In pursuit of the purposes and duties set forth in this article, the Commission may exercise the following powers:

1. Collect, compile, analyze, interpret, coordinate, tabulate, summarize, and distribute technical and other data relative to the Chesapeake Bay and its environs. It may conduct or contract for studies, except those for primary scientific research, and may prepare reports on existing or potential problems within the Bay region;

2. Prepare, publish and disseminate information in reports related to the resources of the region;

3. Serve as an advisory board to any requesting agency of the member states on matters of interstate concern;

4. Make application for grants, services or other aids as may be available from public or private sources to finance or assist in effectuating any purposes of this Agreement; and receive and accept the same on such terms and conditions as may be required by the law of the respective signatory states;

5. Purchase administrative supplies and lease sufficient office space if such space is not otherwise made available for its use; and

6. Exercise such other powers as are granted by this Agreement and take such actions as are necessary or appropriate for performing the duties set forth in this Agreement.

1980, c. 662, § 62.1-69.12; 1985, c. 149; 2004, c. 1000.

§ 30-249.Duties

In carrying out the purposes set forth in this article, the Commission shall have the following duties:

1. Identify specific Bay management concerns requiring intergovernmental coordination and cooperation; and recommend to the federal, state and local governments that are involved in the Chesapeake Bay region legislative and administrative actions necessary to effectuate coordinated and cooperative management for the Bay;

2. Consider, in administering the provisions of this Agreement, the needs of the region for industrial and agricultural development and for gainful employment and maintenance of a high-quality environment;

3. Respect and support the primary role of the respective signatory states and their administrative agencies in managing the resources of the region;

4. Collect, analyze and disseminate information pertaining to the region and its resources for the respective legislative bodies. The Commission shall prepare an annual report indicating the status of environmental and economic Bay issues involving the Chesapeake Bay and the progress of coordinative efforts by the member states;

5. Represent common interests of the signatories as they are affected by the activities of the federal government and shall assist in the monitoring of those activities in the Chesapeake Bay region; and

6. Provide, as may be determined, a forum to serve as an advisory mediator for programmatic conflicts between or among the member states when such action is requested by the conflicting member states.

1980, c. 662, § 62.1-69.13; 1985, c. 149; 2004, c. 1000.

§ 30-250.Annual budget

The Commission shall annually adopt a budget, which shall include the Commission's estimated expenses for administration and operation. In establishing the annual current expense budget, the Commission shall balance total expenses against the Commission's estimate of revenues from all sources, either previously appropriated by a signatory state or receivable from any person or governmental agency by contract or grant with that person or governmental agency. The chairman of the Commission shall certify to the respective signatories, and submit to persons in other governmental agencies, statements of the amounts requested from them in accordance with existing cost-sharing established by this Agreement or by the parties. The chairman of the Commission shall transmit certified copies of such budgets to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures.

1980, c. 662, § 62.1-69.14; 2004, c. 1000.

§ 30-251.Apportionment of cost

The amount required for the Commission's current expense budget shall be apportioned equally among the signatory parties unless a different apportionment is agreed to by unanimous vote of the Commission.

1980, c. 662, § 62.1-69.15; 2004, c. 1000.

§ 30-252.Modification

This Agreement shall not be amended or modified except with the concurrence of the legislatures of the Commonwealth of Virginia, the state of Maryland, and the Commonwealth of Pennsylvania. Amendments shall not become effective until adopted in the same manner as the original Agreement.

1980, c. 662, § 62.1-69.17; 2004, c. 1000.

§ 30-253.Term

The duration of this Agreement among the Commonwealth of Virginia, the state of Maryland, and the Commonwealth of Pennsylvania shall be for an initial period of 10 years from its effective date, and it shall be continued for additional periods of 10 years unless one or more of the signatory states, by authority of an act of its legislature, notifies the Commission of intention to terminate the Agreement at the end of the current 10-year term. However, any signatory, by act of its legislature, can withdraw from the Agreement at the end of any calendar year or fiscal year.

1980, c. 662, § 62.1-69.18; 1985, c. 149; 2004, c. 1000.

§ 30-254.Dissolution

In the event that this Agreement shall be terminated by operation of § 30-253, the Commission shall be dissolved, its assets and liabilities transferred, and its corporate affairs wound up in accordance with the unanimous agreement of its signatories, or failing unanimous agreement, in such manner that the assets and liabilities of the Commission shall be shared by the respective states.

1980, c. 662, § 62.1-69.19; 1981, c. 127; 2004, c. 1000.

§ 30-255.Governor to execute agreement

The Governor of the Commonwealth of Virginia is authorized and directed to: (i) execute and deliver, on behalf of the Commonwealth, all agreements and modifications of agreements that relate to the Chesapeake Bay Commission; and (ii) take those actions that may be necessary to effectuate the Agreement.

1980, c. 662, § 62.1-69.20; 1985, c. 149; 2004, c. 1000.

Chesapeake Hospital Authority

Created

1966 Acts of Assembly, c. 271.

Amendments
1971, c. 97 (§§ 2, 11)
1971, c. 245 (provided effective date for 1971, c. 97)
1973, c. 53 (§ 2)
1987, c. 396 (§§ 2, 3, 4, 5, 7, 7.1 [added], 9, 10, 11, 12, 13)
1990, c. 419 (§ 7.2 [added])
1993, cc. 281, 300 (§§ 4, 5)
1998, cc. 659, 697 (§ 2)
1998, cc. 666, 697 (§ 7.3 [added])
2006, c. 658 (§§ 2, 7, 7.1, 7.2)
2015, c. 358 (§ 2)
2017, cc. 541, 557 (§ 2)
2019, cc. 249, 250 (§ 7.1)

§ 1. There is hereby created a public body politic and corporate to be known as the "Chesapeake Hospital Authority," hereinafter referred to as "The Authority," with such public and corporate powers as are hereinafter set forth. The Authority may sue and be sued, plead and be impleaded, and shall have the power and authority to contract and be contracted with and to exercise and discharge all the powers and duties imposed and conferred upon it, as hereinafter provided. (1966, c. 271)

§ 2. The Authority shall be composed of eleven members, two of whom shall be licensed members of the medical profession, all of whom shall be appointed by the city council. The terms of the members shall be four years and staggered so that no more than four members shall be appointed in any one year; provided, however, that for terms which commence in 1999, the council shall appoint four members for four-year terms and two members for five-year terms, and for terms which commence in 2001, the council shall appoint four members for four-year terms and one member for a three-year term. Any member may be reappointed; however, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Authority member shall work for the Authority within one year after serving as a member. Members shall be compensated for their services in the amount of $250 per attendance at each meeting, provided, however, that no member shall be compensated for participation in a meeting by electronic means when the member is not physically present at the meeting. The Authority shall adopt as part of its bylaws a definition of "compensable meeting" prior to compensating any member in accordance with this section. Members shall be entitled to reimbursement for necessary traveling and other expenses incurred while engaged in the performance of their duties. Each member shall continue to hold office until the earlier of the effective date of his resignation or the date on which his successor has been appointed and qualified. The council shall have the right to remove any member or officer,

for malfeasance or misfeasance, incompetency or gross neglect of duty. Vacancies shall be filled by appointment of the council for unexpired terms, or in the case of an increase in the size of the Authority, filled by appointment of the council, which appointments may be for an initial term less than four years. Members shall take an appropriate oath of office and same shall be filed with the city clerk. Members shall elect on an annual basis one of their number as chairman and another as vice-chairman and shall also elect a secretary and treasurer for terms to be determined by them, who may or may not be one of the members. The same person may serve as both secretary and treasurer. The members shall make such rules, regulations and bylaws for their own government and procedure as they shall determine; they shall meet regularly at least once a month and may hold such special meetings as they deem necessary. (1966, c. 271; 1971, c. 97; 1973, c. 53; 1987, c. 396; 1998, cc. 659, 697; 2006, c. 658; 2015, c. 358; 2017, cc. 541, 557)

§ 3. The Authority shall be deemed to be a public instrumentality, exercising public and essential governmental functions to provide for the public health, welfare, convenience and prosperity of the residents of the City of Chesapeake and such other persons who might be served by the Authority ("its service area") and to provide improved medical care and related services to such residents and persons and is hereby authorized to exercise the powers conferred by the following sections. (1966, c. 271; 1987, c. 396)

§ 4. The Authority may plan, design, construct, renovate, enlarge, equip, maintain and operate projects for the purpose of providing medical care and related services and other appropriate purposes. The Authority may lease, sell or otherwise convey any or all of its projects to others who agree to provide for the operation of the same if the Authority determines that such sale, lease or other conveyance will assist, promote or further the purposes and intent of this act, subject to the provisions of § 5 below.

"Projects" as used in this act shall mean any medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all medical facilities and equipment, including, without limitation, hospitals, nursing homes, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill, residential facilities for nurses, interns, and physicians and any other kind of facility for the treatment of sick, disturbed or infirm persons, together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, parking facilities, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

"Operating project" as used in this act shall mean any project operated by the Authority or directly controlled by the Authority and shall include, without limitation, parking facilities operated by the Authority or an agent therefor and medical office buildings with respect to which the Authority exercises the normal powers of a landlord. (1966, c. 271; 1987, c. 396; 1993, cc. 281, 300)

§ 5. The Authority may acquire property, real or personal, by purchase, gift, devise or by the exercise of the power of eminent domain, on such terms and conditions, and in such manner as it may deem proper, and such rights, easements or estates therein as may be necessary for its purposes, and sell, lease and dispose of the same, or any portion thereof or interest therein whenever it shall become expedient to do so and in any manner it deems appropriate, including without limitation by the granting of mortgages and other liens, the conveyance of property to related entities and the disposition of property no longer necessary or desirable for its operations; provided, however, that the Authority may not sell or otherwise dispose of all, or substantially all, of its property providing hospital care, other than to an entity controlled by the Authority, without the approval of the City Council of the City of Chesapeake, expressed in a resolution. For purposes of the previous sentence, the granting of mortgages, deeds of trust, security interests, and other liens as security for indebtedness or other obligations of the Authority shall not be considered a sale or other disposition nor shall approval of the City Council be required for any sale or other disposition resulting from the execution or foreclosure or other enforcement of such liens or other security devices. The exercise of the power of eminent domain shall be in accordance with Chapter 1.1 of Title 25 of the Code of Virginia and shall be exercised only within the corporate limits of the City of Chesapeake and only for the purpose of acquiring property to be used for operating projects. No property of any corporation itself having the power of eminent domain may be condemned hereunder. (1966, c. 271; 1987, c. 396; 1993, cc. 281, 300)

§ 6. The Authority may fix and revise from time to time and charge and collect rates, rentals, fees and other charges for the services and facilities furnished by the Authority, and establish and revise from time to time regulations, in respect to the use, occupancy or operation of any such facility or part thereof, or service rendered. (1966, c. 271)

§ 7. The Authority may accept loans, grants, or assistance from the federal government, the Commonwealth, any municipality thereof, or from any other sources, public or private, to carry out any of its purposes and may enter into any agreement or contract regarding or relating to the acceptance or use or repayment of any such loan, grant or assistance. This power shall include the power to refinance all or any portion of the Authority's debt, to renegotiate the terms of all or any portion of such debt, and to retire all or any portion of such debt prior to its maturity date. (1966, c. 271; 1987, c. 396; 2006, c. 658)

§ 7.1. The Authority shall have the following powers to carry out the purposes and intent of this act:

(1) To provide or assist in providing medical care and related services in its service area.

(2) To promote, develop, improve and increase the commerce and economic development of the City of Chesapeake and its environs.

(3) To assist in or provide for the creation of domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities, and to purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares of or other interests in, or obligations of, any domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any domestic or foreign stock or nonstock corporation, limited liability company, partnership, limited partnership, association, foundation or other supporting organization, joint venture or other entity organized for any purpose or any individual. The investment of funds held by the Authority, or contributed to its affiliated foundations, shall be exempt from the application of the Investment of Public Funds Act, Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 of the Code of Virginia. The investments of any entity wholly owned or controlled by the Authority that is an "institution," as such term is defined in § 55-268.12, shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 55-268.11 et seq.) of the Code of Virginia.

(4) To provide domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the Authority with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this act.

(5) To make loans and provide other assistance to domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities.

(6) To make contracts or guarantees, incur liabilities, borrow money, or secure any obligations of others.

(7) To transact its business, locate its offices and control, directly or through domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities, facilities that will assist or aid the Authority in carrying out the purposes and intent of this act.

(8) To participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations,

foundations or other supporting organizations or other entities for providing medical care or related services or other activities that the Authority may undertake to the extent that such undertakings assist the Authority in carrying out the purposes and intent of this act.

(9) To conduct or engage in any lawful business, activity, effort or project, necessary or convenient for the purposes of the Authority or for the exercise of any of its powers.

(10) To exercise all other powers granted to nonstock corporations pursuant to § 13.1-826 of the Code of Virginia, as amended.

(11) To procure such insurance, participate in such insurance plans, or provide such self-insurance, or any combination thereof, as it deems necessary or convenient to carry out the purposes and provisions of this act. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its members, officers, directors, employees, or agents are otherwise entitled. (1987, c. 396; 2006, c. 658; 2019, cc. 249, 250)

§ 7.2. Notwithstanding the Virginia Freedom of Information Act (§ 2.2-3700 et seq) of the Code of Virginia, the Authority shall be permitted to conduct executive or closed meetings to discuss or consider the condition, acquisition or use of real or personal property or plans for the future of the Authority which could affect the value of property, real or personal owned or desirable for bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing and operational strategies that will affect competitive position; and the discussion or consideration of members of its medical staff, and qualifications and appointments thereto. The Authority shall follow the provisions of § 2.2-3712 when convening executive or closed meetings.

The Authority shall not be required to disclose records pertaining to the qualifications for or continued membership on its medial staff; proprietary information gathered by or in the possession of the Authority from third parties; contract cost estimates prepared for confidential use and awarding contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its staff; financial statements not publicly available which may be filed with the Authority from third parties; customer account information; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies that affect competitive position.

The Authority's exemptions from the Freedom of Information Act shall be limited to those activities specifically described in this section and those exemptions otherwise granted under the provisions of the Act. Except as specifically provided in this section, the Authority shall be subject to the provisions of the Freedom of Information Act.

Notwithstanding exemptions from the Freedom of Information Act granted by this section, the Authority shall comply with all applicable state reporting requirements. (1990, c. 419; 2006, c. 658)

§ 7.3. The provisions of the Virginia Public Procurement Act (§ 11-35 et seq. of the Code of Virginia) shall not apply to the Authority in the exercise of any power conferred under this chapter. The Authority shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services. (1998, cc. 666, 697)

§ 8. The Authority may borrow money and issue bonds as hereinafter provided. (1966, c. 271)

§ 9. In addition to the powers granted by general law or by charter, any county or municipality in the Commonwealth is empowered to cooperate with the Authority as follows:

(a) To make such appropriations and provide such funds for the operation and carrying out the purposes of the Authority as the governing body may deem proper, either by outright donation or by loan, or the governing body may agree with such Authority to take such action.

(b) To dedicate, sell, conveyor lease any of its interest in property, or grant easements, licenses or any other privileges therein to any such Authority.

(c) To cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with property of or any facility or project of such Authority.

(d) To furnish, dedicate, close, pave, install, grade or regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake.

(e) Plan or replan, zone or rezone any part of such county or municipality in connection with the use of any property of such Authority or any property adjacent to the property of such Authority or any of its facilities or projects which it is otherwise empowered to undertake, in accordance with general laws.

(f) To cause services to be furnished to the Authority of the character which such county or municipality is empowered to furnish.

(g) To purchase any of the bonds of such Authority or legally invest in such bonds any funds belonging to or within the control of such county or municipality and exercise all the rights of any holder of such bonds.

(h) To do any and all things necessary or convenient to aid or cooperate in the planning, undertaking, construction or operation of any of the plans, projects or facilities of such Authority.

(i) To enter into agreements with such Authority respecting action to be taken by such county or municipality pursuant to any of the above powers. (1966, c. 271; 1987, c. 396)

§ 10. The Authority is hereby authorized to issue bonds from time to time in its discretion for the purpose of paying all or any part of the cost of any project within its service area or for the purpose of paying or refunding, at or prior to the maturity thereof, any bonds previously issued by the Authority, the Commonwealth or any agency or political subdivision thereof . The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable as to principal and interest from any one or more of the following: (a) its revenues generally; (b) the income and revenues of a particular project (including revenues from the sale of or lease of such project); (c) the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds; (d) the proceeds of the sale or lease of any project or projects, whether or not they are financed from the proceeds of such bonds; (e) funds realized from the enforcement of security interests or other liens securing such bonds; (f) proceeds from the sale of bonds of the Authority; (g) payments due under letters of credit, policies of bond purchase agreements or other credit enhancements securing payment of bonds of the Authority; (h) any reserve or sinking funds created to secure such payment; or (i) other available funds of the Authority; however, bonds issued to finance the construction or acquisition of projects that are not operating projects of the Authority shall not be payable from revenues of the Authority generally or from any revenues derived from operating projects. "Bonds" as used in this act shall include bonds, notes, revenue certificates and other evidences of indebtedness.

"Cost" as used in the previous paragraph shall mean costs of construction, acquisition of lands, structures, rights-of-way, franchises, easements and other property rights and interests; costs of demolition, removal or relocation of buildings or structures; costs of labor, materials, machinery and all other kinds of equipment; financing charges; interest on bonds and other borrowing in connection with a project prior to and during construction thereof and for a period not exceeding one year after the completion of such construction; costs of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of costs and of revenues, feasibility studies, administrative expenses, including administrative expenses during the start-up of any facility; provisions for working capital to be used in connection with any project; reserve funds and other reserves for the payment of principal and interest on bonds; and all other expenses necessary, desirable or incidental to the construction and acquisition of projects, the financing of the same or placing of the same in operation.

Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, or a pledge of any income or revenues of the Authority, or a mortgage of or a deed of trust or other lien on or a security .interest in, any particular project or projects or other property of the Authority.

Neither the members of the Authority nor any person executing any bonds issued under the provisions of this act shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the Authority (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof and neither the Commonwealth nor any political subdivision thereof other than the Authority shall be liable thereon, nor shall such bonds or obligations be payable out of any funds or properties other than those of the Authority. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of the Authority are declared to be issued for an essential public and governmental purpose. (1966, c. 271; 1987, c. 396)

§ 11. Bonds of the Authority shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest payable at such time or times at such rate or rates, as may be determined by the Authority, or as may be determined in such manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by the Authority, and may be made redeemable before maturity, at the option of the Authority at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and Interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and Interest. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payments of principal of and premium, if any, and interest on such bonds. The Authority may contract for the services of one or more banks, trust companies, financial institutions or other entities or persons, within or outside the Commonwealth, for the authentication, registration, transfer, exchange and payment of the bonds, or may provide such services itself. The Authority may sell such bonds in

such manner, either at public or private sale, and for such price, as It may determine to be for the best interests of the Authority.

Prior to the preparation of definitive bonds the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act. (1966, c. 271; 1971, c. 97; 1987, c. 396)

§ 12. In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust indenture by way of conveyance, deed of trust or mortgage of any project or any other property of the Authority, whether or not financed in whole or in part from the proceeds of such bonds, or by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth or by both such conveyance, deed of trust or mortgage and indenture or trust agreement. Such trust indenture or agreement, or the resolution providing for the issuance of such bonds may pledge or assign fees, rents and other charges to be received. Such trust indenture or agreement, or resolution providing for the issuance of such bonds, may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants providing for the repossession and sale by the Authority or any trustees under any trust indenture or agreement of any project, or part thereof, upon any default under the lease or sale of such project, setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of any project or other property of the Authority, the amounts of fees, rents and other charges to be charged, the collection of such fees, rents, and other charges, and the custody, safeguarding and application of all moneys of the Authority, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any national bank with its main office in the Commonwealth or any other state or any bank or trust company incorporated under the laws of the Commonwealth or another state which may act as depository of the proceeds of such bonds or of other revenues of the Authority to furnish indemnifying bonds or to pledge such securities as may be required by the Authority. Such trust indenture or agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders.

In addition to the foregoing, such trust indenture or agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders, including, without limitation, provisions for the assignment to a corporate trustee or escrow agent of

any rights of the Authority in any project owned by, or leases or sales of any projects made by, the Authority. All expenses incurred in carrying out the provisions of such trust indenture or agreement or resolution or other agreements relating to any project, including those to which the Authority may not be a party, may be treated as a part of the cost of a project. (1966, c. 271; 1987, c. 396)

§ 13. The Authority is hereby authorized to fix, revise, charge and collect fees, rents and other charges for the use of any project. Such fees, rents and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the principal and any interest on such bonds secured by or otherwise to be paid by such revenues, as the same shall become due and payable, to create reserves for such purposes and for other purposes of the Authority and to pay the cost of maintaining, repairing and operating the project. Such fees, rents and charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth or any such participating political subdivision. The fees, rents and other charges received by the Authority may be applied and set aside from time to time in the order and in the manner as may be provided in such resolution or trust indenture or agreement including application to a sinking fund which may be pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. All pledges of such fees, rents and other charges to payment of bonds shall be valid and binding from the time when the pledge is made. The fees, rents and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. Except as may otherwise be provided in such resolution or such trust indenture or agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1966, c. 271; 1987, c. 396)

§ 14. All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. (1966, c. 271)

§ 15. Any holder of bonds, notes, certificates or other evidence of borrowing issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, except to the extent of the rights herein given may be restricted by such trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted

by this act or under such trust indenture or agreement or the resolution authorizing the issuance of such bonds, notes or certificates, and may enforce and compel the performance of all duties required by this act or by such trust indenture or agreement or resolution to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges. (1966, c. 271)

§ 16. The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of any project which the Authority is authorized to undertake will constitute the performance of an essential governmental function, no authority shall be required to pay any taxes or assessments upon any project acquired and constructed by it under the provisions of this act; and the bonds, notes, certificates or other evidences of debt issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. (1966, c. 271)

§ 17. Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligation is now or may hereafter be authorized by law. (1966, c. 271)

§ 18. This act shall constitute full and complete authority, without regard to the provisions of any other law, for the doing of the acts and things herein authorized, and shall be liberally construed to effect the purposes hereof. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act. (1966, c. 271)

Chesapeake Port Authority

Created
1987 Acts of Assembly, c. 397.

Amendments
1992, c. 700 (§§ 5, 6, 9)
2017, c. 162 (§ 1)

§ 1. Creation of Authority.

There is hereby created in the City of Chesapeake a political subdivision of the Commonwealth, with the public and corporate powers hereinafter set forth, to be known as the "Chesapeake Port Authority." The City Council of Chesapeake may by ordinance transfer any right, power, or privilege granted to the Chesapeake Port Authority by the creation of this act to the Chesapeake Economic Development Authority created pursuant to Article VII of Chapter 2 of the Code of Ordinances of the City of Chesapeake at which time the Chesapeake Port Authority shall be dissolved. (1987, c. 397; 2017, c. 162)

§ 2. Definitions.

Wherever used in this act, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall have the following meanings:

"Authority" shall mean the Chesapeake Port Authority created by this act.

"Authority facility" shall mean any or all harbor or seaport facilities, as described in subdivision 10 of § 6 of this act, now existing or hereafter acquired or constructed by the Authority under this act, together with any or all buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, water rights, franchises, machinery, equipment, furnishings, landscaping, utilities, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, acquired or constructed by the Authority.

"Bonds" shall mean notes, bonds and other evidences of indebtedness or obligations which the Authority is authorized to issue pursuant to this act.

"City" shall mean the City of Chesapeake, Virginia.

"Commonwealth" shall mean the Commonwealth of Virginia.

"Cost" shall mean, as applied to any Authority facility, the cost of construction; the cost of acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interest; the cost of demolishing, removing or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated; the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to and during construction and, if deemed advisable by the Authority, for a period not exceeding one year after completion of such construction, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing an Authority facility; administrative expenses; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions and improvements, and such other expenses as may be necessary or incident to the construction of an Authority facility; the

financing of such construction and the placing of an Authority facility in operation. Any obligation or expense incurred by the Commonwealth or any agency thereof, with the approval of the Authority, for studies, surveys, borings, preparation of plans and specifications or other work or materials in connection with the construction of an Authority facility shall be regarded as a part of the cost of an Authority facility and shall be reimbursed to the Commonwealth or such agency out of the proceeds of the bonds issued for such Authority facility as hereinafter authorized.

"Operating facility" shall mean any Authority facility operated by the Authority or directly controlled by the Authority for the purpose of carrying out the purposes and intent of this act. "Operating facility" shall include parking facilities operated by the Authority or an agent therefor and buildings with respect to which the Authority exercises the normal powers of a landlord. (1987, c. 397)

§ 3. Purposes of act.

It is the intent of the General Assembly in passing this act to facilitate the improvement and development of Authority facilities in the City for the purpose of increasing trade and commerce beneficial to the economy, prosperity and welfare of the City and the Commonwealth; to promote the development and operation of adequate, modern and efficient seaports and harbors through such aids and other such encouragement as may be authorized by the General Assembly; and to promote and encourage the acquisition, construction, operation and management of Authority facilities. (1987, c. 397)

§ 4. Activation of Authority.

The Authority shall not transact any business or exercise any powers under this act until the Council of the City, by resolution, shall declare that there is need for the Authority to function in the City. (1987, c. 397)

§ 5. Board of Commissioners.

A. The Authority shall be governed by a Board of Commissioners, consisting of five members appointed by the Council of the City. All powers and duties conferred upon the Authority shall be exercised by the Board of Commissioners.

B. Of the five members first appointed, one shall be appointed for a term of two years, two for terms of three years, and two for terms of four years. Thereafter they shall be appointed for terms of four years. Any vacancy shall be filled by appointment by the Council for the unexpired term. Each Commissioner shall continue, however, to hold office until his successor has been appointed and qualified. Each Commissioner, before entering upon the duties of his office, shall take and subscribe the oath prescribed by § 49-1 of the Code of Virginia, and a certificate of the same shall be filed with the City Clerk. No Commissioner shall be an officer or employee of the City. Every Commissioner shall be a resident of the City at the time of his appointment and during the term of his office. When a

Commissioner ceases to be a resident of the City, his office shall be deemed vacant and a new Commissioner shall be appointed for the remainder of the term so vacated.

C. Commissioners shall enter upon the performance of their duties immediately upon their appointment. The Commissioners shall annually elect one Commissioner chairman and another vice-chairman. The Commissioners shall also annually elect a secretary and a treasurer, each of whom may be, but need not be, one of the Commissioners. The positions of secretary and treasurer may be held by the same person. Three Commissioners shall constitute a quorum for the transaction of business, except that no Authority facility shall be leased or disposed of in any manner without a majority vote of all the Commissioners then in office. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the powers and perform all the duties of the Board. The Board of Commissioners may hold such regular and special meetings as it may deem necessary or convenient.

D. A Commissioner shall receive no salaries, but shall be reimbursed for necessary traveling and other expenses incurred while engaged in the performance of their duties.

E. A Commissioner may be removed from office by the Council of the City for malfeasance, misfeasance, incompetency or gross neglect of official duty, but a Commissioner may be removed only after he shall have been given a copy of the charges against him, at least ten days prior to the hearing thereon before the Council, and had an opportunity to be heard in person or by counsel. In event of the removal of a Commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the City Clerk.

F. Any meeting of the Board of Commissioners at which formal action is taken shall be open to the public. The Board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 2.1-164 of the Code of Virginia, it shall arrange to have the same audited annually. Copies of each such audit shall be furnished to the Council of the City and shall be open to public inspection. (1987, c. 397; 1992, c. 700)

§ 6. Powers of Authority.

The Authority shall have the following powers, together with all other powers incidental thereto or necessary or convenient for the performance of those hereinafter stated, to carry out the purposes and intent of this act:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties.
2. To adopt and use a corporate seal and to alter the same at pleasure.
3. To contract and be contracted with.

4. To acquire, whether by purchase, exchange, gift, lease or otherwise, and to improve, maintain, equip and furnish one or more Authority facilities, including all real and personal properties which the Board of Commissioners may deem necessary or convenient in connection therewith and regardless of whether or not any such Authority facility shall then be in existence.

5. To lease to others any or all Authority facilities and to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the provisions thereof; and to include in any such lease, if desired, a provision that the lessee thereof shall have options to renew such lease or to purchase any or all of leased Authority facilities, or that upon payment of all of the indebtedness of the Authority it may lease or convey any or all Authority facilities to the lessee thereof with or without consideration.

6. To sell, exchange, donate and convey any or all Authority facilities or properties whenever its Board of Commissioners shall find any such action to be in furtherance of the purposes for which the Authority was organized.

7. To issue bonds for the purpose of carrying out any of its powers, and to secure the same as provided herein.

8. To employ a director and such other agents and employees, including attorneys, as the Board of Commissioners may find to be necessary or convenient, to serve at the pleasure of the Commission, and to fix their compensation and prescribe their duties.

9. To exercise all powers expressly given the Authority by the Council of the City and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this act, deemed by the Board of Commissioners to be expedient for the management of the Authority's affairs, including regulations affecting the safety and security of Authority facilities or property.

10. To acquire, lease, construct, maintain, operate and sell landings, wharves, docks, piers and quays, and the approaches to and appurtenances thereof, ships, tracks, spurs, crossings, switchings, terminals, warehouses, elevators, compressors, refrigerated storage plants, and terminal facilities of every kind necessary or useful in the transportation and storage of goods, to perform any services at such facilities in connection with the receipt, delivery, shipment and transfer in transit, weighing, marking, tagging, ventilating, fumigating, refrigerating, icing, storing and handling of goods, to prescribe and collect charges from vessels using any landings, wharves, docks and piers, operated and maintained by the Authority and from persons using any of its other facilities, and to lease or sell any and all of such facilities or any concessions properly incident thereto for the maintenance and operation of any or all thereof on such terms as it may deem proper.

11. To promote and improve the commerce of the Port of Chesapeake.

12. To maintain and operate a free port under such terms as may be prescribed by law.

13. To develop, maintain and operate a foreign trade zone under such terms as are or may be prescribed by law.

14. To appoint a Ports Advisory Committee, consisting of such number of persons as the Board of Commissioners may deem advisable to advise the Authority. Members of the Committee shall not receive any compensation for their services, but may be reimbursed for necessary traveling and other expenses incurred while on the business of the Authority.

15. To undertake or make arrangements for the dredging of approaches to any harbor or seaport facility in the Port of Chesapeake and to construct shipping facilities and transportation facilities in the Port of Chesapeake.

16. To issue periodicals and carry and charge for advertising therein.

17. To borrow money and to accept contributions, grants and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, the City, or any other political subdivision, agency or public instrumentality of the Commonwealth, for or in aid of the construction, acquisition, ownership, maintenance or repair of Authority facilities or for the payment of principal of any bond of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to comply with such conditions and to execute such agreements, trust indentures, and other legal instruments as may be necessary, convenient or desirable and to agree to such terms and conditions as may be imposed.

18. To exercise the power of eminent domain to acquire property within the City to be used for operating facilities, or any interest therein, however held, but not property of the Commonwealth or its agencies, and to exercise the same for the purposes set forth in this act in the manner and to the extent set forth in, and subject to the provisions of, Title 25 of the Code of Virginia. However, the Authority shall have no power to condemn any property belonging to any other political subdivision of the Commonwealth, or to any common carrier or public utility or other public service corporation, which is being devoted to public use or service. Whether property is being devoted to public use or service in the case of a common carrier, public utility or public service corporation, shall be decided by the State Corporation Commission in a proceeding under § 25-233 and in the case of a political subdivision shall be decided by the court in which the proceeding is brought.

19. To assist in or provide for the creation of stock and nonstock corporations and to purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares or other interests in, or obligations of, any domestic or foreign corporations organized for any purpose, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any association, partnership, or individual or any other domestic or foreign corporation organized for any purpose.

20. To provide corporations, partnerships or other entities owned in whole or in part or controlled, directly or indirectly, by the Authority with appropriate assistance, including providing time of employees, in carrying out activities related to the providing of improved ports and port facilities.

21. To make contracts or guarantees, incur liabilities, borrow money, or secure any obligations of others if the Authority determines that such undertakings will assist in providing improved ports and port facilities.

22. To participate in joint ventures with corporations, partnerships, individuals or other entities to the extent that such undertakings assist the Authority in providing improved ports and port facilities.

23. To finance Authority facilities within the boundaries of the City and, in connection with such financing of Authority facilities, to acquire, construct, improve, maintain, equip, and furnish such Authority facilities to the same extent and subject to the same restrictions imposed on industrial development authorities by § 15.1-1378 of the Code of Virginia as amended or hereafter amended.

24. To acquire, construct, and/or equip for sale or lease, on such terms and conditions as it may deem proper, factories or manufacturing facilities of any kind and description and approaches to and appurtenances thereof and, without limitation, any other facilities as defined by Chapter 33 (§ 15.1-1373 et seq.) of Title 15.1 of the Code of Virginia as amended or hereafter amended, all for the purposes set forth in this chapter or in Chapter 33 (§ 15.1-1373 et seq.) of Title 15.1 of the Code of Virginia as amended or hereafter amended. (1987, c. 397; 1992, c. 700)

§ 7. Powers of City.

In addition to the powers granted by general law or by its charter, the City is empowered to cooperate with the Authority as follows:

1. To make such appropriations and provide such funds for the operation and carrying out the purposes of the Authority as its Council may deem proper, either by outright donation or by loan.

2. To dedicate, sell, convey or lease any of its interest in property, or grant easements, licenses or any other privileges therein to the Authority.

3. To furnish, dedicate, close, pave, install, grade or regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake.

4. To plan or replan, zone or rezone any part of the City in connection with the use of any property of the Authority or any property adjacent to the property of the Authority or any Authority facility which it is otherwise empowered to undertake, in accordance with general laws.

5. To cause services to be furnished to the Authority of the character which the City is empowered to furnish.

6. To purchase any of the bonds of the Authority or legally invest in such bonds any funds belonging to or within the control of the City and exercise all the rights of any holder of such bonds.

7. To do any and all things necessary or convenient to aid or cooperate in the planning, undertaking, construction or operation of any of the plans, projects or facilities of the Authority.

8. To enter into agreements with the Authority respecting action to be taken by the City pursuant to any of the above powers. (1987, c. 397)

§ 8. Issuance of bonds.

The Authority is hereby authorized to issue bonds from time to time in its discretion for the purpose of paying all or any part of the cost of any Authority facility or for the purpose of paying or refunding, at or prior to the maturity thereof, any bonds previously issued by it or by the Commonwealth or any other agency or political subdivision thereof originally issued for a purpose not inconsistent with the purposes of this act. The Authority may issue such types of bonds as it may determine including, without limitation, bonds payable as to principal and interest from any one or more of the following: (i) its revenues generally; (ii) the income and revenues of a particular Authority facility; (iii) the income and revenues of certain designated Authority facilities, including the revenues from the sale or lease of such Authority facilities, whether they are financed in whole or in part from the proceeds of such bonds; (iv) the proceeds of the sale or lease of any one or more Authority facilities, whether or not they are financed from the proceeds of such bonds; (v) funds realized from the enforcement of security interests or other liens securing such bonds; (vi) proceeds from the sale of bonds of the Authority; (vii) payments due under letters of credit, policies of bond insurance, bond purchase agreements or other credit enhancements securing payment of principal of and interest on bonds of the Authority; (viii) any reserve or sinking funds created to secure such payment; or (ix) other available funds of the Authority; provided, that bonds issued to finance the construction or acquisition of any Authority facility that is not an operating facility shall not be payable from revenues of the Authority generally or from any revenues derived from operating facilities.

Any such bonds may be additionally secured by a pledge of any grant or contribution from the City, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association or individual, or a pledge of any income or revenues of the Authority, or a mortgage of or a deed of trust or other lien on or a security interest in any particular Authority facility or other property of the Authority.

Neither the Commissioners of the Authority nor any person executing any bonds issued under the provisions of this act shall be liable personally on the bonds by reason of the issuance thereof. The bonds of the Authority, and such bonds shall so state on their face, shall not be a debt of the Commonwealth or any political subdivision thereof, and neither the Commonwealth nor any political subdivision thereof other than the Authority shall be liable thereon, nor shall such bonds be payable

out of any funds or properties other than those of the Authority. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction.

The Authority shall have the power out of any funds available therefor to purchase its bonds. The Authority may hold, pledge, cancel or resell such bonds subject to and in accordance with agreements with bondholders. (1987, c. 397)

§ 9. Form, details and sale of bonds.

Bonds of the Authority shall be authorized by resolution of the Board of Commissions and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest payable at such time or times at such rate or rates as may be determined by the Authority, or as may be determined in such manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by the Authority, and may be made redeemable before maturity at the option of the Authority at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payments of principal of and premium, if any, and interest on such bonds. The Authority may contract for the services of one or more banks, trust companies, financial institutions or other entities or persons, within or outside the Commonwealth, for the authentication, registration, transfer, exchange and payment of bonds, or may provide such services itself. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be in the best interests of the Authority.

Prior to the preparation of definitive bonds the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

All bonds issued under the provisions of this chapter shall have all the qualities and incidents of negotiable instruments under Titles 8.1 through 8.11 of the Code of Virginia, subject only to the provisions of such titles respecting registration of the bonds. (1987, c. 397; 1992, c. 700)

§ 10. Provisions of trust indenture or agreement.

In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust indenture by way of conveyance, deed of trust or mortgage of any Authority facility or any other property of the Authority, whether financed in whole or in part from the proceeds of such bonds, or by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth, or by both such conveyance, deed of trust or mortgage and indenture or trust agreement. Such trust indenture or agreement, or the resolution providing for the issuance of such bonds, may pledge or assign fees, rents and other charges to be received by the Authority.

Such trust indenture or agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants providing for the repossession and sale by the Authority or any trustee under any such trust indenture or agreement of any Authority facility, or part thereof, upon any default under the lease or sale of such Authority facility or under any such trust indenture or agreement, setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of any Authority facility or other property of the Authority, the amount of fees, rents or other charges to be charged, the collection of such fees, rents and other charges and the custody, safeguarding and application of all moneys of the Authority, and conditions or limitations with respect to the issuance of additional bonds. It shall lawful for any national bank with its main office in the Commonwealth or any other state or any bank or trust company incorporated under the laws of the Commonwealth or another state which may act as depository of the proceeds of such bonds or of other revenues of the Authority to furnish indemnifying bonds or to pledge such securities as may be required by the Authority. Such trust indenture or agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders.

In addition to the foregoing, such trust indenture or agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders, including, without limitation, provisions for the assignment to a corporate trustee or escrow agent of any rights of the Authority in any Authority facility owned by, or leases or sales of any Authority facility made by, the Authority. All expenses incurred in carrying out the provisions of such trust indenture or agreement or resolution or other agreements relating to the Authority facility, including those to which the Authority may not be a party, may be treated as a part of the cost of an Authority facility. (1987, c. 397)

§ 11. Fees and charges.

The Authority is hereby authorized to fix, revise, charge and collect fees, rents and other charges for the use of any Authority facility. With respect to an operating facility, such fees, rents and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing and operating such facility and the principal of or any interest on such bonds as the same shall become due and payable and to create reserves for such purposes and for other purposes of the Authority. Such fees, rents and charges shall not be subject to supervision or regulation by any agency of the Commonwealth or any such participating political subdivision. The fees, rents and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust indenture or agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust indenture or agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. All such pledges shall be valid and binding from the time when the pledge is made. The fees, rents and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture or agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. Except as may otherwise be provided in such resolution or trust indenture or agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

With respect to Authority facilities other than operating facilities, the fees, rents and other charges with respect to any Authority facility shall be fixed and adjusted to provide for the payment of principal of and premium, if any, and interest on such bonds as the same become due and to provide all costs incurred by the Authority in connection with the maintenance and repair of such Authority facility. (1987, c. 397)

§ 12. Moneys deemed trust funds.

All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. (1987, c. 397)

§ 13. Exercise of powers constitutes governmental functions; exemption from taxation.

The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and is hereby deemed to be performing essential governmental functions. Accordingly, the Authority shall not be required to pay any taxes or assessments upon any Authority facility or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom; nor shall the agents, lessees, sublessees or users of tangible personal property owned by or leased to the Authority be required to pay any sales or use tax upon such property or the revenue derived therefrom; and the bonds issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof. (1987, c. 397)

§ 14. Authority to be nonprofit; excess earnings.

The Authority shall be nonprofit, and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation, except that in the event the Board of Commissioners of the Authority shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the Authority then any net earnings of the Authority thereafter accruing shall be paid to the City. However, nothing herein contained shall prevent the Board of Commissioners from transferring all or any part of its Authority facilities or properties in accordance with the terms of any contract entered into by it. (1987, c. 397)

§ 15. Dissolution of Authority; disposition of property.

Whenever the Board of Commissioners of the Authority shall by resolution determine that the purposes for which the Authority was formed have been substantially complied with and all bonds theretofore issued and all obligations theretofore incurred by the Authority have been fully paid, or that such payment has been adequately provided for, the then members of the Board of Commissioners of the Authority shall thereupon execute and file for record with the Council of the City, a resolution declaring such facts. If the Council of the City is of the opinion that the facts stated in the Authority's resolution are true and that the Authority should be dissolved, it shall so resolve and the Authority shall stand dissolved. Upon such dissolution, the title to all funds and properties owned by the Authority at the time of such dissolution shall vest in the City and possession of such funds and properties shall forthwith be delivered to the City. (1987, c. 397)

§ 16. Bonds legal investments and lawful security.

The bonds issued pursuant to this act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians and for all public funds of the Commonwealth or other political corporations or subdivisions of the Commonwealth. Such bonds shall be eligible to secure the deposit of any and all public funds of the Commonwealth, and any and all public funds of cities,

towns, counties, school districts or other political corporations or subdivisions of the Commonwealth, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto. (1987, c. 397)

§ 17. Authority acting jointly with other entities.
The powers herein conferred upon the Authority may be exercised by the Authority acting jointly with the Commonwealth or one or more other agencies or political subdivisions thereof. (1987, c. 397)

§ 18. Provisions of act cumulative; construction.
Neither this act nor anything herein contained shall be construed as a restriction or limitation upon any powers which the Authority might otherwise have under any laws of this Commonwealth, but shall be construed as cumulative of any such powers. No proceedings, notice or approval shall be required for the organization of the Authority or the issuance of any bonds or any instrument as security therefor, except as herein provided, any other law to the contrary notwithstanding. However, nothing herein shall be construed to deprive the Commonwealth and its political subdivisions of their respective police powers over properties of the Authority or to impair any power thereover of any official or agency of the Commonwealth and its political subdivisions which may be otherwise provided by law. (1987, c. 397)

§ 19. Severability; provisions of act controlling.
The powers granted and the duties imposed in this act shall be construed to be independent and severable. If any one or more sections, subsections, sentences or parts of this act shall be adjudged unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the remaining provisions hereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid. Any provision of this act which is found to be in conflict with any other statute or charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict. (1987, c. 397)

§ 20. Use of waters.
The Commonwealth hereby consents to the use by the Authority, in the performance of its duties hereunder, of all lands lying under the waters of the Commonwealth which are deemed by the Authority to be necessary or convenient for the construction or operation of any Authority facility. (1987, c. 397)

Chesapeake Water Authority

Created
1970 Acts of Assembly, c. 743.

§ 1. This may be cited as the "Chesapeake Water Authority Act." (1970, c. 743)

§ 2. There is hereby created and constituted a political subdivision of the Commonwealth to be known as the Chesapeake Water Authority. The exercise by the Authority of the powers conferred by this act in the construction, operation and maintenance of a project authorized by this act shall be deemed and held to be in the performance of an essential governmental function. The Authority shall consist of three members, unless increased as provided in § 2.1 hereof, elected by the governing body of his city, but not from the membership thereof, and shall serve for the term of four years.

The initial terms of office shall extend from the organizational meeting of the Authority, until its annual meetings quadrennially thereafter. All vacancies in the membership of the Authority, whether caused by expiration of term of office, death, resignation or otherwise, shall be filled by the governing body of the city. Any member of the Authority may be elected to succeed himself. Each member, duly appointed shall hold office until his successor shall be appointed and duly qualified. Any member, appointed to fill an unexpired term, shall serve only for the term of the member he or she replaced.

The Authority shall elect one of its members as chairman and another member as vice-chairman, both of whom shall be elected for a term of one year, the first chairman and vice-chairman to serve from the organizational meeting of the Authority until the next annual meeting or until their successors are elected and qualified. Subsequent chairmen and vice-chairmen shall be elected at the annual meeting of the Authority for a term of one year. It shall also elect a secretary and treasurer who does not necessarily have to be a member of the Authority and, if not a member, he or she shall have no voting rights and shall be elected to serve for such term as may be determined by the Authority. If a member of the Authority is elected to serve as secretary and treasurer, he or she shall be elected in the same manner and for the same term as the chairman and vice-chairman. No member of the Authority shall hold more than one office except that of secretary and treasurer. Two members of the Authority eligible to vote shall constitute a quorum, unless the membership of the Authority is increased as provided in § 2.1 hereof, in which case a quorum shall constitute a majority of the members of the Authority. A majority of the quorum is empowered to exercise all the rights and perform all the duties of the Authority and no vacancy on the Authority shall impair the right of the quorum to act. The members of the Authority shall serve without compensation except that they shall be reimbursed for actual expenses incurred in the performance of their duties. The Authority shall make rules and regulations for its own government. It shall have perpetual existence. (1970, c. 743)

§ 2.1. Any county or city may, with the approval of its governing body, and with the approval of the governing body of the city in which the Authority is created, join and participate in the Authority in the exercise of the powers and duties conferred by this act. In such event, the membership of the Authority shall be increased so that such county or city shall elect three members of the Authority in the same manner and for the same terms as provided in § 2. (1970, c. 743)

§ 3. As used in this act, the following words and terms shall have the following meanings:

(a) The word "Authority" shall mean the Chesapeake Water Authority created in § 2 of this act.

(b) The word "project" shall be deemed to mean and include the acquisition, construction, equipping, maintenance and operation of a water system, water mains and the usual facilities related thereto, and extensions and improvements of such facilities, acquiring the necessary property therefor, both real and personal, and the lease and sale of any part or all of such facilities, including real and personal property, so as to assure the efficient and proper development, maintenance and operation of such facilities and areas, deemed by the Authority to be necessary, convenient or desirable.

(c) The term "cost of the project" shall embrace the cost of construction, the cost of all lands, properties, rights, easements and franchises acquired and the cost of all conveyances in fee simple of the Authority's title thereto and leases thereof, the cost of preparing the land, including the installation of storm and sanitary sewers, the cost of all machinery, equipment and furnishings related to the operation of any project, financing charges, interest prior to and during construction, and for six months after completion of construction, cost of engineering, fiscal and legal expenses, and other expenses necessary or incident to determining the feasibility or practicability of the project, administrative expenses and such other expenses as may be necessary or incident to the financing herein authorized, and the cost of placing any project in operation. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the "cost of the project" and may be paid or reimbursed as such out of any funds of the Authority, including the proceeds of any revenue bonds issued under the provisions of this act for any such project or projects.

(d) The word "bonds" or the words "revenue bonds" shall mean revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this act.

(e) The word "owner" shall include all individuals, copartnerships, associations or corporations and also municipalities, political subdivisions and all public agencies and instrumentalities having any title or interest in any property, rights, easements and interests authorized to be acquired by this act.

(f) Any project shall be deemed "self-liquidating" if, in the judgment of the Authority, the revenues and earnings to be derived by the Authority therefrom and all properties used, leased and sold in connection therewith will be sufficient to pay the principal and interest of the revenue bonds which may be issued to finance, in whole or in part, the cost of such project or projects. (1970, c. 743)

§ 4. The Authority shall have powers:

(a) To have a seal and alter the same at pleasure;

(b) To acquire by gift, purchase, lease or otherwise, and to hold, lease and dispose of real and personal property of every kind and character for its corporate purposes;

(c) To appoint, select and employ officers, agents and employees, including engineering and construction experts, fiscal agents and attorneys, and fix their respective compensations;

(d) To make contracts, leases and to execute all instruments necessary or convenient, including contracts for construction of projects and leases of projects or contracts with respect to the use of projects which

it causes to be erected or acquired, and to dispose by conveyance of its title in fee simple of real and personal property of every kind and character, and any and all persons, firms and corporations, all cities, towns and counties, and any and all political subdivisions, departments, institutions or agencies of the State are hereby authorized to enter into contracts, leases or agreements with the Authority upon such terms and for such purposes as they deem advisable;

(e) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, furnish, operate and manage projects, as hereinabove defined, the cost of any such project to be paid in whole or in part from the proceeds of revenue bonds or other funds of the Authority or from such proceeds or other funds made available to the Authority;

(f) To accept loans and/or grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof, upon such terms and conditions as the United States of America or such agency or instrumentality, may impose;

(g) To accept loans and/or grants of money or materials or property of any kind from the State of Virginia or any agency or instrumentality or political subdivision thereof, upon such terms and conditions as the State of Virginia or such agency or instrumentality or political subdivision may impose;

(h) To borrow money for any of its corporate purposes and to execute evidences of such indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from funds pledged for that purpose, and to provide for the payment of the same and for the rights of the holders thereof;

(i) To exercise any power usually possessed by private corporations performing similar functions, which is not in conflict with the Constitution and laws of this State;

(j) The Authority and any trustee acting under any trust indenture, are specifically authorized from time to time to sell, lease, grant, exchange or otherwise dispose of any surplus property, both real and personal, or interest therein not required in the normal operation of and usable in the furtherance of the purpose for which the Authority was created, except as such right and power may be limited as provided in § 10 hereof;

(k) To do all things necessary or convenient to carry out the powers expressly given in this act. (1970, c. 743)

§ 5. (a) The Authority is hereby authorized and empowered to acquire by purchase solely from funds provided under the provisions of this act, such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and the commissions of the Commonwealth, with the approval of the Governor, notwithstanding any contrary provisions of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court or other action or formality, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public highways and other real property already devoted to public use.

(b) The Authority is authorized and empowered to acquire by the exercise of the power of eminent domain limited to the definition of "project" as set forth herein, any lands, property, rights, rights-of-way, franchises, easements and other property, including parts thereof or rights therein, located in any city or county participating in the Authority and not owned by any city or county not participating in the Authority, of any person, copartnership, association, public service, public utility or other corporation, or of the county, deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration, replacement or relocation of public or private property damaged or destroyed, whenever a reasonable price cannot be agreed upon or whenever the Authority cannot agree on the terms of purchase or settlement with the owner or owners because of the incapacity of such owner or owners or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because such owner or owners are nonresidents of the Commonwealth, or are unknown, or are unable to convey valid title to such property. Such proceedings shall be in accordance with and subject to the provisions of any and all laws of the Commonwealth applicable to the exercise of the power of eminent domain in the same manner as provided in Chapter 1.1 of Title 25, and the provisions of such chapter shall apply to proceedings brought hereunder mutatis mutandis. This Authority shall not have the power of eminent domain as to any property owned by the cities of Norfolk and Portsmouth.

The acquisition of any such property by condemnation or by the exercise of the power of eminent domain shall be and is hereby declared to be a public use of such property.

(c) Title to any property acquired by the Authority shall be taken in the name of the Authority.

(d) In any eminent domain proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the Authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss

or damage by reason of the failure of the Authority to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security nor any act or obligation of the Authority shall impose any liability upon the Commonwealth or upon any county, or other political subdivision of the Commonwealth.

(e) If the owner, lessee or occupier of any property condemned or otherwise acquired shall refuse to remove his property therefrom or give up possession thereof, the Authority may proceed to obtain possession in any manner provided by law. (1970, c. 743)

§ 6. The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates as shall be fixed by the Authority, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority; at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bond and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this act.

The proceeds of the bonds shall be used solely for the payment of the cost of the project, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in

the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this act. (1970, c. 743)

§ 7. In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not conveyor mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project, the rates of toll or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project. (1970, c. 743)

§ 8. The Authority is hereby authorized to fix, revise and charge for the use of the services furnished by the project and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the project for placing thereon telephone, telegraph, electric light or power lines, and to fix the terms, conditions, rents and rates of charges for such use. Such charges shall be so fixed and adjusted in respect of the aggregate of the charges from

the project as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such project and (b) the principal of and interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. The revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution or any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or 1 of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1970, c. 743)

§ 9. All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. The Authority shall, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues to be received by a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this act, subject to such regulations as this act and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds. (1970, c. 743)

§ 10. Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce, any and all rights under the laws of the Commonwealth or granted by this act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such

agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of such charges. (1970, c. 743)

§ 11. The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom; and the bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof. (1970, c. 743)

§ 12. The Authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable. (1970, c. 743)

§ 13. Without limiting the generality of any provisions of this act, the general purpose of the Authority is declared to be that of acquiring, constructing, equipping, maintaining and operating a water system, water mains incident thereto and the usual facilities appertaining to such undertakings; the extension and improvement of such facilities; acquiring the necessary property therefor, both real and personal, with the right to contract for the use of or to lease or sell any or all of such facilities, including real property, and to do any and all things deemed by the Authority necessary, convenient and desirable for and incident to the efficient and proper development and operation of such types of undertakings. (1970, c. 743)

§ 14. It shall be the duty of the Authority to prescribe rules and regulations for the operation of the project or projects constructed under the provisions of this act. (1970, c. 743)

§ 15. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing. (1970, c. 743)

§ 16. This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1970, c. 743)

§ 17. The provisions of this act are severable and if any of its pro- visions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein. (1970, c. 743)

§ 18. All other general or special laws inconsistent with any provision of this act are hereby declared to be inapplicable to the provisions of this act. (1970, c. 743)

Chesterfield County Toll Road Authority

Created
1980 Acts of Assembly, c. 619.

§ 1. Definitions.
As used in this act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

1. The word "Authority" shall mean the Chesterfield County Toll Road Authority created by this act, or if the Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or on whom the powers given by this act to the Authority shall be conferred by law.

2. The words "Authority Facility" shall mean any or all facilities purchased, constructed or otherwise acquired by the Authority pursuant to the provisions of this act, and all extensions, improvements and betterments thereof.

3. "Project" shall mean any single facility constituting an Authority Facility, as described in the resolution or Trust Agreement providing for the construction thereof, including extensions, improvements and betterments thereof.

4. The word "cost" as applied to any Project shall include the cost of construction, landscaping and conservation, the cost of acquisition of all land, rights of way, property, rights, easements and interests acquired by the Authority for such construction, landscaping and conservation, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for a period of time after completion of construction as deemed advisable by the Authority, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing the Project, administrative expenses, initial working capital, debt service reserves, and such other

expenses as may be necessary or incident to the construction of the Project, the financing of such construction and the placing of the Project in operation. Any obligation or expense incurred by the State Department of Highways and Transportation or by the county of Chesterfield before or after the effective date of this act, for surveys, engineering, borings, plans and specifications, legal and other professional and technical services, reports, studies and data in connection with the construction of a Project shall be repaid or reimbursed by the Authority and the amounts thereof shall be included as a part of the cost of the Project.

5. The words "public highways" shall include public highways, roads and streets, whether maintained by the Commonwealth or by the county of Chesterfield.

6. The word "bonds" or the words "revenue bonds" shall mean revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this act.

7. The word "owner" shall include all individuals, partnerships, associations, organizations and corporations, the county of Chesterfield and all public agencies and instrumentalities having any title or interest in any property, rights, easements and interests authorized to be acquired by this act.

8. The words "controlled access highway" and "limited access highway" shall mean a highway especially designed for through traffic over or to which owners or occupants of abutting property or other persons have no easement of or right to light, air, view or access by reason of the fact that their property abuts upon such highway, and access to which highway is controlled by the Authority, the Commonwealth, or the county of Chesterfield so as to give preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections.

9. The word "revenues" shall mean any or all fees, tolls, rents, rates, receipts, moneys and income derived by the Authority through the ownership and operation of Authority Facilities, and shall include any cash contributions made to the Authority by the Commonwealth or any agency or department thereof and the county of Chesterfield not specifically dedicated by the contributor for a capital improvement.

10. The word "Commonwealth" shall mean the Commonwealth of Virginia. (1980, c. 619)

§ 2. Creation of the Authority.

There is hereby created a political subdivision and public body corporate and politic of the Commonwealth of Virginia to be known as the "Chesterfield County Toll Road Authority," hereinafter referred to as the "Authority," to be governed by a Board of Directors consisting of seven members to be appointed by the Board of Supervisors of Chesterfield County. The members of the Board shall be appointed for terms of four years and until their successors have been appointed and are qualified; provided, however, initial appointments may be for more or less than four years so as to stagger the Board. Vacancies in the membership of the Board shall be filled by the appointment of the governing

body of Chesterfield County for the unexpired portion of the term. The Board so appointed shall enter upon the performance of its duties and shall initially and annually thereafter elect one of its members as Chairman and another as Vice-Chairman, and shall also elect annually a Secretary or Secretary-Treasurer who need not be a member of the Board. The Chairman, or in his absence the Vice-Chairman, shall preside at all meetings of the Board, and in the absence of both the Chairman and Vice-Chairman, the Board shall elect a Chairman pro tempore who shall preside at such meetings. Four Directors shall constitute a quorum, and all action by the Board shall require the affirmative vote of a majority of the Directors present and voting. The members of the Board shall be entitled to reimbursement for expenses incurred in attendance upon meetings of the Board or while otherwise engaged in the discharge of their duties, and each member shall also be paid the sum of twenty-five dollars per day for each day or portion thereof during which he is engaged in the performance of his duties. Such expenses and compensation shall be paid out of the treasury of the Authority in such manner as shall be prescribed by the Authority. (1980, c. 619)

§ 3. Powers of the Authority.

In order to alleviate highway congestion, promote highway safety, expand highway construction, increase the utility and benefits and extend the services of public highways, including bridges, tunnels and other highway facilities, both free and toll, and otherwise contribute to the economy, industrial and agricultural development and welfare of the Commonwealth and the county of Chesterfield, the Authority shall have the following powers:

1. To contract and be contracted with; to sue and be sued; and to adopt and use a seal and to alter the same at its pleasure;

2. To acquire and hold real or personal property necessary or convenient for its purposes;

3. To sell, lease or otherwise dispose of any personal or real property or rights, easements or estates therein deemed by the Authority not necessary for its purposes;

4. To purchase, construct or otherwise acquire, maintain, repair and operate, or cause to be repaired, maintained and operated, controlled access express highways or super highways, within the boundaries of the county of Chesterfield, including all bridges, tunnels, overpasses, underpasses, grade separations, interchanges, entrance plazas, approaches, approach roads, tollhouses and administration, storage and other buildings and facilities which the Authority may deem necessary or convenient for the operation of such controlled access express highways or super highways. Title to any property acquired by the Authority shall be taken in the name of the Authority;

5. With the approval of the Board of Supervisors of the county of Chesterfield to own, operate and maintain rapid transit facilities for the transportation of the public, and to enter into contracts with any public service corporations doing business as common carriers of passengers and property for

the use of Authority Facilities for such purpose, and to construct, acquire, operate and maintain any other properties and facilities for the relief of traffic congestion or to promote the flow of commerce that the Board of Supervisors of Chesterfield County may request the Authority to provide;

6. The Authority is authorized and empowered to acquire by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways, or parkways, or parts thereof or rights therein, of any person, copartnership, association, railroad, public service, public utility or other corporation, or of any municipality, county or other political subdivision, deemed necessary or convenient for the construction or the efficient operation of the Project or necessary in the restoration, replacement or relocation of public or private property damaged or destroyed, whenever a reasonable price cannot be agreed upon with the governing body of such municipality, county or other political subdivision as to such property owned by it, or whenever the Authority cannot agree on the terms of purchase or settlement with the other owner or owners because of the incapacity of such owner or owners or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because such owner or owners are nonresidents of the Commonwealth, or are unknown, or are unable to convey valid title to such property. Such proceedings shall be in accordance with and subject to the provisions of any and all laws of the Commonwealth applicable to the exercise of the power of eminent domain by the State Department of Highways and Transportation as fully as if the Authority were a corporation possessing the power of eminent domain; provided, however, that title to any property condemned by the Authority shall immediately vest in the Authority and the Authority shall be entitled to the immediate possession of such property upon the deposit with the clerk of the court in which such condemnation proceedings are originated, of the total amount of the appraised price of the property and court costs and fees as provided by such laws, notwithstanding that any of the parties to such proceedings shall appeal from any decision in such condemnation proceeding. Whenever the Authority shall make such deposit in connection with any condemnation proceeding, the making of such deposit shall not preclude the Authority from appealing any decision rendered in such proceedings. Upon the deposit with the clerk of the court of the appraised price, any person or persons entitled thereto may, upon petition to the court, be paid his or their pro rata share of ninety per centum of such appraised price. The acceptance of such payment shall not preclude such person or persons from appealing any decision rendered in such proceedings. If the appraisement is greater or less than the amount finally determined by the decision in such proceeding or by an appeal, the amount of the increase or decrease shall be paid by or refunded to the Authority.

The terms "appraised price" and "appraisement" as used in this section mean the value determined by two competent real estate appraisers appointed by the Authority for such purposes. The

acquisition of any such property by condemnation or by the exercise of the power of eminent domain shall be and is hereby declared to be a public use of such property.

7. To determine the location of any controlled access express highways or super highways constructed or acquired by the Authority, subject to the approval of the State Department of Highways and Transportation and to determine the design standards and materials of construction of such highways;

8. To designate with the approval of the State Department of Highways and Transportation the location in the county of Chesterfield, and establish, limit and control such points of ingress to and egress from any limited access highway constructed by the Authority within the county as may be necessary or desirable in the judgment of the Authority to insure the proper operation and maintenance of such highway; to prohibit entrance to and exit from such highway from any point or points not so designated; and to construct, maintain, repair and operate service roads connecting with points of ingress to and egress from such highway at such locations in the county of Chesterfield as may be designated by the Authority;

9. To connect any highway constructed or acquired by the Authority with other highways or toll roads with the approval of the State Department of Highways and Transportation and the owner of such other toll roads, at such location or locations as shall be mutually agreed upon;

10. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including contracts or agreements authorized by this act with the State Department of Highways and Transportation and the county of Chesterfield;

11. To construct grade separations at intersections of any limited access highway constructed by the Authority with public highways, streets or other public ways or places, and to change and adjust the lines and grades thereof so as to accommodate the same to the design of the grade separation; the cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways, streets, ways and places shall be ascertained and paid by the Authority as part of the cost of such highway;

12. To vacate or change the location of any portion of any public highway, street or other public way or place, public utility, sewer, pipe, main, conduit, cable, wire, tower, pole and other equipment and appliances of the Commonwealth or of the county of Chesterfield, and to reconstruct the same in such new location as shall be designated by the Authority, and of substantially the same type and in as good condition as the original highway, street, way, place, public utility, sewer, pipe, main, conduit, cable, wire, tower, pole, equipment or appliance; the cost of such reconstruction and any damage incurred in vacating or changing the location thereof shall be ascertained and paid by the Authority as a part of the cost of the project in connection with which such expenditures are made;

and any public highway, street, or other public way or place vacated or relocated by the Authority shall be vacated or relocated in the manner provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the Authority as a part of the cost of the project;

13. To enter upon any lands, waters and premises for the purpose of making such surveys, soundings, borings and examinations as the Authority may deem necessary or convenient for its purposes, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry upon any condemnation proceedings; provided, however, the Authority shall pay any actual damage resulting to such lands, water and premises as a result of such entry and activities;

14. To operate or permit the operation of vehicles for the transportation of persons or property for compensation on any limited access highway constructed or acquired by the Authority, provided the State Corporation Commission or the Interstate Commerce Commission shall not be divested of jurisdiction to authorize or regulate the operation of such carriers;

15. To establish reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and appliances, herein referred to as "public utility facilities," of the county of Chesterfield and of public utility and public service corporations and of any person, firm or other corporation rendering similar services, owning or operating public utility facilities in, on, along, over or under highways constructed by the Authority; and whenever the Authority shall determine that it is necessary that any public utility facilities should be relocated or removed, the Authority may relocate or remove the public utility facilities in accordance with the regulations of the Authority and the cost and expense of such relocation or removal, including the cost of installing the public utility facilities in a new location or locations and the cost of any lands or any rights or interests in lands and any other rights acquired to accomplish such relocation or removal shall be paid by the Authority as a part of the costs of such highway, and the owner or operator of the public utility facilities may maintain and operate the public utility facilities with the necessary appurtenances in the new location or locations for as long a period and upon the same terms and conditions as it had the right to maintain and operate the public utility facilities in their former location or locations;

16. To borrow money and issue bonds, notes or other evidences of indebtedness for any of its corporate purposes as provided in this act payable solely from the revenues pledged for the payment of such bonds, notes or other evidences of indebtedness;

17. To fix, charge and collect fees, tolls, rents, rates and other charges for the use of Authority Facilities and the several parts or sections thereof;

18. To establish rules and regulations for the use of any of the Authority Facilities as may be necessary or expedient in the interest of public safety with respect to the use of Authority Facilities and property under the control of the Authority;

19. To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, trustees, depositaries, paying agents and such other employees and agents as may be necessary in the discretion of the Authority to construct, acquire, maintain and operate Authority Facilities and to fix their compensation;

20. To receive and accept from any federal agency for or in aid of the construction of any Authority Facility, and to receive and accept from the Commonwealth, or the county of Chesterfield and from any other source, grants, contributions or other aid in such construction, or for operation and maintenance, either in money, property, labor, materials or other things of value; and

21. To do all other acts and things necessary or convenient to carry out the powers expressly granted in this act. (1980, c. 619)

§ 4. Issuance of revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance from time to time of revenue bonds of the Authority for the purpose of paying all or any part of the cost of Authority Facilities or any project or portion of such Facilities. The principal of and interest on such bonds shall be payable solely from the revenues pledged for such payment. The bonds of each issue or series shall be dated, shall bear interest at such rate or rates as the Board shall accept or approve and are permitted by law, shall mature at such time or times not exceeding fifty years from the date or dates thereof, as may be determined by the Authority and may contain provisions reserving the right of the Authority to redeem such bonds before maturity at such price or prices and upon such terms and conditions as may be fixed by the Authority in the resolution authorizing such bonds. Such bonds may be issued in coupon or registered form or both as prescribed by the Authority, and provisions may be made for the registration of coupon bonds as to principal only or as to both principal and interest and for the reconversion of registered bonds into coupon bonds. Such bonds may be issued in any denomination or denominations and may be made payable at any bank or trust company within or without the Commonwealth as the Authority may determine. Such bonds and the coupons attached to coupon bonds shall be signed in such manner either manually or by facsimile signature as shall be determined by the Authority, and sealed with the seal of the Authority or a facsimile thereof. In case any officer whose signature or facsimile thereof shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer or officers had remained in office until the delivery thereof. The Authority may sell such bonds in such manner either at public or private sale and for such price or prices as the Authority may determine. Prior to the preparation of definitive bonds, the Authority may issue interim receipts or temporary bonds, with or

without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall have become mutilated or shall be destroyed or lost. (1980, c. 619)

§ 5. Rates and charges.

Whenever the Authority shall have constructed or otherwise acquired Authority Facilities and has issued bonds for such purpose, the Authority shall fix, revise, charge and collect fees, tolls, rents, rates and other charges for the use of such Facilities and the different parts or sections thereof, sufficient, together with any other moneys made available and used for that purpose, to pay the principal of and interest on such bonds, together with reserves for such purposes, and to maintain and operate such Facilities and to keep the same in good condition and repair. Such fees, tolls, rents, rates and other charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth or of any municipality, county or other political subdivision of the Commonwealth, and all revenues, when collected, and the proceeds from the sale of revenue bonds, shall be held by the Authority in trust for the benefit of the holders of bonds of the Authority issued for the construction or acquisition of Authority Facilities and for the proper maintaining, operating and repairing the Authority Facilities.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth or of the county of Chesterfield or a pledge of the faith and credit of the Commonwealth or of the county of Chesterfield, and shall be payable solely from the funds provided therefor from revenues. (1980, c. 619)

§ 6. Refunding bonds.

The Authority is hereby authorized by resolution to provide for the issuance of refunding revenue bonds with which to refund outstanding revenue bonds or any issue or series of such outstanding bonds, which refunding revenue bonds may be issued at or before the maturity or redemption date of the bonds to be refunded, and to include different issues or series of such outstanding revenue bonds by a single issue of refunding revenue bonds, and to issue refunding revenue bonds to pay any redemption premium and interest to accrue and become payable on the outstanding revenue bonds being refunded to the date of payment or redemption, and to establish reserves for such refunding revenue bonds. Such refunding revenue bonds shall be payable solely from all or that portion of the revenues of the Authority Facilities pledged to the payment thereof in the bond resolution pursuant to which the bonds were issued. Such refunding revenue bonds may, in the discretion of the Authority, be exchanged at par for the revenue bonds which are being refunded, or may be sold at public or private sale in such manner and at such price or prices as the Authority shall deem for the best interests of the Authority with such interest rate as may be permitted by law. The proceeds derived from the sale of refunding revenue bonds issued under this act shall be invested in obligations of or guaranteed by the United States Government pending the application of such proceeds to the

purpose for which such refunding revenue bonds have been issued, and to further secure such refunding revenue bonds the Authority may contract with the purchasers thereof with respect to safekeeping and application of the proceeds thereof and the safekeeping and application of the earnings of such investments. The determination of the Authority with respect to the financial soundness and advantage of the issuance and delivery of refunding revenue bonds authorized under this act shall be conclusive, but nothing herein contained shall require the holders of any outstanding revenue bonds being refunded to accept payment thereof otherwise than as provided in the outstanding bonds. (1980, c. 619)

§ 7. Trust agreement.

In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement or indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth to be selected by the Authority in such manner as it may elect. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign all or any portion of the tolls and other revenues to be received by the Authority from the ownership and operations of Authority Facilities; but shall not convey or mortgage any Authority Facilities or any part thereof. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as the depositary of the proceeds of bonds or of revenue to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such resolution, trust agreement or indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such resolution, trust agreement or indenture may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the Authority Facilities or portion thereof.

All or any portion of the revenues derived from the ownership and operation of Authority Facilities, as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement or indenture securing the same, may be pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust

agreement nor indenture by which a pledge is created need be filed or recorded except in the records of the Authority. (1980, c. 619)

§ 8. Covenants to secure bonds.

Any resolution authorizing the issuance of bonds of the Authority may, for the benefit and security of the holders from time to time of such bonds, contain covenants by the Authority for said purpose, including covenants as to, among other things:

1. The operation, maintenance and repair of the Authority Facilities;

2. The purpose or purposes to which the proceeds of the sale of such bonds may be applied and the use and disposition thereof;

3. The use and disposition of the revenues of the Authority derived from the ownership or operation of Authority Facilities and additions, betterments and extensions thereof, including the investment thereof and the creation and maintenance of reserve funds and funds for working capital and all renewals and replacements to Authority Facilities;

4. The amount, if any, of additional revenue bonds payable from such revenues which may be issued and the terms and conditions on which such additional revenue bonds may be issued;

5. Fixing, maintaining, collection and deposit of fees, tolls, rents, rates and other charges for all the services sold, furnished or supplied by the Authority Facilities;

6. The operation, maintenance, repair, management, accounting and auditing of the Authority;

7. Limitations upon the right of the Authority to dispose of Authority Facilities or any part thereof without providing for the payment of the outstanding revenue bonds;

8. The appointment of trustees, depositaries and paying agents within or without the Commonwealth to receive, hold, disburse, investor reinvest the proceeds derived from the sale of revenue bonds and all or any part of the revenues derived by the Authority from the operation, ownership and management of the Authority Facilities; and

9. Such other covenants and agreements as may be determined necessary in the discretion of the Authority to advantageously market the revenue bonds of the Authority. (1980, c. 619)

§ 9. Revenue bonds eligible for investment.

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital, in their control or belonging to them. Such bonds are also hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency

or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1980, c. 619)

§ 10. Authority obligations to be negotiable instruments; enforcement of bonds.
Notwithstanding the provisions of this act, or any provisions of the laws of the Commonwealth, and any recitals in any bonds, interim receipts or any other obligations issued under the provisions of this act, all such bonds, interim receipts or other obligations shall be deemed to be negotiable instruments under the laws of this Commonwealth. The provisions of this act, and of any resolution or resolutions or indentures providing for the issuance and security of any revenue bonds, interim receipts or other obligations issued as herein set forth, shall constitute a contract with the holder or holders of any such revenue bonds, interim receipts or other obligations, and the agreements and covenants of the Authority under this act and under any such resolution, resolutions or indentures shall be enforceable by any holder or holders of revenue bonds, interim receipts or other obligations issued under the provisions of this act and any representative of such holder or holders, and any trustee appointed under the bond resolution and authorized so to do may, by suit, action, injunction, mandamus or other proceeding issued by a court of competent jurisdiction, enforce any and all rights of such holders under the laws of the Commonwealth or granted by this act and in any such bond resolution or indenture, and may compel performance of all duties required to be performed by this act and by such bond resolutions or indenture by the Authority or by any officer or agent thereof, including the fixing, charging and collecting of fees, tolls, rents, rates and other charges for the use of the Authority Facilities. (1980, c. 619)

§ 11. Exemption from taxation.
All property, real and personal, and all rights and interests therein and the income of the Authority, the revenue bonds and the interest thereon, and the transfer thereof and any profit made on the sale thereof, shall at all times be free from taxation or assessment by the Commonwealth and by any municipality, county or other political subdivision thereof. (1980, c. 619)

§ 12. General powers of the county of Chesterfield.
The county of Chesterfield is hereby authorized and empowered to enter into and perform contracts or agreements with the Authority providing for furnishing to the Authority one or more of the following cooperative undertakings or any combination thereof:

1. The preparation, acquisition, loan or exchange of survey, engineering, borings, construction and other technical reports, studies, plans and data;

2. The providing of engineering, planning and other professional and technical services, labor or other things of value;

3. The construction, in whole or in part, of public highways, bridges, tunnels, viaducts, interchanges, connecting roads, grade crossings and other highway facilities;

4. The providing of funds in lump sums or installments to assist in paying the cost of any Authority facility or the operation and maintenance thereof;

5. The acquisition and transfer to the Authority of land, including easements, rights-of-way or other property, useful in the construction, operation or maintenance of any Authority facility;

6. The making of payments or contributions to the Authority for the use of or in compensation for the services rendered by, any Authority facility in lieu of the payment of tolls or other charges therefor, and such payments and contributions shall be deemed revenues of the Project to the same extent as the tolls, rentals, fees and other charges collected in the operation of the Project;

7. When requested by the Authority, to vacate or change the location of any public highway, street or other public way or place, or any portion thereof, public utility, sewer, pipe, main, conduit, cable, wire, tower, pole and other equipment or applicance owned or controlled by or under the jurisdiction of the county of Chesterfield, in the manner required or authorized by law conferring such power on the county of Chesterfield, and to construct the same in such new location as shall be designated by the governing body of the county of Chesterfield, and the cost of vacating or changing the location or reconstruction thereof and any damages resulting therefrom required to be paid by the county of Chesterfield shall be reimbursed by the Authority as a part of the cost of the project in connection with which such expenditures have been made; and

8. The connection of any Project of the Authority with the streets, highways, roads and other public ways in the county of Chesterfield. (1980, c. 619)

§ 13. Powers of county of Chesterfield with respect to revenue bonds issued by the Authority.

A. That the county of Chesterfield is hereby authorized and empowered to enter into and perform from time to time contracts and agreements with the Authority to aid the Authority to pay the principal of and interest on revenue bonds or revenue refunding bonds issued by the Authority if, when, and as the revenues of the Authority may not be sufficient to pay such principal or interest when due. No such contract or agreement shall be deemed to be lending or granting credit to or in aid of any person, association, company or corporation nor shall any such contract or agreement be deemed to be a pledge of the faith and credit or of the taxing power of the county of Chesterfield for the payment of such principal or interest except as may be otherwise provided in such contracts or agreements. Any holder of bonds, notes, certificates or other evidences of borrowing issued by the Authority under the provisions of this act or of any coupons appertaining thereto, and the representatives of such holders and the trustee under any bond resolution or indenture, may either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights of the Authority under or by virtue of any such contract or agreement.

B. That funds to perform any such contract or agreement may be provided from time to time by the county of Chesterfield by appropriations of general or specific tax revenue, or by appropriations of

accumulated funds allocated for public improvements generally, or allocated to the purposes of such contract or agreement, or by appropriations of the proceeds from the sale of bonds, which may be issued from time to time as hereinafter provided.

C. The county of Chesterfield may issue bonds for the purpose of providing funds to perform any contract or agreement entered into with the Authority pursuant to the provisions of this act. Such bonds shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the governing body of the county of Chesterfield, and may be redeemable before maturity, at the option of the governing body of the county of Chesterfield, at such price or prices and under such terms and conditions as may be prescribed by such governing body prior to the issuance of the bonds. The county of Chesterfield may provide for the issuance of refunding bonds for the purpose of refunding any outstanding bonds which shall have been issued pursuant to the provisions of this subsection, including the payment of any redemption premium thereon, and any interest accrued or to accrue to the date of redemption of such bonds.

D. The authority of the county of Chesterfield to contract and to issue bonds pursuant to this act is additional to any existing authority to contract and issue bonds under the laws of the Commonwealth.

E. The governing body of the county of Chesterfield may exercise any of the powers granted by this act by ordinance or resolution, as may be proper and all proceedings of the Board of Supervisors of the County of Chesterfield authorizing the execution of contracts hereunder and providing for the issuance of bonds pursuant to the provisions of this act shall not be subject to the provisions of the Code of Virginia permitting a referendum on actions taken by the board of supervisors except as required by the Constitution, but all such proceedings shall take effect immediately upon the adoption thereof. (1980, c. 619)

§ 14. Powers of the State Department of Highways and Transportation.

The State Department of Highways and Transportation is authorized and empowered:

1. To enter into and perform contracts or agreements with the Authority to furnish it with surveys, engineering, borings, plans and specifications and other technical services, reports, studies and data, the cost of which shall be reimbursed by the Authority as a part of the cost of the project in connection with which such contracts or agreements were entered into;

2. To allocate to and for the construction, operation or maintenance, of any highways constructed by the Authority and pay to the Authority such funds as may be or become available to the Department for such purposes;

3. To permit the connection of any highways constructed or acquired by the Authority with highways under the control and jurisdiction of the Department;

4. To employ independent consulting engineers having a nationwide and favorable repute in estimating traffic over any such highways to determine whether the construction of such highways will result in substantial reduction in the volume of traffic over other highways or toll roads and to use funds under the control of the Department for that purpose. (1980, c. 619)

§ 15. Acquisition of property.

A. The Authority is hereby authorized and empowered to acquire solely from funds provided under the provisions of this act such lands, structures, property, rights, right-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, as it may deem necessary or convenient for the construction and operation of Authority Facilities, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

B. The county of Chesterfield and, with the approval of the Governor, public agencies and commissions of the Commonwealth, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as the governing body of the county of Chesterfield, or the proper authorities of such agencies or commissions of the Commonwealth may deem reasonable and fair and without the necessity of any advertisement, order of court or other action or formality, other than the regular and formal action of the governing body or authorities concerned, any real property which may be necessary or convenient for the effectuation of the authorized purposes of the Authority, including public highways and any other real property already devoted to public use.

C. The county of Chesterfield is hereby authorized and empowered to acquire by the exercise of the power of eminent domain granted to or conferred upon it by law, and in accordance with the procedure prescribed therefor, any real property which may be necessary or convenient for the effectuation of the authorized purposes of the Authority and to lease, lend, grant or convey such property to the Authority upon such terms and conditions as the governing body of the county of Chesterfield may deem reasonable and fair; the acquisition of such real property by the exercise of the power of eminent domain and the disposition of same to the Authority as herein provided shall be and is hereby declared to be for a public use of such property.

D. In any eminent domain proceedings by the Authority, or the county of Chesterfield under this act, the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the Authority, or county of Chesterfield, as the case may be, and to the owners of the property to be condemned, and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority or the county of Chesterfield to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security or any act or obligation of the Authority or the county of Chesterfield shall impose any liability upon the Commonwealth.

E. If the owner, lessee or occupier of any property to be condemned or otherwise acquired pursuant to this act shall refuse to remove his property therefrom or give up possession thereof, the Authority or the county of Chesterfield, as the case may be, may proceed to obtain possession in any manner provided by law.

F. When the Authority or the county of Chesterfield proposes to construct a highway across the tracks of any railroad, the exercise of the general power of eminent domain over the property of a railroad granted by this act shall be limited with respect to the property, right-of-way, facilities, works or appurtenances upon which the tracks at such proposed crossing are located, to the acquisition only of an easement therein, which crossing shall be constructed either sufficiently above or below the grade of any such railroad track or tracks so that neither the crossing then under construction nor any part thereof, including any bridge abutments, columns, supporting structures and appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation or maintenance of the trains, tracks, works or appurtenances of the railroad nor interfere with or endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the exercise of the power of eminent domain for such an easement, plans and specifications of that portion of the Project to be constructed across the railroad tracks showing compliance with such requirements and showing sufficient and safe plans and specifications for such overhead or underground structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within thirty days to approve the plans and specifications so submitted, the matter shall be submitted by the Authority or the county of Chesterfield, as the case may be, to the State Corporation Commission, whose decision, arrived at after due consideration in accordance with its usual procedure, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below such tracks. The overhead or underground structures and appurtenances shall be constructed in accordance with such plans and specifications and in accordance with such elevations or distances above or below such tracks so approved by the railroad or the State Corporation Commission, as the case may be. A copy of the plans and specifications approved by the railroad or the State Corporation Commission shall be filed as an exhibit upon the institution of any proceedings brought in the exercise of the power of eminent domain.

G. The Commonwealth hereby consents, subject to the approval of the Governor, to the use by the Authority of any other lands or property owned by the Commonwealth, including lands lying under water, which are deemed by the Authority to be necessary for the construction or operation of any Project being constructed by the Authority. (1980, c. 619)

§ 16. Transfer to county of Chesterfield.

In the event the county of Chesterfield shall have rendered financial assistance or contributed in any manner to the cost of construction of a limited access highway or highways by the Authority and the Authority has issued bonds for the construction of such limited access highway or highways, then

when all such bonds, including any refunding bonds, and the interest thereon have been paid or a sufficient amount of cash or United States Government securities have been deposited and dedicated to the payment of all such bonds and interest to the maturity or redemption date thereof in trust for the benefit of the holders of such bonds, all property, real and personal, acquired in connection with such limited access highway or highways shall be transferred by the Authority to the county of Chesterfield and the governing body of the county of Chesterfield shall have the power to fix and revise from time to time and charge and collect tolls for transit over such limited access highway. (1980, c. 619)

§ 17. Miscellaneous.

A. Any money set aside for the payment of the principal of or interest on any bonds issued by the Authority not claimed within two years from the day the principal of such bonds is due by maturity or by call for redemption shall be paid into the treasury of the Commonwealth. No interest shall accrue on such principal or interest from the day the same is due as aforesaid. The Comptroller of the Commonwealth shall keep an account of all money thus paid into the treasury, and it shall be paid to the individual, copartnership, association or corporation entitled thereto upon satisfactory proof that such individual, copartnership, association or corporation is so entitled to such money. If the claim so presented is rejected by the Comptroller, the claimant may proceed against the Comptroller for recovery in the Circuit Court of the City of Richmond. An appeal from the judgment of the circuit court shall lie to the Supreme Court as in actions at law, and all laws and rules relating to practice and procedure in actions at law shall apply to proceedings authorized hereunder. No such proceedings shall be filed after ten years from the day the principal of or interest on such bonds is due as aforesaid; provided, if the individual having such claim is an infant or insane person or is imprisoned at such due date, such proceedings may be filed within five years after the removal of such disability, notwithstanding the fact that such ten-year period shall have expired.

B. The Authority may contract with the county of Chesterfield and the Department of State Police for the policing of any or all Authority Facilities, and the county of Chesterfield and the Department of State Police are hereby authorized to enter into contracts with the Authority for such purpose. Police officers providing police services pursuant to such contracts shall be under the exclusive control and direction of the authority providing such officers, and shall be responsible to that authority exclusively for the performance of their duties and the exercise of their powers. The Authority shall reimburse the county of Chesterfield or the Commonwealth, as the case may be, in such amounts and at such time or times as shall be mutually agreed upon, for providing police service. Such officers shall be responsible for the preservation of the public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property, and enforcement of the laws of the Commonwealth and all rules and regulations of the Authority made in accordance herewith, and such officers shall have all the rights and duties of police officers as provided by the general laws of the Commonwealth. The violation of any such rule or regulation shall be punishable as follows: If such a violation would

have been a violation of law if committed on any public road, street or highway in the county of Chesterfield, it shall be punishable in the same manner as if it had been committed on such public road, street or highway; otherwise it shall be punishable as a Class 4 misdemeanor. All other police officers of the Commonwealth and of the county of Chesterfield shall have the same powers and jurisdiction within the areas of operations agreed upon by the parties that they have beyond such limits and shall have access to all such areas at any and all times without interference for the purpose of exercising such powers and jurisdiction. For the purpose of enforcing such laws, rules and regulations the court or courts having jurisdiction for the trial of criminal offenses committed in the county of Chesterfield shall have jurisdiction to try any person charged with the violation of any such laws, rules and regulations within such boundaries. A copy of the rules and regulations of the Authority, attested by the Secretary or Secretary-Treasurer of the Authority, may be admitted as evidence in lieu of the original. Any such copy purporting to be sealed and signed by such Secretary or Secretary-Treasurer may be admitted as evidence without any proof of the seal or signature, or of the official character of the person whose name is signed to it.

C. All actions at law and suits in equity and other proceedings, actions and suits against the Authority, or any other person, firm or corporation, growing out of the construction, maintenance, repair, operation and use of any Authority Facility, or growing out of any other circumstances, events or causes in connection therewith, unless otherwise provided herein, shall be brought and conducted in the court or courts having jurisdiction of such actions, suits and proceedings in the county of Chesterfield. All such actions, suits and proceedings on behalf of the Authority shall be brought and conducted in the Circuit Court of the County of Chesterfield, except as herein otherwise provided, and exclusive jurisdiction is hereby conferred on such court for the purpose. Eminent domain proceedings instituted and conducted by the Authority shall be brought and conducted in the court or courts having jurisdiction of such proceedings in the county of Chesterfield.

D. On or before the thirtieth day of September in each year, the Authority shall prepare a report of its activities for the twelve months' period ending the preceding July one of such year and shall file a copy thereof with the county of Chesterfield. Each such report shall set forth an operating and financial statement covering the Authority's operations during the twelve months' period covered by such report. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants to be selected by the Authority and the cost thereof shall be treated as a part of the cost of construction and operation of the project.

E. The records, books and accounts of the Authority shall be subject to examination and inspection by duly authorized representatives of the governing body of the county of Chesterfield and any bondholder or bondholders at any reasonable time, provided the business of the Authority is not unduly interrupted or interfered with thereby.

F. Any member, agent or employee of the Authority who contracts with the Authority or is interested, either directly or indirectly, in any contract with the Authority or in the sale of any property, either real or personal, to the Authority shall be guilty of a Class 1 misdemeanor. Exclusive jurisdiction for the trial of such misdemeanors is hereby conferred upon the Circuit Court of the County of Chesterfield; provided, that the term "contract", as used herein, shall not be held to include the depositing of funds in, or the borrowing of funds from or the serving as agent or trustee by, any bank in which any member, agent or employee of the Authority may be a director, officer or employee or have a security interest; nor shall such term include contracts or agreements with the purchase of services from, or other transactions in the ordinary course of business with, public service corporations. (1980, c. 619)

§ 18. Approval by State Highways and Transportation.

The Authority may not construct a limited access toll highway without the approval of the State Department of Highways and Transportation. (1980, c. 619)

§ 19. Construction; inconsistent laws.

This act shall be liberally construed to effectuate the purposes hereof, and the foregoing sections of this act shall be deemed to provide an additional and alternative method of doing the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred upon the county of Chesterfield by other provisions of law; provided, however, the issuance of revenue bonds or revenue refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds, and except as otherwise expressly provided in this act, none of the powers granted to the Authority under the provisions of this act shall be subject to the supervision or regulation or require the approval or consent of the county of Chesterfield or any commission, board, bureau, official or agency thereof or of the Commonwealth, except as otherwise provided in this act. (1980, c. 619)

§ 20. Constitutional construction.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act. (1980, c. 619)

§ 21. Inconsistent laws inapplicable.

All other general or special laws, inconsistent with any provision of this act are hereby declared to be inapplicable to the provisions of this act and to any Project constructed by the Authority pursuant to this act. (1980, c. 619)

Coal Train Heritage Authority, Virginia

§ 15.2-6705.Virginia Coal Train Heritage Authority established

The Virginia Coal Train Heritage Authority, referred to in this chapter as "the Authority," is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties conferred in this chapter.

2017, c. 834.

§ 15.2-6706.Board of the Authority; qualifications; terms; quorum; records

A. All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Virginia Coal Train Heritage Authority ("the board").

B. The board shall consist of 25 members as follows: three members of the governing body of each of the Counties of Dickenson, Russell, and Wise, each appointed by the respective governing body; two citizen members appointed by the governing body of each of the Counties of Dickenson, Russell, and Wise, each of whom shall be a resident of the appointing county and not a member of the county governing body; one citizen member appointed by the governing body of each of the Towns of Clinchco, Haysi, and St. Paul, each of whom shall be a resident of the appointing town; three commissioners of the Breaks Interstate Park Commission, appointed by that Commission; two at-large members who shall be Virginia residents and have experience in any aspect of the excursion train business, appointed by a majority vote of the board; and two members of the General Assembly representing any part of the County of Dickenson, Russell, or Wise, who shall serve ex officio with voting privileges.

C. Initial appointments to the board shall begin July 1, 2017. Each board member shall serve for a term of four years and may be reappointed for additional terms. The term of any member of the board shall immediately terminate if the member no longer meets the eligibility criteria of the initial appointment. Vacancies shall be filled for the unexpired term. The members of the board shall receive no salary, unless specifically authorized by the governing bodies of Dickenson, Russell, and Wise Counties.

D. Seven members of the board shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

E. The board shall elect from its membership a chairman, a vice-chairman, and from its membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing bodies of Dickenson, Russell, and Wise Counties and the Auditor of Public Accounts and shall be open to public inspection.

G. A local governing body may remove from the board any member it has appointed in the event that the board member is absent from any three consecutive board meetings or is absent from any four board meetings within any 12-month period. In either such event, the local governing body shall appoint a successor for the unexpired portion of the term of the member who has been removed.

H. The accounts of the Authority shall be audited annually by the Auditor of Public Accounts, or an independent certified public accountant, and the cost of such audit shall be borne by the Authority.

2017, c. 834.

§ 15.2-6707.Executive director; staff

The Authority shall appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received or appropriated.

2017, c. 834.

§ 15.2-6708.Powers of Authority

The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at pleasure;

3. To contract and be contracted with;

4. To employ and pay compensation to such employees and agents, including attorneys, as the board deems necessary in carrying on the business of the Authority;

5. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

6. To borrow money and to accept contributions, grants, and other financial assistance from the United States government and agencies or instrumentalities thereof; the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth; or any private person, foundation, or financial institution;

7. To issue bonds in accordance with applicable law;

8. To receive and expend moneys on behalf of tourist train development; and

9. To cooperate with any private or governmental entities in the states of West Virginia, Kentucky, Tennessee, or North Carolina in the development of a tourist train and theme park.

2017, c. 834.

§ 15.2-6709.Authority of localities

Localities are hereby authorized to lend or donate money or other property or services to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality.

2017, c. 834.

§ 15.2-6710.Assignment of liability

Notwithstanding the provisions of § 46.2-2099.42, no private excursion train operator that has entered into a public-private partnership contract with the Authority pursuant to the Public-Private Educational Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) shall be liable upon a claim of personal injury or wrongful death arising from the operation of an excursion train, including operations, maintenance, or signalization of the tracks or facilities upon which the excursion train operates, except in the case of the gross negligence or intentional act of the private excursion train operator. Any authority created pursuant to this chapter shall post notice of such immunity from liability at the time of ticketing and at all train entrances.

2017, c. 834.

Coalfield Economic Development Authority, Virginia

§ 15.2-6000.Authority created; name

The Virginia Coalfield Economic Development Authority, hereinafter referred to as the Authority, is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter.

1988, c. 833, § 15.1-1635; 1997, c. 587.

§ 15.2-6001.Findings of fact

The economy of Southwest Virginia has not kept pace with that of the rest of the Commonwealth. The economic problems of Southwest Virginia are due in large part to its present inability to diversify. The Southwest has suffered, and continues to suffer, widespread unemployment in great disproportion to the rest of the Commonwealth.

The Virginia Coalfield Economic Development Authority will assist the seven county and one city coal producing areas of the Commonwealth to achieve some degree of economic stability.

It is hereby further declared that the foregoing is a public purpose and use for which public moneys may be spent and such activity will serve a public purpose in providing jobs to the citizens of the Commonwealth.

1988, c. 833, § 15.1-1636; 1997, c. 587.

§ 15.2-6002.Purpose of Authority; performs governmental function

The primary purpose of the Authority is to enhance the economic base for the seven county and one city coalfield region of Virginia (Lee, Wise, Scott, Buchanan, Russell, Tazewell and Dickenson Counties and the City of Norton).

The Authority shall provide financial support for the purchase of real estate, construction of buildings for sale or lease, installation of utilities, direct loans and grants to private for-profit basic employers; may apply for matching funds from the state or federal government, or the private sector; and any other support improvements it deems necessary, including flood control dams. All such loans and grants may be managed by the LENOWISCO and Cumberland Plateau Planning District Commissions in their respective service areas.

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth, particularly the aforesaid seven county and one city areas, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity.

1988, c. 833, § 15.1-1637; 1990, c. 341; 1992, c. 32; 1997, c. 587.

§ 15.2-6003.Board of Authority; members and officers; staff; annual report

All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Virginia Coalfield Economic Development Authority, hereinafter referred to as the Board or the Board of the Authority. Board members shall serve for terms of four years except that all vacancies shall be filled for the unexpired term. All terms shall commence July 1 of the year of appointment. Initial appointments shall begin July 1, 1988. The Board shall consist of sixteen members, residents of the Commonwealth, as follows:

Three initial members shall be the sitting chairmen of the county boards of supervisors of the three counties which are the three largest contributors to the coal and gas road improvement fund for the fiscal year immediately preceding July 1, 1988, as reported by the treasurers of the affected counties and city. Every four years thereafter, the three members shall be supervisors from the county boards of supervisors of the three counties which are the three largest contributors to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin. Such supervisors shall be selected by their respective county boards of supervisors.

Five members shall be appointed by the Governor at large; however, if there is any participating county or city in which there resides no member of the Board appointed by the other methods herein specified, the Governor shall include at least one member who is a resident of each such county or city among his appointees. For the first four-year terms these five members shall be selected to the extent possible from former members of the Southwest Virginia Economic Development Commission who reside in Planning District 1 or 2.

One member shall be a representative of the Virginia Economic Development Partnership, as designated by the Chief Executive Officer of the Partnership.

One member shall be a representative named by the Virginia Coal and Energy Alliance.

Two members shall be the Executive Directors of the LENOWISCO and Cumberland Plateau Planning District Commissions.

Three initial members shall be representatives named by the three largest coal producers determined by the dollar value of their contribution to the respective county coal and gas road improvement funds for the fiscal year immediately preceding July 1, 1988, as reported by the treasurers of the affected counties and city. Every four years thereafter, the three members shall be representatives named by the three largest coal producers determined by the dollar value of their contributions to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin.

One member shall be a representative named by the largest oil and gas producer determined by the dollar value of its contributions to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin.

Should a member who is a member solely by virtue of his office as member of a board of supervisors or executive director of a planning district commission cease to hold such office, then an immediate vacancy shall occur, and the vacancy shall be filled for the remainder of the term by his successor selected by the board of supervisors of his county or as executive director.

Each member of the Board shall, before entering upon the discharge of the duties of this office, take and subscribe the oath prescribed in § 49-1. They shall receive their expenses spent on business of the Authority.

Ten members of the Authority shall constitute a quorum and the affirmative vote of a majority of the quorum present shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board shall elect from its membership a chairman, a vice-chairman, a treasurer and a secretary for each calendar year. The secretary shall keep the minutes of the Board and affix the seal of the Authority.

The Board may also appoint an executive director, an assistant treasurer and an assistant secretary, and staff to assist same, who shall discharge such functions as may be directed by the Board.

Staff functions of the Authority may be undertaken by the LENOWISCO and Cumberland Plateau Planning District Commissions, as agreed by the Board and participating Commissions.

The Board, promptly following the close of the calendar year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, the boards of supervisors of the seven coalfield counties and the Norton City Council. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year. The Authority shall cause an audit of its books and accounts to be made at least once each year by a certified public accountant and the cost thereof may be treated as part of the expense of operation.

1988, c. 833, § 15.1-1638; 1989, c. 281; 1990, c. 341; 1995, c. 334; 1996, cc. 590, 598, 607; 1997, c. 587; 2010, c. 869; 2014, c. 438.

§ 15.2-6004.Office of Authority; title to property

The Authority shall have and maintain its principal office as determined by the Board, within the participating counties and one city at which all of its records shall be kept, and from which its business shall be transacted. The title to all property of every kind belonging to the Authority shall be titled to the Authority, which shall hold it for the benefit of the member localities and the Commonwealth.

1988, c. 833, § 15.1-1639; 1990, c. 341; 1997, c. 587.

§ 15.2-6005.General powers of Authority; regulations; enforcement of statutes, rules, etc

In order to enable it to carry out the purposes of this chapter, the Authority acting through its Board:

1. Is vested with the powers of a body corporate, including the power to sue and be sued, to plead and be impleaded, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;

2. May retain legal counsel to represent the Authority in hearings, controversies, or matters involving the interests of the Authority and the furtherance of its purpose; and

3. Is vested with power to adopt, alter or repeal its own bylaws, regulations governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of such committees, and the functions thereof, as the Authority may deem necessary to facilitate its business. Such committees shall consist of such number of persons as the Authority shall deem advisable. Members of committees shall receive no compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on business of the Authority. The Authority may set flat fees for expenses for a member's attendance at all meetings of the Authority or at its other functions. Such fees shall not exceed $100 per day.

1988, c. 833, § 15.1-1640; 1990, c. 341; 1997, c. 587.

§ 15.2-6006.Further powers

The Authority, to accomplish its general purpose, is given the following powers, namely:

1. To enter into contractual agreements in furtherance of its purpose;

2. To rent, lease, buy, own, acquire and dispose of such property, real or personal, as the Authority deems proper to carry out any of the purposes and provisions of this chapter, including the execution of leases with option to purchase;

3. To apply for and accept grants or loans of money or other property from any federal agency for any of the purposes authorized in this chapter, and to expend or use the same in accordance with the directions and requirements attached thereto or imposed thereon by any such federal agency;

4. To engage in economic development marketing and business attraction activities and to pay from the Authority's funds any and all expenses incurred in connection with such economic development marketing and business attraction activities;

5. To pay from the Authority's funds any and all expenses incurred by the Authority including, but not limited to, administrative, operational, personnel, consultant, legal, marketing, business attraction, advertising, promotional, and any other expenses incurred in furtherance of the purposes of this chapter; and

6. To do and perform any act or function that is in accord with the purposes of the chapter, including (i) borrowing money and (ii) employing such persons as the Board deems necessary to carry on the business of the Authority.

1988, c. 833, § 15.1-1641; 1990, c. 341; 1997, c. 587; 2004, cc. 36, 177.

§ 15.2-6007.Acceptance of funds, property and grants or loans

The Authority may accept funds and property from the federal government, the Commonwealth, persons and localities, and may use the same for any of the purposes for which the Authority is created.

Localities are hereby authorized to lend or donate money or other property to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality.

1988, c. 833, § 15.1-1642; 1990, c. 341; 1997, c. 587.

§ 15.2-6008.Forms of accounts and records; audit of same

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises. The accounts and records of the Authority shall be subject to audit by the Auditor of Public Accounts on an annual basis and the costs of such audit services shall be borne by the Authority. The Authority's fiscal year shall be the same as the Commonwealth's.

1988, c. 833, § 15.1-1643; 1997, c. 587.

§ 15.2-6009.Capitalization of Authority

On September 1, 1988, and on the first day of each month thereafter, each county and city shall remit to the Virginia Coalfield Economic Development Fund 25 percent of the revenues collected during the next to last calendar month from the (i) gas road improvement tax pursuant to § 58.1-3713 and (ii) local coal road improvement severance license tax pursuant to subsection B of § 58.1-3741.

1988, c. 833, § 15.1-1644; 1997, c. 587; 2013, cc. 305, 618.

§ 15.2-6010.Proceeds held

The treasurer may invest and reinvest funds of the Authority pending their need. All moneys received by the Authority pursuant to § 15.2-6009, together with any matching funds received from state or federal sources, shall be applied and used only in the county or city from which the funds were received, unless the governing body of the county or city consents to their use in another county or city.

Moneys received pursuant to § 58.1-3713.4 may be used at the discretion of the Authority for purposes and projects as determined by the Authority.

1988, c. 833, § 15.1-1645; 1990, c. 341; 1997, c. 587.

§ 15.2-6011.Eligible use of funds

The Authority is hereby empowered to pledge its funds, and make loans and grants to or for the benefit of for-profit enterprises or entities; governmental or corporate instrumentalities in the coalfield region of Virginia (including any political subdivision of the Commonwealth and the Breaks Interstate Park); not-for-profit enterprises or entities; nonprofit industrial development corporations; economic development authorities; or industrial development authorities for financing the following:

1. Purchase of real estate;

2. Grading of site(s);

3. Construction of flood control dams;

4. Water, sewer, natural gas and electrical line replacement and extensions;

5. Construction or rehabilitation or expansion of buildings;

6. Construction of parking facilities;

7. Access roads construction and street improvements;

8. Purchase, lease, or relocation of machinery, tools, equipment, furniture, software, or other personal property;

9. Construction of improvements outside the Commonwealth if in the Breaks Interstate Park;

10. Feasibility studies, site studies, preliminary engineering or architectural reports, and other studies and plans;

11. Such other improvements, projects, activities, or purposes as the Authority deems necessary to accomplish its purpose; and

12. Costs and expenses associated with any item listed in subdivisions 1 through 11, including, but not limited to, architectural, engineering, consulting, legal, closing, installation, delivery, and assembly expenses.

1988, c. 833, § 15.1-1646; 1990, c. 341; 1992, c. 32; 1993, c. 771; 1994, cc. 615, 674; 1997, c. 587; 2004, cc. 36, 177.

§ 15.2-6012.Dissolution of Authority

Whenever the Board determines that the purpose for which the Authority was created has been substantially fulfilled or is impractical or impossible of accomplishment and that all obligations incurred by the Authority have been paid or that cash or a sufficient amount of United States

government securities has been deposited for their payment or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the Board may adopt resolutions declaring and finding that the Authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving the Authority may be introduced in the General Assembly. The dissolution of the Authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by the Authority at the time of such dissolution shall vest in the counties and cities which have contributed to the fund in proportion to their respective contributions.

1988, c. 833, § 15.1-1647; 1997, c. 587.

§ 15.2-6013.Chapter liberally construed

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

1988, c. 833, § 15.1-1648; 1997, c. 587.

§ 15.2-6014.Inconsistent laws inapplicable

All other general or special laws inconsistent with any provision of this chapter are hereby declared to be inapplicable to the provisions of this chapter.

1988, c. 833, § 15.1-1649; 1997, c. 587.

§ 15.2-6015.City of Norton deemed contributing jurisdiction of Wise County

For the purpose of this chapter the City of Norton shall be deemed a contributing jurisdiction of Wise County and moneys collected from Wise County may be used in the City of Norton.

1988, c. 833, § 15.1-1650; 1997, c. 587.

Coalfields Expressway Authority, Virginia

§ 15.2-6015.1.Virginia Coalfields Expressway Authority; purpose

The Virginia Coalfields Expressway Authority (the Authority) is established as a body politic and corporate, a political subdivision of the Commonwealth. The Authority shall have the powers and duties hereinafter conferred in this chapter.

The primary purpose of the Authority is to improve the transportation into, from, within, and through Southwest Virginia, assist in regional economic development, and generally enhance highway safety in the affected localities.

The Coalfields Expressway, designated as U.S. Route 121 and a Congressional High Priority Corridor, is a proposed four-lane, limited-access highway to provide a modern, safe, and efficient transportation artery through the coalfields region of far Southwest Virginia and southern West Virginia.

The proposed expressway is designed to provide safe and rapid access to communities along the corridor, with interchanges connecting citizens of Pound, Clintwood, Clinchco, Haysi, Breaks, Grundy, and Slate.

It is hereby further declared that the foregoing is a public purpose and use for which public moneys may be spent and such activity will serve a public purpose in providing jobs to the citizens of the Commonwealth.

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth, particularly the affected localities, for the increase of their commerce and for the promotion of their safety, health, welfare, convenience, and prosperity.

2017, c. 543.

§ 15.2-6015.2.Membership; terms; quorum; meetings

The Authority shall have a total membership of 12 members that shall consist of nine nonlegislative citizen members and three ex officio members. Nonlegislative citizen members shall be appointed as follows: six members to be appointed by the Speaker of the House of Delegates, two of whom shall be residents of Buchanan County, two of whom shall be residents of Dickenson County, and two of whom shall be residents of Wise County, and three members to be appointed by the Senate Committee on Rules, one of whom shall be a resident of Buchanan County, one of whom shall be a resident of Dickenson County, and one of whom shall be a resident of Wise County. The chairmen of the boards of supervisors of Buchanan, Dickenson, and Wise Counties or their designees shall serve ex officio with voting privileges. Nonlegislative citizen members of the Authority shall be citizens of the Commonwealth.

Ex officio members of the Authority shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.

The Authority shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Authority shall be held at the call of the chairman or whenever the majority of the members so request.

2017, c. 543.

§ 15.2-6015.3.Compensation; expenses

Members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Virginia Coalfields Economic Development Authority.

2017, c. 543.

§ 15.2-6015.4.Powers and duties of the Authority; report

The Virginia Coalfields Expressway Authority shall have the following powers and duties:

1. Coordinate with counties, municipalities, state and federal agencies, public nonprofit corporations, private corporations, associations, partnerships, and individuals for the purpose of planning, assisting, and establishing recreational, tourism, industrial, economic, and community development of the proposed Coalfields Expressway for the benefit of the Commonwealth.

2. Work with surrounding states in developing the Coalfields Expressway in the Commonwealth, in an effort to link Interstates 64 and 77 in West Virginia with Route 23 in Virginia, which links to interstates in Kentucky and Tennessee.

3. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Authority no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

4. Apply for and accept gifts, grants of money, or gifts, grants, or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth, or any other person or entity, for or in aid of carrying out the powers and duties of this chapter.

2017, c. 543; 2018, c. 508.

§ 15.2-6015.5.Staffing

The Virginia Coalfield Economic Development Authority shall provide assistance to the Authority, upon request.

2017, c. 543.

College Building Authority, Virginia

§ 23.1-1200.Definitions; findings

A. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia College Building Authority.

"Bond" means any bond, note, or other evidences of indebtedness or obligation of the Authority pursuant to this article.

"Eligible institution" means public institutions of higher education, as that term is defined in § 23.1-100; Eastern Virginia Medical School; the Institute for Advanced Learning and Research; the New College Institute; the Roanoke Higher Education Authority; the Southern Virginia Higher Education Center; the Southwest Virginia Higher Education Center; the Virginia School for the Deaf and the Blind; and the Wilson Workforce and Rehabilitation Center.

"Equipment" means any personal property, including computer hardware and software, and any other improvements, including infrastructure improvements relating to equipment, used to support academic instruction and research at eligible institutions.

"Project" has the same meaning as set forth in § 23.1-1100.

B. Providing funds for the construction of projects at eligible institutions is or may be hindered, impeded, and delayed by the high financing costs resulting from the sale of bonds of such eligible institutions in the open market, and it is desirable that the Authority may (i) serve the purposes of eligible institutions by purchasing such bonds and financing the construction of projects at a lower cost, which facilitates such construction and (ii) issue its own revenue bonds for the purpose of paying the costs of such projects.

C. There is an urgent need to provide substantial amounts of new scientific, technical, and other equipment for academic instruction, research, and related activities at eligible institutions so that they may remain competitive in attracting high-quality faculty and obtaining research grants, and it is desirable that the Authority may finance the purchase of such equipment to provide eligible institutions with such equipment at the lowest possible cost, which facilitates the acquisition and supply of such equipment to eligible institutions and increases the purchasing power of their funds, including funds provided by tuition and fees and appropriations from the General Assembly.

1964, c. 607, § 23-30.24; 1966, c. 685; 1986, c. 597; 1996, cc. 672, 689; 2016, c. 588.

§ 23.1-1201.Virginia College Building Authority established

A. The Virginia College Building Authority is established as a public body corporate and a political subdivision, agency, and instrumentality of the Commonwealth. The Authority is vested with the powers, rights, and duties conferred in this chapter.

B. The Authority shall consist of the State Treasurer, the State Comptroller, the Director of the Department of Planning and Budget, and the Director of the Council, all of whom shall serve ex officio, and seven additional members appointed by the Governor, subject to confirmation by the General Assembly. Each member shall serve at the pleasure of the Governor. Appointed members shall serve for a term of four years. Ex officio members shall serve terms coincident with their terms of office. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No appointed member shall serve more than two consecutive terms.

C. The Governor shall appoint one member as chairman who shall serve a two-year term. No member is eligible to serve more than two consecutive terms as chairman. The chairman shall be the chief executive officer of the Authority and shall receive such compensation as the Governor determines. No ex officio member is eligible to serve as chairman.

D. The Authority shall elect one appointed member as vice-chairman, who shall exercise the powers of the chairman in the absence of the chairman.

E. The Authority shall elect a treasurer, a secretary, and an assistant secretary to perform the duties and functions commonly performed by such officers. All such officers, except the secretary and the assistant secretary, shall be selected from members of the Authority. The secretary and the assistant secretary may receive such compensation as the Authority provides.

F. Each appointed member of the Authority and the secretary and the assistant secretary shall execute a surety bond in such penal sum as shall be determined by the Attorney General to be (i) conditioned upon the faithful performance of the duties of his office, (ii) executed by a surety company authorized to transact business in the Commonwealth as surety, (iii) approved by the Attorney General, and (iv) filed in the office of the Secretary of the Commonwealth.

G. Six members of the Authority shall constitute a quorum for the transaction of all business of the Authority.

1964, c. 607, § 23-30.25; 1966, c. 685; 1980, c. 728; 1986, c. 597; 2011, cc. 691, 714; 2016, c. 588.

§ 23.1-1202.Action by Authority may be authorized by resolution

The Authority may authorize any action taken by the Authority pursuant to the provisions of this article by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

1964, c. 607, § 23-30.35; 1966, c. 685; 2016, c. 588.

§ 23.1-1203.Powers of Authority generally

To enable the Authority to carry out the purposes for which it is established, the Authority may:

1. Sue and be sued;

2. Make contracts;

3. Adopt, use, and alter a common seal;

4. Have perpetual succession as a public body corporate;

5. Adopt bylaws and regulations for the conduct of its affairs;

6. Maintain an office at such place as it may designate;

7. Collect, or authorize the trustee under any trust indenture securing any bonds of the Authority to collect, (i) the principal of and the interest on all obligations transferred to the Authority by the General Assembly and (ii) other assets or moneys transferred to the Authority by the General Assembly or eligible institutions, including lease payments and other sources of revenue, as such principal, interest, and other assets or moneys become due;

8. Conduct a program of purchasing equipment for eligible institutions as authorized by this article;

9. Collect, or authorize the trustee under any trust indenture securing any bonds of the Authority to collect, (i) payments due under leases or agreements of sale of equipment or leases or other obligations of real property by the Authority to eligible institutions as such payments become due and (ii) the principal of and the interest on all bonds of eligible institutions purchased by the Authority;

10. Repossess and sell, or authorize the trustee under any trust indenture securing any bonds of the Authority to repossess and sell, any equipment upon any default under the lease or agreement for the sale of such equipment;

11. Repossess and re-lease, or authorize the trustee under any trust indenture securing any bonds of the Authority to repossess and re-lease, any project upon any default under the lease of such project;

12. Assist eligible institutions in applying for grants from, or entering into other agreements with, the federal or state government, foundations, or other entities that are designed to provide (i) guarantees of or funds for payments under leases or contracts of sale or (ii) other benefits;

13. Enter into agreements with the federal or state government, foundations, or other entities that are designed to provide (i) guarantees of or funds for payments under leases or contracts of sale or (ii) other benefits;

14. Select, appoint, and employ financial experts, corporate depositories, trustees, paying agents, attorneys, accountants, consulting engineers, construction experts, and other individuals to perform such other services as may be necessary in the judgment of the Authority and pay their compensation and reasonable expenses either from moneys received by the Authority under the provisions of this article or from appropriations made by the General Assembly for such purposes;

15. Issue bonds of the Authority as authorized by this article and refund any such bonds;

16. Receive and accept any grants, aid, or contributions of money, property, labor, or other things of value from any source or reject any such grants, aid, or contributions; and

17. Perform any other act necessary, appropriate, incidental, or convenient to carrying out the powers expressly granted in this article.

1964, c. 607, § 23-30.31; 1966, c. 685; 1986, c. 597; 1996, cc. 672, 689; 2016, c. 588.

§ 23.1-1204.Duties; administration of assets, moneys, or obligations

The Authority shall manage and administer all assets, moneys, or obligations set aside and transferred to it by the General Assembly or eligible institutions as provided in this article.

1966, c. 685, § 23-30.26; 1996, cc. 672, 689; 2016, c. 588.

§ 23.1-1205.Powers; purchase or sale of bonds or other obligations of eligible institutions

A. The Authority may purchase, with any funds of the Authority available for such purpose, at public or private sale and for such price and on such terms as it determines, bonds or other obligations issued by eligible institutions pursuant to Chapter 11 (§ 23.1-1100 et seq.).

B. The Authority may pledge to the payment of the interest on and the principal of any bonds of the Authority all or any part of the bonds of eligible institutions so purchased, including payments of principal and interest thereon, as such payments become due. The Authority may, subject to any such pledge, sell any such bonds so purchased and apply the proceeds of such sale (i) to purchase like bonds of other eligible institutions or (ii) for the purpose and in the manner provided by any resolution authorizing the issuance of bonds of the Authority.

1966, c. 685, § 23-30.27; 2016, c. 588.

§ 23.1-1206.Powers; acquisition or disposition of equipment

A. The Authority may (i) acquire equipment or any interest in equipment by purchase, exchange, gift, lease, or otherwise; (ii) sell, exchange, donate, convey, lease, and dispose of such equipment or any portion of or interest in such equipment, including security interests in such equipment; and (iii) retain or receive security interests in such equipment.

B. Notwithstanding any other provision of law to the contrary, eligible institutions may grant security interests in or other liens on equipment held or acquired by the eligible institution under any lease or agreement of sale with the Authority.

C. The Authority may acquire equipment with any funds of the Authority available for such purpose. Acquisition and disposition of equipment may be at public or private sale and for such price and on such terms as the Authority determines, provided that the Authority finances the acquisition of equipment for sale to eligible institutions only pursuant to standards and procedures approved through the Commonwealth's budget and appropriation process. The budget document shall present any lease payments and the corresponding total value of equipment to be acquired by each eligible institution. Each eligible institution shall make available such additional detail on specific equipment to be purchased as may be requested by the Governor or the General Assembly. If emergency

acquisitions and leases are necessary when the General Assembly is not in session, the Governor may approve such acquisitions and leases. Prior to such acquisitions and leases, the Governor shall submit such proposed acquisitions and leases to the House Appropriations Committee and the Senate Finance Committee for their review and approval.

D. The Authority may establish and maintain such accounts as it deems appropriate to provide funds for acquisition of equipment on a continuing basis. The Authority may deposit in such accounts such funds as it deems appropriate, including the proceeds of any Authority bonds issued to finance the purchase of equipment and payments made to the Authority under equipment lease or sale agreements with eligible institutions or other entities. Any moneys held in such accounts may be (i) used to secure payment of principal of and interest on any Authority bonds, whether issued to finance the purchase of equipment, issued to pay administrative costs of the authority, or incurred in connection with the purchase, lease, or sale of equipment, or (ii) transferred by the Authority to be used in connection with any other program of the Authority. No funds of the Authority derived from the equipment program authorized under this section may be used in connection with the issuance or securing of indebtedness for the benefit of private institutions of higher education pursuant to Article 2 (§ 23.1-1220 et seq.).

E. The Authority may (i) determine and charge rent or determine sale prices for equipment that it leases or sells to eligible institutions and terminate such lease or sale agreements upon the failure of an eligible institution to comply with any obligations contained in such agreements or (ii) include in such lease agreements options for the eligible institution to renew the lease or purchase any or all of the leased equipment and provisions for the Authority to repossess and sell equipment leased or sold upon any default under the lease or sale agreement.

1986, c. 597, § 23-30.27:1; 2016, c. 588.

§ 23.1-1207.Powers; bonds of Authority generally

A. To provide funds for the purchase of bonds of eligible institutions as authorized by § 23.1-1205, the acquisition of equipment as authorized by § 23.1-1206, the reimbursement of the Central Capital Planning Fund established pursuant to § 2.2-1520, the payment of pre-planning or detailed planning expenses for all projects that have been approved for construction by the General Assembly, or the payment of all or any part of the cost of any project or any portion of a project, the Authority may provide by resolution for the issuance of bonds of the Authority in such amount as the Authority determines. Such bonds of the Authority are payable solely from funds of the Authority, including (i) payments of principal of and interest on bonds of eligible institutions purchased by the Authority; (ii) the proceeds of the sale of any such bonds; (iii) payments of principal of and interest on obligations transferred to the Authority by the General Assembly or from other assets or moneys transferred to the Authority by the General Assembly or eligible institutions, including lease payments or any other source of revenue; (iv) the proceeds of the sale of any such obligations or assets; (v) the proceeds

from the sale of bonds of the Authority; (vi) payments made by eligible institutions under leases or sales of equipment by the Authority; (vii) funds realized from the enforcement of security interests or other liens securing such bonds; (viii) payments due under letters of credit, policies of bond insurance, bond purchase agreements, or other credit enhancements securing payment of principal of and interest on bonds of the Authority; (ix) any moneys held in funds established by the Authority pursuant to § 23.1-1206; (x) any reserve or sinking fund created to secure such payment; and (xi) other available funds of the Authority.

B. Bonds of the Authority issued under the provisions of this article do not constitute a debt of the Commonwealth or a pledge of the faith or credit of the Commonwealth, and all bonds of the Authority shall contain on their face a statement to the effect that neither the faith and credit nor the taxing power of the Commonwealth or of any political subdivision of the Commonwealth shall be pledged to pay the principal of or the interest on such bonds.

C. The bonds of each issue shall be dated and mature at such time as may be determined by the Authority but not to exceed 40 years from their date, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The bonds may bear interest payable at such time, at such rate or rates, and in such manner as may be determined by the Authority, including the determination by agents designated by the Authority under guidelines established by it. The principal of and interest on such bonds may be made payable in any lawful medium. The Authority shall determine the form, manner of execution, denomination, and place of payment of principal and interest for the bonds, which may be at the office of the State Treasurer or at any bank or trust company within or outside the Commonwealth.

D. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

E. All revenue bonds issued under the provisions of this article, other than bonds registered as to principal or in registered form, are negotiable instruments. Revenue bonds shall be in such form and bear interest at such rate or rates, either fixed rates or rates established by formula or other method, and may contain such other provisions as the Authority may determine. The principal of and premium, if any, and interest on revenue bonds are payable in United States currency. The Authority shall fix the denomination of revenue bonds and place of payment of principal, premium, if any, and interest at any bank or trust company within or outside the Commonwealth.

F. Bonds may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal of and premium, if any, and interest on the bonds.

G. The Authority may sell bonds issued under the provisions of this article in such manner, either at public or private sale, and for such price as it determines to be in its best interest. The proceeds of such bonds shall be disbursed for the purposes for which such bonds are issued and under such restrictions, if any, as the resolution authorizing the issuance of such bonds or the trust indenture may provide.

H. Prior to the preparation of definitive bonds, the Authority may under like restrictions issue temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The Authority may also provide for the replacement of any bond that becomes mutilated or is destroyed or lost. Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than the proceedings, conditions, and things that are specified and required by this article.

I. Neither the members of the Authority nor any person executing any bonds issued under the provisions of this article is liable personally on such bonds or is subject to any personal liability or accountability by reason of the issuance of such bonds.

J. The Authority shall not undertake a project for an eligible institution if such project was not approved by the General Assembly pursuant to a bill, and any such project to be financed by bonds issued by the Authority secured by a pledge of any revenue source cited in subdivision C 1 a, b, c, or d of § 23.1-1106 shall be designated by the eligible institution's governing board as a project to be undertaken by the Authority.

1964, c. 607, § 23-30.28; 1966, c. 685; 1986, c. 597; 1994, cc. 191, 219; 1996, cc. 672, 689; 2000, cc. 414, 445; 2004, c. 711; 2008, Sp. Sess. I, cc. 1, 2; 2016, c. 588.

§ 23.1-1208.Security for bonds

A. The Authority may secure any bonds issued under the provisions of this article by a trust indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. Such trust indenture or the resolution providing for the issuance of such bonds may:

1. Pledge or assign all or part of the funds of the Authority available for such purpose, including (i) payments of principal of and interest on bonds of eligible institutions purchased by the Authority; (ii) proceeds of the sale of any such bonds; (iii) payments of principal of and interest on obligations transferred to the Authority by the General Assembly or from other assets or moneys transferred to the Authority by the General Assembly or eligible institutions, including lease payments and other sources of revenue; (iv) proceeds of the sale of any such obligations or assets; (v) proceeds from the sale of bonds of the Authority; (vi) security interests granted by the Authority or any eligible institution in, or other liens on, equipment, whether such equipment has been leased or sold to an eligible institution; (vii) all or part of the payments due the Authority from eligible institutions under any lease,

sale agreement, loan, or other agreement between the Authority and eligible institutions pursuant to § 23.1-1206, and any funds realized from enforcing security for such payments; (viii) payments due under policies of bond insurance, letters of credit, or other credit enhancement securing payment of principal of and interest on bonds of the Authority; (ix) any moneys in any fund established pursuant to § 23.1-1206; (x) any reserve or sinking fund created by the Authority to secure such bonds; and (xi) other available funds of the Authority;

2. Pledge or assign any other rights of the Authority in equipment owned by, or leases or sales of equipment made by, the Authority;

3. Contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law;

4. Provide for the creation and maintenance of such reserves as the Authority determines to be proper;

5. Include covenants setting forth the duties of the Authority in relation to the acquisition of any equipment or bonds of eligible institutions; the care, leasing, or sale of equipment to eligible institutions; the substitution of any bonds of eligible institutions, equipment, lease, security interest, or other security as security for the payment of the bonds of the Authority; the care, use, and insurance of equipment; the repossession and sale of leased or sold equipment by the Authority or the trustee under any trust indenture upon any default under the lease or sale of such equipment; and the collection of (i) payments due the Authority under leases or agreements of sale of equipment and (ii) payments of principal of and interest on any bonds of eligible institutions or obligations or other assets held by the Authority. Any bank or trust company incorporated under the laws of the Commonwealth that acts as depository of the proceeds of bonds or revenues may furnish such indemnifying bonds or pledge such securities as may be required by the Authority;

6. Set forth the rights and remedies of the bondholders and the trustee;

7. Restrict the individual right of action by bondholders; and

8. Contain such other provisions as the Authority deems reasonable and proper for the security of the bondholders.

B. All expenses incurred in carrying out the provisions of any such trust indenture or resolution may be treated as a part of the administration costs of the Authority.

C. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority.

1964, c. 607, § 23-30.29; 1966, c. 685; 1986, c. 597; 1996, cc. 672, 689; 2016, c. 588.

§ 23.1-1209.Reserve fund; limitations

A. If the Authority deems it proper to create a reserve fund from its bond proceeds or other funds to support an issuance of bonds in accordance with the provisions of this section, all moneys held in such reserve fund, except as otherwise provided in this section, shall be pledged solely for the payment of the principal of and interest on the bonds secured in whole or in part by such a fund. The Authority may transfer income or interest earned on, or increment to, any reserve fund to its other funds or accounts if such transfer does not reduce the amount of the reserve fund below its minimum requirement.

B. To ensure further the maintenance of reserve funds established in accordance with the provisions of this section, the chairman of the Authority shall annually, on or before November 15, make and deliver to the Governor and the Secretary of Finance a certificate stating the sum, if any, required to restore each reserve fund to its minimum requirement. The Governor shall submit to the presiding officer of each house of the General Assembly printed copies of a budget including the sum, if any, required to restore each reserve fund to its minimum requirement. Such submission shall be made at the time the Governor presents his budget and budget bill to the General Assembly pursuant to §§ 2.2-1508 and 2.2-1509. Any sum that may be appropriated by the General Assembly for any restoration and paid to the Authority shall be deposited by the Authority in the applicable reserve fund. All sums paid to the Authority pursuant to this section shall constitute and be accounted for as advances by the Commonwealth to the Authority and, subject to the rights of the holders of any bonds of the Authority, shall be repaid to the Commonwealth without interest from available revenues of the Authority in excess of the amounts required for payment of bonds or other obligations of the Authority, maintenance of reserve funds, and operating expenses.

C. The Authority shall not at any time issue bonds secured in whole or in part by any reserve fund referred to in subsection A if, upon the issuance of the bonds, the amount in the reserve fund will be less than its minimum requirement unless the Authority, at the time of the issuance of the bonds, deposits in the fund an amount that, together with the amount then in the fund, will not be less than the fund's minimum reserve requirement.

D. The total principal amount of bonds outstanding at any one time, secured by a reserve fund in accordance with the provisions of this section, shall not exceed the sum of $300 million without the prior approval of the General Assembly.

E. Nothing in this section shall be construed as limiting the power of the Authority to issue bonds (i) not secured by a reserve fund or (ii) secured by a reserve fund not described in this section.

1996, cc. 672, 689, § 23-30.29:1; 2016, c. 588.

§ 23.1-1210.Payment on bonds; pledge of revenues

To provide funds for the repayment of bonds issued by the Authority to (i) purchase any eligible institution's bonds or (ii) provide funds to pay all or part of the cost of any project or any portion of a

project, each eligible institution may agree to pledge and transfer to the Authority all or part of the eligible institution's revenues derived from any source mentioned in subdivision C 1 a, b, c, or d of § 23.1-1106. Any agreement relating to such transfer may contain other provisions that the Authority and eligible institution deem reasonable and proper and are not in violation of law. No such agreement shall constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth. Neither the full faith and credit of the Commonwealth nor the taxing power of the Commonwealth or any political subdivision of the Commonwealth shall be pledged to the payment of the principal of and interest on bonds so secured by such agreement. Prior to execution, any such agreement shall be approved by the Secretary of Finance and the Secretary of Education.

1996, cc. 672, 689, § 23-30.29:2; 2016, c. 588.

§ 23.1-1211.Default on payments

A. Whenever it appears to the Governor from an affidavit filed with him by the paying agent for the bonds issued by the Authority that an eligible institution has defaulted on the payment of the principal of or premium, if any, or interest on its bonds pursuant to this article, the Governor shall immediately make a summary investigation into the facts set forth in the affidavit. If it is established to the satisfaction of the Governor that the eligible institution is in default in the payment of the principal of or premium, if any, or interest on its bonds, the Governor immediately shall make an order directing the State Comptroller to make payment immediately to the owners or paying agent of the bonds in default on behalf of the eligible institution from any appropriation available to the eligible institution in the amount due and remaining unpaid by the eligible institution on its bonds.

B. Any payment so made by the State Comptroller to the owners or paying agent of the bonds in default shall be credited as if made directly by the eligible institution and charged by the State Comptroller against the appropriations of the eligible institution. The owners or paying agent of the bonds in default at the time of payment shall deliver to the State Comptroller, in a form satisfactory to the State Comptroller, a receipt for payment of the principal, premium, or interest satisfied by the payment. The State Comptroller shall report each payment made to the governing board of the defaulting eligible institution under the provisions of this section.

C. The Governor shall direct the State Comptroller to (i) charge against the appropriations available to any eligible institution that has defaulted on its bonds pursuant to this section all future payments of principal of and interest on the eligible institution's bonds when due and payable and (ii) make such payments to the owners or paying agent of the bonds on behalf of the eligible institution to ensure that no future default will occur on such bonds. The charge and payment shall be made upon receipt of documentation that the State Comptroller deems to be satisfactory evidence of the claim. The owners or paying agent of the bonds at the time of each payment shall deliver to the State Comptroller, in a form satisfactory to the State Comptroller, a receipt for payment of the principal or interest satisfied by the payment.

D. Nothing in this section shall be construed to create any obligation on the part of the State Comptroller or the Commonwealth to make any payment on behalf of the defaulting eligible institution other than from funds appropriated to the defaulting eligible institution.

1996, cc. 672, 689, § 23-30.29:3; 2016, c. 588; 2017, c. 314.

§ 23.1-1212.Investment of funds

Any moneys or funds held by the Authority or the trustee under any trust indenture under the provisions of this article may be invested and reinvested in securities that are legal investments under the laws of the Commonwealth for moneys or funds held by fiduciaries.

1966, c. 685, § 23-30.30; 2016, c. 588.

§ 23.1-1213.Enforcement of rights and duties by bondholder or trustee under trust indenture

Any (i) holder of bonds issued under the provisions of this article or any of the coupons appertaining to such bonds and (ii) trustee under any trust indenture may, either at law or in equity, by suit, action, mandamus, or other proceeding, (a) protect and enforce any and all rights under the laws of the Commonwealth, the trust indenture, or the resolution authorizing the issuance of such bonds and (b) enforce and compel the performance of all duties required by this article or such trust indenture or resolution to be performed by the Authority or by any officer of the Authority, except to the extent that such rights are restricted by the trust indenture or the resolution authorizing the issuance of such bonds.

1964, c. 607, § 23-30.32; 1966, c. 685; 2016, c. 588.

§ 23.1-1214.Exemption of bonds from taxation

The bonds issued by the Authority under the provisions of this article, the transfer of such bonds, and the income from such bonds, including any profit made on the sale of such bonds, is exempt from taxation by the Commonwealth and any locality or political subdivision of the Commonwealth.

1964, c. 607, § 23-30.33; 1966, c. 685; 2016, c. 588.

§ 23.1-1215.Bonds made lawful investments

All bonds issued by the Authority under the provisions of this article are securities (i) in which all public officers and bodies of the Commonwealth and its localities and political subdivisions and all insurance companies and associations, savings banks and savings institutions, including savings and loan associations, commercial banks and trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees, and other fiduciaries in the Commonwealth may properly and legally invest funds under their control and (ii) that may properly and legally be deposited with and received by any state officer or officer of a locality or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is authorized by law.

1964, c. 607, § 23-30.34; 1966, c. 685; 2016, c. 588.

§ 23.1-1216.Annual report; examination of records, books, and accounts

A. The Authority shall submit to the Governor and General Assembly an annual report of the interim activity and work of the Authority on or before November 1 of each year. Such report shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. Such report shall contain, at a minimum, the annual financial statements of the Authority for the year ending the preceding June 30.

B. The records, books, and accounts of the Authority are subject to examination and inspection by duly authorized representatives of the General Assembly and any bondholder at any reasonable time, provided that such examination and inspection do not unduly interrupt or interfere with the business of the Authority.

1964, c. 607, § 23-30.36; 1966, c. 685; 1984, c. 734; 1985, c. 146; 2004, c. 650; 2016, c. 588.

§ 23.1-1217.Annual audit

The Auditor of Public Accounts or his legally authorized representatives shall annually audit the accounts of the Authority, and the cost of such audit shall be borne by the Authority.

1987, c. 74, § 23-30.36:1; 2016, c. 588.

§ 23.1-1218.Article liberally construed; powers of Authority not subject to supervision by certain entities

A. This article, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose of this article.

B. Except as otherwise expressly provided in this article, none of the powers granted to the Authority under the provisions of this article are subject to the supervision or regulation or require the approval or consent of (i) any locality or political subdivision of the Commonwealth or (ii) any commission, board, bureau, official, or agency of (a) any such locality or political subdivision or (b) the Commonwealth.

1964, c. 607, § 23-30.37; 1966, c. 685; 2015, c. 709; 2016, c. 588.

§ 23.1-1219.Jurisdiction of suits against Authority; service of process

The Circuit Court of the City of Richmond has exclusive jurisdiction over any suit brought in the Commonwealth against the Authority, and process in such suit shall be served either on the State Comptroller or on the chairman of the Authority.

1964, c. 607, § 23-30.38; 1966, c. 685; 2016, c. 588.

Commercial Space Flight Authority, Virginia

§ 2.2-2201.Short title; definitions

A. This article shall be known and may be cited as the "Virginia Commercial Space Flight Authority Act."

B. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Commercial Space Flight Authority.

"Board" means the board of directors of the Authority.

"Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility or the provision for or funding of any activity that will further the purposes described in § 2.2-2202.

1995, c. 758, §§ 9-266.1, 9-266.2; 2001, c. 844; 2012, cc. 779, 817.

§ 2.2-2202.Declaration of public purpose; Virginia Commercial Space Flight Authority created

The General Assembly has determined that there exists in the Commonwealth a need to promote industrial and economic development and scientific and technological research and development through the development and promotion of the commercial and government aerospace industry.

In order to facilitate and coordinate the advancement of these needs, there is hereby created the Virginia Commercial Space Flight Authority, with the powers and duties set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public functions, and the exercise by the Authority of the powers and duties conferred by this article shall be deemed and held to be the performance of an essential government function of the Commonwealth and a public purpose.

1995, c. 758, § 9-266.3; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2203.Board of directors; members and officers; Executive Director

The Authority shall be governed by a board of directors consisting of nine members, two of whom shall be the Secretary of Transportation and the Director of the Virginia Department of Aviation or their respective designees. The remaining seven members shall be appointed by the Governor and shall have experience in at least one of the following fields: (i) the aerospace industry, (ii) the financial industry, (iii) the marketing industry, (iv) scientific and technological research and development; or (v) higher education. Members of the Board appointed by the Governor shall be appointed for terms of four years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members shall serve at the pleasure of the Governor and shall be confirmed by the General Assembly. Members of the Board shall receive reimbursement for their

expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on Board business.

The Board shall annually elect one of its members as chairman and another as vice-chairman and may also elect from its membership, or appoint from the Authority's staff, a secretary and a treasurer and prescribe their powers and duties. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings. Five members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also serve as the Chief Executive Officer of the Authority and exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. Such compensation shall be established at a level that will enable the Authority to attract and retain a capable Executive Director. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary to carry out the powers and duties of the Authority.

1995, c. 758, § 9-266.4; 1999, cc. 412, 421, 433; 2001, c. 844; 2009, c. 82; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2203.2.Strategic plan

Every four years the Executive Director shall present to the Board for its consideration and adoption a strategic plan for the Authority for at least the next six years. Such plan shall include the following:

1. An analysis of the current operating performance of the Authority and trends in the aerospace industry;

2. An analysis of the Authority's economic benefit and expected future performance over the term of the plan;

3. An analysis and identification of opportunities to expand the Authority's market share in sectors of the aerospace industry in which the Authority is active;

4. An analysis and identification of opportunities to expand the Authority's operations into other sectors of the aerospace industry and other adjacent industries;

5. An implementation strategy based on the analyses required by subdivisions one through four;

6. A capital plan to support the implementation strategy; and

7. The establishment of performance indicators to be used for the Authority covering the term of the plan.

2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2203.3.Employees; employment; personnel rules

A. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt personnel rules, policies, and procedures to give its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination on the basis of race, religion, color, sex, sexual orientation, gender identity, or national origin.

B. Any employee of the Virginia Commercial Space Flight Authority who is a member of any plan providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) shall continue to be a member of such health insurance plan under the same terms and conditions. Notwithstanding subsection A of § 2.2-2818, the costs of providing health insurance coverage to such employees who elect to continue to be members of the state employees' health insurance plan shall be paid by the Authority. Alternatively, an employee may elect to become a member of any health insurance plan established by the Authority. The Authority is authorized to (i) establish a health insurance plan for the benefit of its employees and (ii) enter into agreements with the Department of Human Resource Management providing for the coverage of its employees under the state employees' health insurance plan, provided that such agreements require the Authority to pay the costs of providing health insurance coverage under such plan.

C. Any retired employee of the Virginia Commercial Space Flight Authority shall be eligible to receive the health insurance credit set forth in § 51.1-1400, provided the retired employee meets the eligibility criteria set forth in that section.

D. The Authority is hereby authorized to establish one or more retirement plans for the benefit of its employees (the Authority retirement plan). For purposes of such plans, the provisions of § 51.1-126.4 shall apply, mutatis mutandis. Any Authority employee who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 (the statutory optional retirement plan) at the time the Authority retirement plan becomes effective shall continue to be a member of the Virginia Retirement System or the statutory optional retirement plan under the same terms and conditions, unless such employee elects to become a member of the Authority retirement plan. For purposes of this subsection, the "Virginia Retirement System" shall include any hybrid retirement program established under Title 51.1.

The following rules shall apply:

1. The Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or the statutory optional retirement plan for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for any employee who elects to remain a member of the Virginia Retirement System or a statutory optional retirement plan.

2. Employees who elect to become members of the Authority retirement plan shall be given full credit for their creditable service as defined in § 51.1-124.3 and vesting and benefit accrual under the Authority retirement plan. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or any statutory optional retirement plan.

3. For employees who elect to become members of the Authority retirement plan, the Virginia Retirement System or the statutory optional retirement plan, as applicable, shall transfer to the Authority retirement plan assets equal to the actuarially determined present value of the accrued basic benefits for such employees as of the transfer date. For purposes hereof, "basic benefits" means the benefits accrued under the Virginia Retirement System or under the statutory optional retirement plan based on creditable service and average final compensation as defined in § 51.1-124.3. The actuarial present value shall be determined by using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or the statutory optional retirement plan so that the transfer of assets to the Authority retirement plan will have no effect on the funded status and financial stability of the Virginia Retirement System or the statutory optional retirement plan. The Authority shall reimburse the Virginia Retirement System for the cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who transfer to an Authority retirement plan.

4. The Authority may provide that employees of the Authority who are eligible to participate in any deferred compensation plan sponsored by the Authority shall be enrolled automatically in such plan, unless such employee elects, in a manner prescribed by the Board of the Authority, not to participate. The amount of the deferral under the automatic enrollment and the group of employees to which the automatic enrollment shall apply shall be set by the Board, provided, however, that such employees are provided the opportunity to increase or decrease the amount of the deferral in accordance with the Internal Revenue Code of 1986, as amended.

E. The Authority is hereby authorized to establish a plan providing short-term disability and long-term disability benefits for its employees.

2012, cc. 779, 817; 2020, c. 1137.

§ 2.2-2203.4. Trust for postemployment benefits authorized; administration

A. The Authority is hereby authorized to establish and maintain a trust or equivalent arrangement for the purpose of accumulating and investing assets to fund postemployment benefits other than

pensions, as defined herein. Such trust or equivalent arrangement shall be irrevocable. The assets of such trust or similar arrangement (i) shall be dedicated to providing benefits to retirees and their beneficiaries in accordance with the terms of the plan or programs providing postemployment benefits other than pensions and (ii) shall be exempt from taxation and execution, attachment, garnishment, or any other process against the Authority or a retiree or beneficiary. The funds of the trust or similar arrangement shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Authority, and shall be invested and administered solely in the interests of the active or former employees (and their dependents or beneficiaries) entitled to postemployment benefits other than pensions.

B. The Authority may make appropriations to any such trust or equivalent arrangement, and the Authority may require active and former employees covered by a postemployment benefit program to contribute to the trust or equivalent arrangement through payments or deductions from their wages, salaries, or pensions.

C. Nothing in this section shall be construed to inhibit the Authority's right to revise or discontinue its plans or programs providing such postemployment benefits other than pensions for its active and former officers and employees as it may deem necessary. If all plans or programs providing such postemployment benefits other than pensions for which the trust or equivalent arrangement is established are repealed or terminated by the Authority, then there shall be no continuing responsibility of the Authority to continue to make appropriations to such trust or equivalent arrangement, and the assets of such trust or equivalent arrangement shall be used to provide any benefits continuing to be due to active or former employees (and their dependents or beneficiaries) under such plans or programs. If there are no active or former employees (or dependents or beneficiaries) due a benefit under any plan or program providing such postemployment benefits other than pensions for which the trust or equivalent arrangement was established, then any remaining assets may revert to the Authority.

D. Postemployment benefits other than pensions shall be defined by the Authority pursuant to applicable accounting standards and law. Such benefits may include, but are not limited to, medical, prescription drug, dental, vision, hearing, life, or accident insurance (not provided through a pension plan), long-term care benefits, and long-term disability benefits (not covered under a pension plan) provided to individuals who have terminated their service and to the dependents of such individuals, and may be provided by purchasing insurance, by a program of self-insurance, or by a combination of both. However, postemployment benefits other than pensions shall not include defined benefit pension plans for retirees and eligible dependents of retirees, termination benefits, or other pension benefits. Such postemployment benefits other than pensions may be provided to the officers and employees or to their dependents, estates, or designated beneficiaries. Any benefits arising from any postemployment benefits other than pension programs shall be clearly defined and strictly construed.

E. Notwithstanding any other provision of law, the moneys and other property comprising the trust or equivalent arrangement established hereunder shall be invested, reinvested, and managed by the Authority or the trust company or bank having powers of a trust company within or without the Commonwealth that is selected by the Board to act as a trustee for the trust or equivalent arrangement with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with the same aims. Such investments shall be diversified so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so. Such investments shall not be limited by Chapter 45 (§ 2.2-4500 et seq.).

2012, cc. 779, 817.

§ 2.2-2204. Powers of the Authority

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the power to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board;

4. Adopt a strategic plan pursuant to § 2.2-2203.2 and plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain and operate projects pursuant to such plan;

5. Adopt an annual budget for the Authority's capital improvements and operations;

6. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the power of the Authority shall be exercised and its duties performed. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary and expedient. Such bylaws, rules, and regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.);

7. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of projects of, the sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority; the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties; the payment of the costs accomplishing its purposes set forth in § 2.2-2202; the payment of the principal of and interest on its obligations; and the creation of reserves for such purposes, for other

purposes of the Authority and to pay the cost of maintaining, repairing and operating any project and fulfilling the terms and provisions of any agreements made with the purchasers or holders of any such obligations and any other purposes as set forth in this article;

8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2202 or for refunding bonds previously issued by the Authority, whether such outstanding bonds have matured or are then subject to redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof, by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to provide for the security for said bonds and the rights of holders thereof. However, the total principal amount of bonds, including refunding bonds, outstanding at any time shall not exceed $50 million, excluding from such limit any revenue bonds. The Authority shall not issue any bonds, other than revenue bonds, that are not specifically authorized by a bill or resolution passed by a majority vote of those elected to each house of the General Assembly;

9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including interstate compacts that have been authorized by the General Assembly and where necessary consented to by the United States Congress and agreements with any person or federal agency;

10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their compensation to be payable from funds made available to the Authority;

11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants, donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made;

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; foster the utilization of scientific and technological research, information discoveries and data and obtain patents, copyrights and trademarks thereon; coordinate the scientific and technological research efforts of public institutions and private industry and collect and maintain data on the development and utilization of scientific and technological research capabilities;

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority; and

15. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

1995, c. 758, § 9-266.5; 1996, c. 111; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2205.Form, terms, execution and sale of bonds; use of proceeds; interim receipts or temporary bonds; lost or destroyed bonds; faith and credit of state and political subdivisions not pledged; expenses

The bonds of each issue shall be dated, shall bear interest at such rates as are fixed by the Authority, or as may be determined in such manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by the Authority, shall mature at such time not exceeding forty years from their date as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of bonds and their manner of execution, and shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the chairman or vice-chairman of the Authority or, if so authorized by the Authority, shall bear his facsimile signature, and the official seal of the Authority, or, if so authorized by the Authority, a facsimile thereof shall be impressed or imprinted thereon and attested by the secretary or any assistant secretary of the Authority, or, if so authorized by the Authority, with the facsimile signature of such secretary or assistant secretary. Any coupons attached to bonds issued by the Authority shall bear the signature of the chairman or vice-chairman of the Authority or a facsimile thereof. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be an officer before the delivery of the bonds, his signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery and any bonds may bear the facsimile signature of, or may be signed by, such persons as at the actual time of the execution of such bonds shall be the proper officers to sign such bonds although at the date of such bonds such persons may not have been such officers. The bonds may be issued in coupon or in registered form, or both, as the Authority

may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payment of principal of, and premium on, if any, and interest on such bonds. The Authority may contract for the services of one or more banks, trust companies, financial institutions or other entities or persons, within or without the Commonwealth for the authentication, registration, transfer, exchange and payment of the bonds, or may provide such services itself. The Authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine will best effect the purposes of this article.

The proceeds of the bonds of each issue shall be used solely for the purposes, and in furtherance of the powers, of the Authority as may be provided in the resolution authorizing the issuance of such bonds or in a trust agreement authorized by § 2.2-2206 securing the bonds.

In addition to the above powers, the Authority may issue interim receipts or temporary bonds as provided in § 15.2-2616 and execute and deliver new bonds in place of bonds mutilated, lost or destroyed, as provided in § 15.2-2621.

No obligation of the Authority shall be deemed to constitute a debt, or pledge of the faith and credit, of the Commonwealth or of any political subdivision thereof, but shall be payable solely from the revenues and other funds of the Authority pledged thereto. All such obligations shall contain on the face thereof a statement to the effect that the Commonwealth, any political subdivision thereof and the Authority shall not be obligated to pay the same or the interest thereon except from revenues and other funds of the Authority pledged thereto, and that neither the faith and credit nor the taxing power of the Commonwealth or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligations.

All expenses incurred in carrying out the provisions of the act shall be payable solely from funds provided under the provisions of this act, and no liability shall be incurred by the Authority beyond the extent to which moneys have been provided under the provisions of this article.

1995, c. 758, § 9-266.6; 2001, c. 844.

§ 2.2-2206. Trust indenture or agreement securing bonds

In the discretion of the Authority, any bonds issued under the provisions of this article may be secured by a trust indenture or agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. The trust indenture or agreement or the resolution providing for the issuance of the bonds may (i) pledge or assign the revenues to be received and provide for the mortgage of any project or property or any part thereof and (ii) contain provisions for protecting and enforcing the rights and remedies of

the bondholders as may be reasonable and proper and not in violation of law, including covenants providing for the repossession and sale by the Authority or any trustees under any trust indenture or agreement of any project, or part thereof, upon any default under the lease or sale of such project, setting forth the duties of the Authority in relation to the acquisition of property and the planning, development, acquisition, construction, rehabilitation, establishment, improvement, extension, enlargement, maintenance, repair, operation and insurance of the project in connection with which the bonds shall have been authorized; the amounts of rates, rents, fees and other charges to be charged; the collection of such rates, rents, fees and other charges; the custody, safeguarding and application of all moneys; and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any national bank with its main office in the Commonwealth or any other state or any bank or trust company incorporated under the laws of the Commonwealth or another state that may act as depository of the proceeds of bonds or of revenues to furnish the indemnifying bonds or to pledge the securities required by the Authority. Any trust indenture or agreement or resolution may set forth the rights of action by bondholders. In addition to the foregoing, any such trust indenture or agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders including, without limitation, provisions for the assignment to a corporate trustee or escrow agent of any rights of the Authority in any project owned by, or leases or sales of any projects made by, the Authority. All expenses incurred in carrying out the provisions of the trust indenture or agreement or resolution or other agreements relating to any project, including those to which the Authority may not be a party, may be treated as a part of the cost of the operation of the project or projects.

1995, c. 758, § 9-266.7; 2001, c. 844.

§ 2.2-2207.Moneys received deemed trust funds

All moneys received pursuant to the authority of this article, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this article. The resolution authorizing the bonds of any issue or the trust indenture or agreement or resolution securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as a trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to the regulations as this article and the trust indenture or agreement or resolution may provide.

1995, c. 758, § 9-266.8; 2001, c. 844.

§ 2.2-2208.Proceedings by bondholder or trustee to enforce rights

Any holder of bonds issued under the provisions of this article or any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement or resolution, except to the extent the rights given may be restricted by the trust indenture or agreement or resolution authorizing the issuance of the bonds, may either at law or in equity, by suit, action, mandamus or other proceeding,

protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under the trust indenture or agreement or resolution, and may enforce and compel the performance of all duties required by this article or by the trust indenture or agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging, and collecting of rates, rentals, fees, and other charges.

1995, c. 758, § 9-266.9; 2001, c. 844.

§ 2.2-2209.Bonds made securities for investment and deposit

Bonds issued by the Authority under the provisions of this article are made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds shall be securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is now or may hereafter be authorized by law.

1995, c. 758, § 9-266.10; 2001, c. 844.

§ 2.2-2210.Refunding bonds; bonds for refunding and for costs of additional projects

The Authority may provide for the issuance of refunding bonds of the Authority for the purpose of refunding any bonds then outstanding that have been issued under the provisions of this article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of bonds. The issuance of the bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same shall be governed by the provisions of this article insofar as they may be applicable.

1995, c. 758, § 9-266.11; 2001, c. 844.

§ 2.2-2211.Grants or loans of public or private funds

The Authority may accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both or otherwise, to accomplish, in whole or in part, any of the purposes of this article. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth.

1995, c. 758, § 9-266.12; 2001, c. 844.

§ 2.2-2212.Moneys of Authority

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other order of such persons as the Authority may authorize to execute such warrants or orders.

1995, c. 758, § 9-266.16; 2001, c. 844.

§ 2.2-2213.Forms of accounts and records; audit; annual report

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived, shall be in a form prescribed by governmental generally accepted accounting standards. Such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by enterprises.

The accounts of the Authority shall be audited annually by a certified public accounting firm selected by the Auditor of Public Accounts with the assistance of the Authority through a process of competitive negotiation. The cost of such audit and review shall be borne by the Authority.

The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the preceding June 30.

1995, c. 758, § 9-266.17; 2001, c. 844; 2004, c. 650; 2012, cc. 779, 817.

§ 2.2-2214.Exemption from taxes or assessments

The exercise of the powers granted by this article shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of the projects by the Authority and the undertaking of activities in the furtherance of the purposes of the Authority constitutes the performance of the essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of the facility businesses for which local or state taxes would otherwise be required.

Any bonds or refunding bonds issued under the provisions of this article and any transfer of such bonds shall at all times be free from state and local taxation. The interest on the bonds and any refunding bonds or bond anticipation notes shall at all times be exempt from taxation by the Commonwealth and by any of its political subdivisions.

1995, c. 758, § 9-266.18; 2001, c. 844.

§ 2.2-2215.Powers not restrictive; exemptions from Public Procurement Act and the Virginia Personnel Act

The Authority shall have the power to perform any act or carry out any function not inconsistent with state law, whether or not included in the provisions of this article, which may be, or may tend to be, useful in carrying out the provisions of this article. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any of its powers provided that the Board adopt procedures to ensure fairness and competitiveness in the procurement of goods and services and the administration of its capital outlay plan. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) shall not apply to the Authority in the exercise of any of its powers. The Authority shall be exempt from the provisions of §§ 2.2-1124, 2.2-1131.1, 2.2-1136, 2.2-1149, 2.2-1153, 2.2-1154, and 2.2-1156, provided that (i) the Authority adopts and the Board approves regulations governing the acquisition, lease, or sale of surplus and real property consistent with the provisions of the above-referenced sections and (ii) any acquisition, lease, or sale of real property valued in excess of $20 million shall be approved by the Governor.

1995, c. 758, § 9-266.15; 2001, c. 844; 2012, cc. 779, 817.

§ 2.2-2216.Appropriations by any government

Any government may make appropriations for the acquisition, construction, improvement, maintenance or operation of any project acquired, constructed, improved, maintained or operated by the Authority.

1995, c. 758, § 9-266.13; 2001, c. 844.

§ 2.2-2217.Conveyance, lease or transfer of property by a city or county to the Authority

Any city or county within the Commonwealth in order to provide for the construction, reconstruction, improvement, repair or management of any project, or in order to accomplish any of the purposes of this article may, with or without consideration or for a nominal consideration, lease, sell, convey or otherwise transfer to the Authority any real, personal or mixed property located within such city or county.

1995, c. 758, § 9-266.14; 2001, c. 844.

Cumberlands Airport Commission, The

Created

1958 Acts of Assembly, c. 439.

§ 1. If the governing bodies of each of the counties of Wise, Dickenson, Lee and Russell, the city of Norton, and the towns of Appalachia, Big Stone Gap, Wise, Pound, Coeburn, St. Paul, Clintwood, Haysi, Jonesville, Pennington Gap, Ewing, Rose Hill and Lebanon, or any two or more of them, shall by resolution declare that there is need for an airport commission to be created for the purpose of establishing and operating one or more airports or landing fields for all such political subdivisions, an airport commission, to be known as "The Cumberlands Airport Commission", shall thereupon exist for such counties, city and towns, and shall exercise its powers and functions therein.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of The Cumberlands Airport Commission, such commission shall be conclusively deemed to have become created as a body corporate, and to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body of each of the counties, city and towns creating the airport commission declaring that there is need for such commission and that it unites with the other political subdivisions in its creation. A copy of such resolution duly certified by the clerk of the county, city or town by which it is adopted, shall be admissible in evidence in any suit, action or proceeding. (1958, c. 439)

§ 2. The Cumberlands Airport Commission, hereinafter referred to as the "Commission", shall consist of one member from each of the participating counties, city and towns, appointed by the governing bodies thereof, respectively. Original appointments of members shall be for terms as follows: From the county of Russell, town of Lebanon, two years; from the county of Dickenson and the towns of Clintwood and Haysi, from the county of Lee and the towns of Jonesville, Pennington Gap, Ewing and Rose Hill, three years; from the county of Wise, city of Norton, and towns of Appalachia, Big Stone Gap, Wise, Pound, Coeburn, and St. Paul, four years. Thereafter all appointments shall be for four-year terms, except appointments to fill vacancies which shall be for the unexpired terms. The governing body appointing any member may remove such member at any time and appoint his successor. The commission shall have power to elect its chairman, and to adopt rules and regulations for its own procedure and government. The members of the commission so appointed shall constitute the commission, and the powers of such commission shall be vested in and exercised by the members in office from time to time. A majority of the members in office shall constitute a quorum. Members of the commission shall be paid ten dollars for each meeting attended, but no member shall receive more than three hundred dollars in any one year. (1958, c. 439)

§ 3. The airport commission established hereunder shall have all powers necessary or convenient to carry out the general purposes of this act, including the following powers in addition to others herein granted:

(a) To sue and be sued; to adopt a seal and alter the same at pleasure; to have perpetual succession; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(b) To employ such technical experts, and such other officers, agents and employees as it may require, and to fix their qualifications and duties, and their compensation within the limits of available funds.

(c) To accept gifts and grants from the State of Virginia or any political subdivision thereof, and from the United States and any of its agencies.

(d) To acquire within the territorial limits of the region for which it is formed, by purchase, lease, gift, condemnation or otherwise, whatever land may be reasonably necessary for the purpose of establishing, constructing, enlarging, maintaining and operating one or more airports or landing fields.

(e) To acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate the use of any airports, air landing fields, structures, air navigation facilities and other property incidental thereto, within the area for which it is created; provided, however, that no such airport shall be established or operated without the permission of the State Corporation Commission first had and obtained as now or hereafter provided by law.

(f) To construct, install, maintain and operate facilities for the servicing of aircraft, and for the accommodation of cargo, freight, mail, express, etc., and comfort of air travelers, and to purchase and sell equipment and supplies as an incident to the operation of its airport facilities.

(g) To determine rates and charges for the use of its airport and other facilities.

(h) To enforce all rules, regulations and statutes relating to its airports, including airport zoning regulations.

(i) To exercise within its area such powers and authority with respect to airports and air navigation facilities as may be conferred by law upon the governing bodies of the counties and cities of the Commonwealth.

(j) To make and enforce rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of its facilities and properties.

(k) To engage directly or through its agents or employees in the operation for profit of concessions in connection with its airports or other facilities, including the sale of airplanes and aircraft fuel, or to grant such privileges and concessions to others.

(l) To comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of Federal moneys in connection with airports, landing fields and air navigation facilities, and to accept, receive and receipt for Federal moneys granted the commission, or granted any of the political subdivisions by which it is formed, for airport purposes. (1958, c. 439)

§ 4. The commission established hereunder is hereby granted full power to exercise within its area the right of eminent domain in the acquisition of any lands, easements and privileges which are necessary for airport and landing field purposes, including the right to acquire, by eminent domain, avigation easements over lands or water outside the boundaries of its airport or landing fields where necessary or desirable in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport and landing fields even though such avigation easement be inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition; provided, however, such power of eminent domain shall not extend to the taking of any radio or television towers or installation in existence on the effective date of this act. Proceedings for the acquisition of such lands, easements and privileges by condemnation may be instituted and conducted in the name of the commission, and the procedure shall be the same as in the acquisition of land by condemnation proceedings instituted by councils of cities and towns; provided, that the provisions of § 25-233 of the Code of Virginia, 1950, shall apply to any property owned by a corporation possessing the power of eminent domain that may be sought to be taken be condemnation. (1958, c. 439)

§ 5. The counties, city and towns for which the commission is formed are hereby authorized to appropriate to the commission from available funds, or from funds provided for the purpose by bond issues, such funds as may be necessary for the acquisition, construction, maintenance and operation of airports, air landing fields and other air navigation facilities. The basis of financial participation by the counties, city and towns shall be determined by agreement between their governing bodies. (1958, c. 439)

§ 6. The commission shall prepare annually and submit to the governing bodies of the respective counties, city and towns for which it is formed for their approval, a budget showing the estimated revenues it may reasonably expect to receive for such year, and its estimated expenses for all purposes for such period. After the approval of such budget the commission shall be limited in its expenditures for such year to the estimated expenses shown therein, and shall not commit the

participating subdivisions beyond appropriations actually made. If the estimated expenditures exceed the estimated revenue from the operation of the commission for such year the governing bodies of the participating local subdivisions shall appropriate, in the proportions in which they are financially interested in the operations of the commission, the funds necessary to supply the deficiency. If the actual revenue received shall be less than the estimated revenue as approved in the budget, the governing bodies of the participating local subdivisions may appropriate, in the same manner, the funds necessary to supply the deficiency. (1958, c. 439)

§ 7. If the funds received by the commission in any year, including money appropriated for its use by the participating subdivisions, shall exceed its expenditures for such year, the surplus shall be set aside in a separate fund for capital improvements and extensions. Such fund shall be used for such purpose only with the approval of all the participating subdivisions. Whenever such surplus fund shall amount to one hundred thousand dollars, any additional revenue received in any year in excess of operating costs shall be applied towards repaying proportionally the participating counties, city and towns in the amount contributed by them for their original appropriations to the commission for capital outlay in establishing airports and airport facilities. Thereafter any profits derived from the operations of the commission shall be distributed to the participating subdivisions in proportion to their financial interest in the operations of the commission. (1958, c. 439)

§ 8. The commission shall be an independent body corporate, invested with the rights, powers and authority and charged with the duties set forth in this act, and the political subdivisions by which it is created shall not be responsible for its acts. No pecuniary liability of any kind shall be imposed upon any county, city or town creating the commission because of any act, agreement, contract, tort, malfeasance or misfeasance by or on the part of the commission or any member thereof, or its agents, servants or employees, except as otherwise provided in this act with respect to contracts and agreements between the commission and any such county, city or town. (1958, c. 439)

§ 9. Except in cases of emergency, all contracts of more than five thousand dollars that the commission may let for construction or materials shall be let after public advertising for at least ten days, stating the place where bidders may examine the plans and specifications and the time and place where bids for such work or materials will be opened. Reasonable deposits may be required of all bidders, and the contract shall be let to the lowest responsible bidder, who shall give bond or other security for the faithful performance of the contract. (1958, c. 439)

§ 10. No member, agent or employee of the commission shall contract with the commission or be interested, either directly or indirectly, in any contract with the commission, or in the sale of any property to the commission. (1958, c. 439)

§ 11. The commission shall keep and preserve complete records of its operations, dealings and transactions, which records shall be open to inspection by the participating subdivisions at all times. It

shall make reports to such subdivisions annually, and at such other times as they may require. (1958, c. 439)

§ 12. Any county, city or town creating the commission may withdraw therefrom upon giving one year's notice to the commission and to all other participating counties, city and towns. The political subdivision so withdrawing shall forfeit its rights to any further revenue from the operations of the commission, and to the repayment of any funds appropriated by it for capital expenditure. The operations of the commission may be discontinued at any time and its property disposed of by the unanimous action of all participating counties, city and towns, due regard being had for existing contracts and obligations. Upon the cessation of its activities all of the assets of the commission shall be distributed to the counties, city and towns participating therein at the time of liquidation in the proportion in which they are financially interested in such activities. (1958, c. 439)

§ 13. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby. (1958, c. 439)

§ 14. Existing facilities.
The provisions of this act and all rules and regulations adopted hereunder shall not apply to any airport, air landing field, structure, air navigation facilities and other property incidental thereto, created or set aside for such purposes prior to the effective date of this act. (1958, c. 439)

Dinwiddie Airport and Industrial Authority

Created
1980 Acts of Assembly, c. 94, as Petersburg-Dinwiddie Airport and Industrial Authority.

Amendments
1986, c. 105 (§§ 1, 3, 4, 5, 7, 12; name changed to Dinwiddie Airport and Industrial Authority)
1990, c. 233 (§ 4)
2000, c. 261 (§ 4)
2018, c. 409 (§ 3)

§ 1. Definitions.
As used in this act the following words and terms shall have the meanings as set forth, unless the context shall indicate another or different meaning or intent:

A. The word "Authority" shall mean the Dinwiddie Airport and Industrial Authority hereinafter created or, if the Authority shall be abolished, the board, body, or commission or agency succeeding to the principal functions thereof or upon whom the powers given by this act to the Authority shall be conferred by law;

B. "Authority Facilities" shall mean any or all airport and industrial facilities, as described in § 4. of this act, now existing or hereafter acquired or constructed by the Authority under this act, and together with any or all buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, water rights, air rights, franchises, machinery, equipment, furnishings, landscaping, easements, utilities, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, acquired or constructed by the Authority;

C. "Cost" shall mean and shall include, as applied to Authority Facilities, the cost of acquisition of all lands, structures, rights of way, franchises, easements and other property rights and interest, the cost of construction, the cost of demolishing, removing or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to and during construction and, if deemed advisable by the Authority, for a period not exceeding one year after completion of such construction, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing the Authority Facilities, administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions and improvements, and such other expenses as may be necessary or incident to the construction of the Authority Facilities, the financing of such construction and the placing of the Authority Facilities in operation. Any obligation or expense incurred by the Commonwealth or any agency thereof, with the approval of the Authority, for studies, surveys, borings, preparation of plans and specifications or other work or materials in connection with the construction of the Authority Facilities may be regarded as a part of the cost of the Authority Facilities and may be reimbursed to the Commonwealth or such agency out of any funds available therefor or the proceeds of the revenue bonds issued for such Authority Facilities as hereinafter authorized;

D. The word "bonds" or the words "revenue bonds" shall mean revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this act. (1980, c. 94; 1986, c. 105)

§ 2. Credit of Commonwealth and political subdivisions not pledged.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any county, city, district or political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any county, city, district or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the Commonwealth or any county, city or district therein or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the provisions of this act and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this act. (1980, c. 94)

§ 3. Dinwiddie Airport and Industrial Authority.

There is hereby created and constituted a body politic and corporate and a political subdivision of the Commonwealth to be known as the "Dinwiddie Airport and Industrial Authority." The exercise by the Authority of the powers conferred by this act in the construction, operation and maintenance of the airport or in the promotion of industry, trade or commerce authorized by this act shall be deemed and held to be the performance of an essential governmental function.

The Authority shall consist of seven members, at least four of whom shall be residents of the County of Dinwiddie. All appointments shall be made by the governing body of the County of Dinwiddie. Members of the Authority shall continue to serve until their successors shall be duly appointed and have qualified. The successor of any member shall be appointed for a term of three years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term, but may thereafter be appointed and reappointed for a full term. Any member of the Authority shall be eligible for reappointment without limitation on the number of terms served. Members of the Authority shall be subject to removal from office in like manner as are Commonwealth, county, town and district officers under the provisions of § 24.2-230 et seq. of the Code of Virginia. Each member of the Authority shall, before entering upon the discharge of the duties of his office, take and subscribe the oath prescribed in § 49-1 of the Code of Virginia. Any appointee who shall cease to reside within the County of Dinwiddie may be removed from office at the discretion of the governing body of the County of Dinwiddie.

The Authority shall annually elect one of its members as chairman and another as vice-chairman and shall also elect annually a secretary-treasurer, who may or may not be a member of the Authority. The secretary-treasurer shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates.

Four members of the Authority shall constitute a quorum and the affirmative vote of four members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The Authority shall keep suitable records of all its financial transactions and shall have the same

audited annually. Copies of such audit shall be furnished the governing body of the County of Dinwiddie and shall be open to public inspection.

Before the issuance of any revenue bonds under the provisions of this act and at any other time the Authority may direct, the secretary-treasurer of the Authority shall execute a surety bond in the penal sum of $50,000, such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the Commonwealth as surety and to be approved by the Attorney General and filed in the office of the Secretary of the Commonwealth.

The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties. Each member shall also be entitled to the sum of $50 per day for each day or portion thereof during which he is engaged in the performance of his duties, with the maximum payable to any one member in any one calendar year of $1,500.

The members of the Authority shall not be personally liable for any act done or action taken in their capacities as members of the Authority, nor shall they be personally liable for any bond, note or other evidence of indebtedness issued by the Authority. (1980, c. 94; 1986, c. 105; 2018, c. 409)

§ 4. General grant of powers.

The Authority is hereby authorized and empowered:

1. To adopt bylaws for the regulation of its affairs and the conduct of its business;

2. To adopt an official seal and alter the same at pleasure;

3. To acquire, construct, maintain and operate an airport, which shall be renamed and known as the Dinwiddie County Airport, for general, commercial and private use, together with all necessary or convenient approaches, roads, utilities, streets or buildings used in connection with such airport;

4. To determine, in its discretion, the design standards and the materials of construction, and to construct, maintain, repair and operate an airport;

5. To borrow money on a short term basis and issue from time to time its notes therefor payable on such terms, conditions or provisions as it may deem advisable;

6. To issue revenue bonds of the Authority for any of its purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

7. To fix and revise from time to time, and charge and collect, tolls, rates, fees, rentals and other charges for the use of, or services rendered by, any of the Authority Facilities;

8. To acquire, hold and dispose, except as otherwise provided in this act, of real and personal property in the exercise of its powers and the performance of its duties under this act;

9. To employ, in its discretion, to serve at the pleasure of the Authority, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other consultants, employees, experts and agents as may be necessary in its judgment, to prescribe their duties and to fix their compensation;

10. To enter upon any lands and premises for the purpose of making such surveys, soundings, borings and examinations as the Authority may deem necessary or convenient for its purposes, and an entry for such purposes shall not be deemed an entry under any condemnation proceedings; provided, however, the Authority shall pay any actual damage resulting to such lands and premises as a result of such entry and activities as a part of the cost of carrying out the purposes of the Authority;

11. To sue and be sued in its own name, plead and be impleaded;

12. To acquire or construct for sale, exchange or lease, on such terms and conditions as it may deem proper, factories or manufacturing facilities, office buildings, warehouses or other industrial buildings, and approaches to and appurtenances thereof; provided, however, that the Authority itself shall have no power to operate any facility mentioned in this paragraph other than as lessor;

13. To appoint advisory committees to assist the Authority in the performance of its duties; such committees shall consist of such number of persons as the Authority shall deem advisable. Members of advisory committees shall receive no compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on business of the Authority;

14. To accept and expend money and property from any public or private source and accept, maintain, operate and use, or sell, except as otherwise provided in this act, or lease, any property conveyed to it for the purposes of the Authority;

15. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

15a. To enter into contracts without competition with respect to any item of cost of Authority facilities as if such were included in the exception provided for Authority facilities in subsection D of § 11-45 of the Code of Virginia; and

16. To do all acts and things necessary and convenient to carry out the powers expressly granted in this act. (1980, c. 94; 1986, c. 105; 1990, c. 233; 2000, c. 261)

§ 5. Conveyance of property to Authority.

A. The city of Petersburg and the county of Dinwiddie are each empowered to convey to the Authority any and all airport lands or facilities of whatsoever kind or character owned by it, or any interest therein, and any other property owned by it, or any interest therein, useful or convenient in the

exercise of the powers and functions of the Authority under this act, and are further authorized to provide advances and donations of funds to assist the Authority in the performance of its functions under this act. Any such conveyance, advance or donation shall be made Upon such terms and conditions, with or without consideration and at such time or times and in such manner, as the respective city and county may determine.

B. All real property and facilities necessary or appropriate for the operation of an airport which shall be conveyed to the Authority by the city of Petersburg or the County of Dinwiddie shall be designated as such in the deed or other conveyance, and shall not be sold, exchanged, mortgaged or conveyed without the consent of the governing body of the and the County of Dinwiddie. (1980, c. 94; 1986, c. 105)

§ 6. Disposition of property by Authority.

Except as provided in § 5. B. of this act, the Authority is authorized to sell, exchange, mortgage, convey, lease to others or otherwise dispose of, or grant concessions or rights in, all or any part of the Authority Facilities, in the exercise of its powers and the performance of its duties under this act, and is authorized to lease to a lessee or lessees all or any part of the Authority Facilities for such period or periods of years, with or without options of renewal or options to purchase, in such manner, upon such terms and conditions and at such prices or rentals as the Authority shall determine to be in the public interest. (1980, c. 94)

§ 7. Acquisition of property.

A. The Authority is hereby authorized and empowered to acquire from funds provided under the provisions of this act, and such other monies as may be provided by federal, State and local governments, such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction and operation of Authority Facilities, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

Provided, however, without the consent of the governing body of and the County of Dinwiddie, the Authority shall not acquire, for the purposes specified in § 4. 12. of this act, any property which is not conveyed to it by the city of Petersburg or the county of Dinwiddie, or that is not contiguous to any such property so conveyed.

All public agencies and commissions of the Commonwealth, with the approval of the Governor, and the County of Dinwiddie, notwithstanding any contrary provisions of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of Court or other action or formality any real property which may be necessary or convenient to the

effectuation of the authorized purposes of the Authority, including public highways and other real property already devoted to public use.

B. The Authority established hereunder is hereby granted full power to exercise the right of eminent domain in the acquisition of any lands, easements, privileges or other property interest which are necessary for airport and landing field purposes, including the right to acquire, by eminent domain, aviation easements over lands or water outside the boundaries of its airport or landing field where necessary in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airports and landing fields even though such aviation easement be inconsistent with the continued use of such land, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on the land at the time of such acquisition. Proceedings for the acquisition of such lands, easements and privileges by condemnation may be instituted and conducted in the name of the Authority in accordance with Title 25, as amended, of the Code of Virginia.

C. Title to any property acquired by the Authority shall be taken in the name of the Authority.

D. In any eminent domain proceedings the court having jurisdiction of the suit, action or proceedings may make such orders as may be just to the Authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security nor any act or obligation of the Authority shall impose any liability upon the Commonwealth or upon any county, or other political subdivision of the Commonwealth.

E. If the owner, lessee or occupier of any property to be condemned or otherwise acquired shall refuse to remove his property therefrom or give up possession thereof, the Authority may proceed to obtain possession in any manner provided by law. (1980, c. 94; 1986, c. 105)

§ 8. Revenue bonds.

A. The Authority is authorized to provide for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of Authority Facilities. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding such interest rate as is permissible by law, shall be serial, term or both serial and term bonds maturing at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the

denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made and shall be deemed to be negotiable instruments under the laws of the Commonwealth. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine will best effect the purposes of this act.

B. The proceeds of the bonds of each issue shall be used solely for the payment of the cost and operating expenses of the Authority Facilities for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the bond resolution or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and unless otherwise provided in the bond resolution authorizing the issuance of the bonds of such issue or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, betterments, improvements or enlargements of the Authority Facilities for which such bonds shall have been issued.

C. Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this act.

D. The Authority is hereby authorized to provide by resolution for the issuance of revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for either or both of the following additional purposes; constructing improvements, extensions or enlargements of the Authority Facilities in connection with which the bonds to be refunded shall have been issued, and paying all or any part of the cost of any additional Authority Facilities. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect to the same, shall be governed by the provisions of this act insofar as the same may be applicable. Revenue refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this act and, if sold, the proceeds thereof may be applied to the purchase, redemption or payment of such outstanding bonds. (1980, c. 94)

§ 9. Trust agreement.

A. In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the bond resolution providing for the issuance of such bonds may pledge or assign the revenues of the Authority facilities or any part thereof, and, except as provided in § 5. B. of this act, may mortgage and pledge any and all Authority facilities or any part or parts thereof, whether then owned or thereafter acquired. Such trust agreement or bond resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of the bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the Authority Facilities, the rates to be charged, the custody, safeguarding and application of all moneys and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the holders of the bonds and of the trustee, and may restrict the individual right of action by such bondholders. In addition to the foregoing, any such trust agreement or bond resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the holders of bonds. All expenses incurred in carrying out the provisions of such trust agreement or bond resolution may be treated as part of the cost of the operation of the Authority Facilities.

B. All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds, or as revenues or other moneys made available hereunder shall be deemed to be trust funds to be held and applied solely as provided in this act. The Authority shall provide in the bond resolution or in the trust agreement for the payment of the proceeds derived from the sale of the bonds and the revenues to be received to a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of such funds and hold and apply the same to the purposes of this act, subject to such requirements as may be provided in this act, the bond resolution or the trust agreement. The trustee may invest and reinvest such funds, pending their disbursement for the Authority Facilities, in securities that are legal investments under the laws of the Commonwealth for funds held by fiduciaries.

C. Remedies. Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of tolls or other charges. (1980, c. 94)

§ 10. Exemption from taxation.

A. The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity. The bonds, notes or other obligations issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof. Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

B. As the operation and maintenance of the airport will constitute the performance of essential governmental functions, no taxes or assessments shall be levied by the Commonwealth or by any county, city, political subdivision, district or other agency or instrumentality of the Commonwealth

upon the airport or any airport facilities or upon any property, real or personal, acquired or used by the Authority in connection with, or any income derived by the Authority from the operation and maintenance of the airport or any airport facilities.

C. The acquisition, construction, sale, exchange, lease and maintenance of Authority Facilities within the meaning of § 4. 12. of this act constitute the performance of essential governmental functions and are for a public purpose promoting the industry and economy of the Commonwealth and thereby providing employment, stimulating business, increasing tax revenues and contributing to the general welfare of the Commonwealth. Accordingly, the income and property of the Authority shall at all times be exempt from all taxation by the Commonwealth or any political subdivision thereof. The Authority and the political subdivision in which all or any part of a particular Authority facility is located may agree on payment by the Authority on account of governmental services to be rendered by the political subdivision in such amounts as the Authority may find to be consistent with the purposes of this chapter. (1980, c. 94)

§ 11. Provisions of trust agreement.

In order to secure the payment of such bonds the Authority shall have power by provisions included in any bond resolution or trust agreement:

1. To pledge all or any part of the gross or net revenues of the Authority Facilities or any part thereof and to pledge all or any part of any other moneys then or thereafter available to the Authority;

2. To covenant against pledging all or any part of such revenues and other moneys or against permitting or suffering any lien on such revenues or moneys or against the Authority Facilities; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any Authority Facilities or any part thereof or any other property; and to covenant as to what other or additional bonds or obligations may be issued by it;

3. To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, covenant for their redemption and provide the terms and conditions thereof;

4. To covenant as to the rents and fees to be charged in the operation of any Authority Facilities, the amount to be raised each year or other period of time by rates, fees, rents, tolls, charges and other revenues and as to the use and disposition to be made thereto to create or to authorize the creation of special funds for moneys held for acquisition, construction or operating cost, payment of the bonds and interest thereon, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds;

5. To prescribe the procedure, if any, by which the terms of any contract with the holders of the bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

6. To covenant as to the use of any or all of its real or personal property and as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys;

7. To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

8. To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenant securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by the Authority, to take possession and use, operate and manage any facility or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the Authority with said trustee; to provide for the powers and duties of a trustee or trustees or the holders of bonds or any proportion of them who may enforce any covenant or rights securing or relating to the bonds; and

9. To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like, or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the absolute discretion of the Authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein. (1980, c. 94)

§ 12. Revenues.

The Authority is hereby authorized to establish, maintain, revise, charge and collect such rates, fees, rents, tolls or other charges for the use, services and facilities of the Authority Facilities and to contract with any person, partnership, association or corporation desiring the use of any part thereof, and to fix the terms, conditions, rates, fees, rents, tolls and charges for such use. Such rates, fees, rents, tolls and charges shall be so fixed and adjusted that the revenues of the Authority Facilities, including moneys to be provided by the Commonwealth, the city of Petersburg and the county of Dinwiddie or any other public agency or donor shall be sufficient to pay the cost to the Authority of maintaining, repairing and operating the Authority Facilities and the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such rates, fees,

rents, tolls and charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth or of any municipality, county, or other political subdivision of the Commonwealth. The revenues derived from or in connection with the ownership or operation of the Authority Facilities, except such part thereof as may be necessary to pay the cost of maintenance, repair and operation thereof and to provide such reserves therefor as may be required under the bond resolution or the trust agreement, shall be set aside at such regular intervals as may be provided in the bond resolution or the trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the bond resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the bond resolution or the trust agreement. Such sinking fund shall be a fund for all such bonds without distinction or priority of one over another or with such distinctions and priorities among such bonds as may be provided in the bond resolution or the trust agreement. A reserve may be accumulated and maintained out of the revenues and other moneys available to the Authority for extraordinary repairs and expenses and for such other purposes as may be provided in the bond resolution or trust agreement. Subject to such provisions and restrictions as may be set forth in the bond resolution or trust agreement the Authority shall have exclusive control of the revenues derived from or in connection with the Authority Facilities and the right to use such revenues in the exercise of its powers and duties set forth in this act.

The Authority shall be nonprofit and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual. firm or corporation, except that in the event the Authority shall determine that sufficient provision has been made for the full payment of expenses, bonds and other obligations of the Authority, any net earnings of the Authority thereafter accruing may, in the discretion of the Authority, be paid equally to the County of Dinwiddie. (1980, c. 94; 1986, c. 105)

Eastern Shore Water Access Authority Act

§ 15.2-7400.Title

This act shall be known and may be cited as the Eastern Shore Water Access Authority Act.

2014, c. 471.

§ 15.2-7401.Creation; public purpose

If any of the governing bodies of the Counties of Accomack and Northampton by resolution declare that there is a need for a public access authority to be created and an operating agreement is developed for the purpose of establishing or operating a public access authority for any such participating political subdivisions and that they should unite in the formation of an authority to be known as the Eastern Shore Water Access Authority (the Authority), which shall thereupon exist for such participating counties and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions. The Authority shall be charged with the following duties:

1. Identify land, either owned by the Commonwealth or private holdings, that can be secured for use by the general public as a public access site;

2. Research and determine ownership of all identified sites;

3. Determine appropriate public use levels of identified access sites;

4. Develop appropriate mechanisms for transferring title of Commonwealth or private holdings to the Authority;

5. Develop appropriate acquisition and site management plans for public access usage;

6. Determine which holdings should be sold to advance the mission of the Authority;

7. Receive and expend public funds and private donations in order to restore or create tidal wetlands within the region for which the Authority exists, provided that any tidal mitigation credits resulting from such restoration or creation projects shall be held by the Authority for the benefit and use of participating political subdivisions and shall not be sold or conveyed to any private party by the Authority or any participating political subdivision;

8. Receive and expend public funds and private donations for dredging or construction; apply for permits in order to perform dredging projects on waterways or to construct facilities and infrastructure within the region for which the Authority exists, provided that such projects enhance recreational and commercial public access; and perform such dredging projects or construct such facilities and infrastructure;

9. In conjunction with one or both of the Middle Peninsula Chesapeake Bay Public Access Authority (the MPCBPAA), created pursuant to the provisions of Chapter 66 (§ 15.2-6600 et seq.), and the

Northern Neck Chesapeake Bay Public Access Authority (the NNCBPAA), created pursuant to the provisions of Chapter 66.1 (§ 15.2-6626 et seq.), receive and expend public funds and private donations for dredging, apply for permits in order to perform dredging projects, and perform such dredging projects on waterways within the region for which any or all of the Authority, the MPCBPAA, or the NNCBPAA exists; and

10. Perform other duties required to fulfill the mission of the Authority.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Authority, the Authority shall be deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the participating political subdivisions declaring that there is a need for such Authority. A copy of such resolution duly certified by the clerks of the counties by which it is adopted shall be admissible as evidence in any suit, action, or proceeding. Any political subdivision of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this act.

The ownership and operation by the Authority of any public access sites and related facilities and the exercise of powers conferred by this act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired. The Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county pursuant to Article VII, Section 10 (a) of the Constitution of Virginia.

2014, c. 471; 2018, c. 327.

§ 15.2-7402.Definitions

As used in this act, the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the Eastern Shore Water Access Authority Act.

"Authority" means the Eastern Shore Water Access Authority created by this act.

"Board of directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by the Authority pursuant to this act.

"Commonwealth" means the Commonwealth of Virginia.

"Participating political subdivision" means any of the counties of the Accomack-Northampton Planning District Commission or any other subdivision that may join the Authority pursuant to this act.

"Political subdivision" means a locality or other public body of the Commonwealth.

"Site" means any land holding that can improve public access to waters of the Commonwealth.

2014, c. 471.

§ 15.2-7403.Participating political subdivision

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any other political subdivision.

2014, c. 471.

§ 15.2-7404.Appointment of a board of directors

The powers of the Authority shall be vested in the directors of the Authority. The governing body of each participating political subdivision shall appoint either one or two directors, one of whom shall be a member of the appointing governing body or its chief operating officer. In the event there are two or fewer participating political subdivisions in the Authority, each participating political subdivision shall appoint two directors.

The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term.

If financial funds are available, each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties.

2014, c. 471.

§ 15.2-7405.Organization

A simple majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws duly adopted and published at the organizational meeting of that body.

The board of directors shall annually elect a chairman and a vice-chairman from its membership, a secretary and a treasurer or a secretary-treasurer from its membership or not as the board of directors deems appropriate, an assistant secretary or assistant secretary-treasurer from its membership or not as the board of directors deems appropriate, and such other officers as the board of directors may deem appropriate.

The board of directors may make and from time to time amend and repeal bylaws, not inconsistent with this act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The board of directors may appoint such committees as it may deem advisable and fix the duties and responsibilities of such committees.

2014, c. 471.

§ 15.2-7406.Powers

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Sue and be sued in its own name;

3. Have perpetual succession;

4. Adopt a corporate seal and alter the same at its pleasure;

5. Maintain offices at such places as it may designate;

6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate public access sites that are owned or managed by the Authority within the territorial limits of the participating political subdivisions;

7. Construct, install, maintain, and operate facilities for managing access sites;

8. Determine fees, rates, and charges for the use of its facilities;

9. Apply for and accept gifts, grants of money, or gifts, grants, or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon, or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient, or desirable or imposed as a condition to such financial aid;

10. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and fix their duties and compensation;

11. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 15.2-7412, accounting services, including the annual independent audit required by § 15.2-7409, and procurement of goods and services and act as fiscal agent for the Authority;

12. Establish personnel rules;

13. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest, or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

14. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

15. Borrow money, as hereinafter provided, and borrow money for the purpose of meeting casual deficits in its revenues;

16. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

17. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee, or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

18. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

19. Whenever it shall appear to the Authority that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court determines that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivision. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia.

2014, c. 471.

§ 15.2-7407.Name of authority

The name of the Authority shall be the Eastern Shore Water Access Authority. The name of the Authority may be changed upon approval of a simple majority of the directors of the Authority.

2014, c. 471.

§ 15.2-7408.Rules, regulations, and minimum standards

The Authority shall have the power to adopt, amend, and repeal rules, regulations, and minimum standards for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the board of directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment, or modification thereof:

1. Make such rule, regulation, alteration, amendment, or modification in convenient form available for public inspection in the office of the Authority for at least 10 days; and

2. Post in a public place a notice declaring the board of directors' intention to consider adopting such rule, regulation, alteration, amendment, or modification and informing the public that the Authority will at a public meeting consider the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least 10 days from the first day of the posting of the notice thereof. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to (i) traffic, including but not limited to motor vehicle speed limits and the location of and charges for public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) site management and maintenance shall have the force of law, as shall any other rule or regulation of the Authority, which shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the appropriate official of the political subdivision in which such rules or regulations are to be enforced. The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

2014, c. 471.

§ 15.2-7409.Reports

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection.

2014, c. 471.

§ 15.2-7410.Procurement

All contracts that the Authority may let for professional services, nonprofessional services, or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

2014, c. 471.

§ 15.2-7411.Deposit and investment of funds

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for fiduciaries.

2014, c. 471.

§ 15.2-7412.Authority to issue bonds

The Authority shall have the power to issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority facilities and including the payment or retirement of bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest, (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts of certain designated facilities or loans whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision; the Commonwealth or any political subdivision, agency, or instrumentality thereof; any federal agency; or any unit, private corporation, co-partnership, association, or individual, as such participating political subdivision, or other entities, may be authorized to make under general law or by pledge of any income or revenues of the Authority or by mortgage or encumbrance of any property or facilities of the Authority. Unless

otherwise provided in the proceeding authorizing the issuance of the bonds, or in the trust indenture securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the Authority at any time and from time to time may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding 40 years from the date thereof, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times and at such places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the board of directors in authorizing each particular bond issue.

If deemed advisable by the board of directors, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors of the Authority to be most advantageous, and the Authority may pay all costs, premiums, and commissions that its board of directors may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the board of directors may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

All bonds shall be signed by the chairman or vice-chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature, or such facsimile, shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that become mutilated or are destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this act, provided, however, that nothing contained in this act shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia (§ 8.1A-101 et seq.), subject only to provisions respecting registration of the bonds.

In addition to all other powers granted to the Authority by this act, the Authority is authorized to provide for the issuance from time to time of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this act that relate to bonds or revenue bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate.

2014, c. 471.

§ 15.2-7413.Fees, rents, and charges

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents, and other charges for the use and services of any facilities or access site. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement.

2014, c. 471.

§ 15.2-7414.Credit of Commonwealth and political subdivisions not pledged

Bonds issued pursuant to the provisions of this act shall not be deemed to constitute a debt of the Commonwealth, or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefor as herein authorized. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the Authority, shall be obligated to pay the same or the interest thereon or other costs

incident thereto except from the revenues and money pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

All expenses incurred in carrying out the provisions of this act shall be payable solely from the funds of the Authority and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall be available to the Authority.

Bonds issued pursuant to the provisions of this act shall not constitute an indebtedness within the meaning of any debt limitation or restriction.

2014, c. 471.

§ 15.2-7415.Directors and persons executing bonds not liable thereon

Neither the board of directors nor any person executing the bonds shall be liable personally for the Authority's bonds by reasons of the issuance thereof.

2014, c. 471.

§ 15.2-7416.Security for payment of bonds; default

The principal of and interest on any bonds issued by the Authority shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture covering all or any part of the Authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the board of directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement, and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any trust indenture executed as security therefor, said pledge or agreement may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the directors, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any trust indenture of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of said remedies.

2014, c. 471.

§ 15.2-7417.Taxation

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience, and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act, and the bonds issued under the provisions of this act, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations, and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to, any leasehold tax on real property and taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation, or calling, and taxes upon consumers of gas, electricity, telephone, and other public utility services.

2014, c. 471.

§ 15.2-7418.Bonds as legal investments

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital, in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

2014, c. 471.

§ 15.2-7419.Appropriation by political subdivision

Any participating political subdivision, or other political subdivision of the Commonwealth, is authorized to provide services, to donate real or personal property, and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume or reimburse a participating political subdivision for any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority.

2014, c. 471.

§ 15.2-7420.Contracts with political subdivisions

The Authority is authorized to enter into contracts with any one or more political subdivisions.

2014, c. 471.

§ 15.2-7421.Agreement with Commonwealth and participating political subdivisions

The Commonwealth and, by participating in the Authority, each participating political subdivision pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds.

2014, c. 471.

§ 15.2-7422.Liberal construction

Neither this act nor anything contained herein is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws.

2014, c. 471; 2015, c. 709.

§ 15.2-7423.Application of local ordinances, service charges, and taxes upon leaseholds

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom.

2014, c. 471.

§ 15.2-7424.Existing contracts, leases, franchises, etc., not impaired

No provision of this act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession, lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification.

2014, c. 471.

§ 15.2-7425.Withdrawal of membership

Any member jurisdiction may withdraw from membership in the Authority by resolution or ordinance of its governing body. However, no member jurisdiction shall be permitted to withdraw from the Authority after any obligation has been incurred except by unanimous vote of all member jurisdictions.

2014, c. 471.

Eastern Virginia Medical School

Created

1964 Acts of Assembly, c. 471, as the Norfolk Area Medical Center Authority.

Amendments

1975, c. 396 (§§ 1, 2; name changed to Eastern Virginia Medical Authority)

1979, c. 217 (§ 2)

1981, c. 121 (§ 2)

1987, c. 329 (§§ 1 through 14, 16, 17, 18; name changed to Medical College of Hampton Roads)

1988, c. 386 (§ 11)

1991, c. 454 (§§ 2 through 6, 8, 8.1 [added], 10 through 14, 16, 17)

2002, cc. 87, 478 (§§ 1 through 8.1, 8.2 [added], 8.3 [added], 9 through 19; name changed to Eastern Virginia Medical School)

2008, c. 658 (§ 2)

2009, cc. 820, 844 (§ 2)

2013, c. 168 (§ 2)

§ 1. There is hereby created a public body politic and corporate and a political subdivision of the Commonwealth to be known as the "Eastern Virginia Medical School" hereinafter referred to as "the Medical School," with such public and corporate powers as are hereinafter set forth. The Medical School may sue and be sued, plead and be impleaded, and shall have the power and authority to

contract and be contracted with and to exercise and discharge all the powers and duties imposed and conferred upon it, as hereinafter provided. (1964, c. 471; 1975, c. 396; 1987, c. 329, 2002, cc. 87, 478)

§ 2. The Medical School shall be governed by a Board of Visitors (the Board) composed of 17 members as follows: two nonlegislative citizen members to be appointed at large by the Governor; two nonlegislative citizen members to be appointed at large by the Senate Committee on Rules; three nonlegislative citizen members to be appointed at large by the Speaker of the House of Delegates; six members to be appointed by the Eastern Virginia Medical School Foundation; and four members of whom shall be appointed by their respective city councils as follows: two members for the City of Norfolk, one member for the City of Virginia Beach, and one member appointed by the following city councils in a rotating manner beginning with the City of Chesapeake, the City of Hampton, the City of Portsmouth, the City of Suffolk, and the City of Newport News.

Effective June 30, 2009, as terms expire on the Board among those members previously appointed by the region's city councils, the Commonwealth's three appointing bodies shall make appointments in a rotating manner, in the following order: in 2009, two Governor's appointments and two Senate appointments; and in 2010, three House of Delegates appointments. In 2011, four appointments shall be made by the region's city councils as previously described. Thereafter, all Board appointments will be made by the initial appointing body. Any vacancy that occurs prior to the completion of the term shall be appointed by the appointing authority, for the remainder of the term only.

Appointments by the Eastern Virginia Medical School Foundation (the Foundation) shall represent the broad involvement of the Medical School in the Commonwealth at large. All appointments shall be for terms of three years, commencing on the first day of July of the appointment year. However, appointments to fill vacancies shall be made by the appropriate appointing authority, as the case may be, to commence on appropriate dates for the unexpired terms.

No person shall be eligible to serve for more than two successive full three-year terms; however, after the expiration of a term of two years or less, or after the expiration of the remainder of a term to which the member was appointed to fill a vacancy, or after one year following the expiration of a second full three-year term, two additional three-year terms may be served by a member, if appointed. In addition, an officer of the Board may serve up to three additional one-year terms.

Members shall receive no salaries but shall be entitled to reimbursement for necessary traveling and other expenses incurred while engaged in the performance of their duties. Each member shall continue to hold office until his successor has been appointed and qualified.

Each appointing authority shall have the right to remove any member it appointed for malfeasance or misfeasance, incompetence, or gross neglect of duty.

Each member shall take an appropriate oath of office before the clerk of any circuit court of the Commonwealth, and the oath shall be filed with such clerk.

Members of the Board shall elect, on an annual basis, one of their number as rector and another as vice-rector and shall also elect a secretary and treasurer and such assistant secretaries and treasurers as the Board may authorize for terms to be determined by them, who may or may not be one of the members. The same person may serve as both secretary and treasurer.

The Board shall appoint a President, who shall be the chief executive officer, with such duties as may be prescribed by the Board. The Board shall also appoint a dean, a provost, such vice presidents, and other administrative and academic officers as the Board may authorize, and such professors, teachers, staff members, and agents as it deems proper. The Board may prescribe the duties of such staff and faculty, and provide for the employment of other personnel as may be necessary. The Board shall generally direct the affairs of the Medical School.

The Board shall make such rules, regulations and bylaws for its own government and procedures as it shall determine. The Board may generally, in respect to the government and management of the Medical School adopt such rules and regulations as it may deem expedient, which are not contrary to law. The Board shall meet at least four times each year and may hold such special meetings as it deems necessary. The rector or any three members may call special meetings of the Board. The Board may appoint an executive committee composed of at least three and no more than five members for the transaction of business in the recess of the Board.

The Board shall have the right to confer degrees, including honorary degrees, consistent with the approval authority of the State Council of Higher Education pursuant to Title 23 of the Code of Virginia. (1964, c. 471; 1975, c. 396; 1979, c. 217; 1981, c. 121; 1987, c. 329; 1991, c. 454; 2002, cc. 87, 478; 2008, c. 658; 2009, cc. 820, 844; 2013, c. 168)

§ 3. The Medical School shall be deemed to be a public instrumentality, having its primary offices and facilities located in the Hampton Roads area of the Commonwealth of Virginia. The Medical School shall have the power to exercise and the purpose of exercising public and essential governmental functions to provide for the public health, welfare, convenience, knowledge, benefit, and prosperity of the residents of the Commonwealth of Virginia and such other persons as may be served by the Medical School. In the exercise of such power and purpose, the Medical School shall deliver and support the delivery of high quality medical and health care and related services to such residents and persons regardless of their ability to pay, by providing educational opportunities and conducting and facilitating research. Further, the Medical School is hereby authorized to exercise the powers conferred by this chapter. (1964, c. 471; 1987, c. 329; 1991, c. 454; 2002, cc. 87, 478)

§ 4. The Medical School may identify, document and evaluate needs, problems and resources relating to medical and health care, education, and research; and may plan, develop and implement

programs to meet such needs on both an immediate and long-range basis. (1964, c. 471; 1987, c. 329; 1991, c. 454; 2002, cc. 87, 478)

§ 5. The Medical School may plan, design, construct, possess, own, remove, renovate, enlarge, equip, maintain and operate projects for the purpose of providing medical and health care, education, and research, and related and supporting services, and other appropriate purposes. The Medical School may lease, sell, or otherwise convey any or all of its projects to others who agree to provide for the operation of the same if the Medical School determines that such lease, sale, or other conveyance will assist, promote, or further the purposes and intent of this act.

"Projects," as used in this act, mean any medical educational institutions and facilities, including, but not limited to, colleges, schools, and divisions offering undergraduate and graduate programs for the health professions and sciences and such other branches of learning as may be appropriate; medical and paramedical facilities; and such other facilities as shall be deemed by the Board as consistent with the powers and purposes of the Medical School, together with all related and supporting facilities; and all lands, buildings, improvements, and any other appurtenances and equipment necessary or desirable in connection therewith or incidental thereto.

"Operating project," as used in this act, means any project owned, in whole or in part, or controlled, directly or indirectly, in whole or in part, or operated, directly or indirectly, by the Medical School, and shall also include, without limitation, parking, utility, and similar essential and related facilities operated by the Medical School or an agent therefor, either for itself or for itself and other health-related entities and institutions on a shared-support basis. (1964, c. 471; 1987, c. 329; 1991, c. 454; 2002, cc. 87, 478)

§ 6. The Medical School may acquire property, real or personal, by purchase, lease, gift, devise or by the exercise of the power of eminent domain, on such terms and conditions, and in such manner as it may deem proper, and such rights, easements or estates therein as may be necessary for its purposes, and sell, lease and dispose of the same, or any portion thereof or interest therein whenever it shall become expedient to do so. The power of eminent domain shall be exercised in accordance with Chapter 1.1 (§ 25-46.1 et seq.) of Title 25 of the Code of Virginia and only within the corporate limits of the City of Norfolk and only for the purpose of acquiring property to be used for operating projects. No property of any corporation itself having the power of eminent domain may be condemned hereunder. (1964, c. 471; 1987, c. 329; 1991, c. 454; 2002, cc. 87, 478)

§ 7. The Medical School may fix and revise from time to time and charge and collect rates, rentals, fees and other charges for the services and facilities furnished by the Medical School, and establish and revise from time to time regulations, in respect to the use, occupancy or operation of any such facility or part thereof, or service rendered. (1964, c. 471; 1987, c. 329, 2002, cc. 87, 478)

§ 8. The Medical School may accept loans, grants, contributions, or assistance from the federal government, the Commonwealth of Virginia, any municipality thereof, or from any other sources, public or private, to carry out any of its purposes and may enter into any agreement or contract regarding or relating to the acceptance or use or repayment of any such loan, grant, contribution, or assistance. (1964, c. 471; 1987, c. 329; 1991, c. 454, 2002, cc. 87, 478)

§ 8.1. The Medical School shall have the following powers to carry out the purposes and intent of this act:

(a) To provide or assist in providing medical and health care, education, and research and related and supporting services within or without the Commonwealth of Virginia or the United States.

(b) To develop, undertake, conduct, and provide programs, alone or in conjunction with any other public or private person or entity for medical, biomedical, and health care research and any associated disciplines relating to the knowledge about and the causes and cures of diseases, conditions, syndromes, or disorders or to health care services or the delivery of health care.

(c) To foster the utilization of information, discoveries, data, and material produced through medical, biomedical, and health care research; to obtain patents, copyrights, and trademarks for such intellectual properties; to administer and manage such intellectual properties or to contract for such administration and management by entities organized for such purpose; and to market, transfer, and convey, in whole or in part, any interests in such information, discoveries, data, materials, patents, copyrights, trademarks, or other intellectual properties in any manner consistent with the Medical School's patent and copyright policies and the terms of any grants or contracts providing financial support for the relevant research.

(d) To promote, develop, improve, and increase the health, welfare, convenience, commerce, and prosperity of the Commonwealth of Virginia.

(e) To assist in or provide for the creation of domestic or foreign stock and nonstock corporations, and to purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares of or other interests in, or obligations of, any domestic or foreign corporations, partnerships, associations, joint ventures, or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district, or municipality, or of any other obligations of any association, partnership, or individual or any other domestic or foreign corporation organized for any purpose.

(f) To provide appropriate assistance in carrying out any activities authorized by this act to any domestic or foreign corporations, partnerships, associations, joint ventures, or other entities owned

in whole or in part or controlled, directly or indirectly, in whole or in part, by the Medical School, including, but not limited to, making loans and providing employees.

(g) To make loans and provide other assistance to corporations, partnerships, associations, joint ventures, or other entities.

(h) To make contracts or guarantees, incur liabilities, borrow money, or secure any obligations of others.

(i) To transact its business, establish and locate its offices, facilities, and any satellite offices and facilities, other than its primary Hampton Roads offices and facilities, at other locations within and without the Commonwealth of Virginia or the United States, and control, directly or through domestic or foreign stock or nonstock corporations or other entities, facilities that will assist or aid the Medical School in carrying out the purposes and intent set forth in this act, including, but not limited to, the power to own or operate, directly, or indirectly, medical educational and research institutions, medical, research, and paramedical facilities, together with related and supporting facilities and projects, within or without the Commonwealth of Virginia or the United States.

(j) To hire employees and staff as necessary for the transaction of its business within and without the Commonwealth of Virginia and the United States.

(k) To participate in joint ventures, within or without the Commonwealth of Virginia or the United States, with individuals, corporations, partnerships, associations, or other entities for providing such medical and health care, education, and research, or related services or other activities that the Medical School may determine to undertake.

(l) To conduct or engage, directly or indirectly, in any lawful business, activity, effort, or project, necessary, convenient, or desirable to assist the Medical School in carrying out its public purposes or for the exercise of any of its powers, within or without the Commonwealth of Virginia or the United States, so long as any private benefit resulting to any other corporation or other entity from any such business, activity, effort, or project is merely incidental to the resulting public benefit. However, nothing contained in this section shall be deemed a waiver of the sovereign immunity of the Commonwealth of Virginia or of the Medical School.

(m) To have and exercise, in addition to its other powers, all the corporate powers granted to corporations by the provisions of Title 13.1 of the Code of Virginia, except in those cases where, by the express terms of the provisions thereof, it is confined to corporations created under such title; and, further, to have the power to accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust. (1991, c. 454; 2002, cc. 87, 478)

§ 8.2. The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia shall not apply to the Eastern

Virginia Medical School in the exercise of any power conferred under this chapter, as amended. (2002, cc. 87, 478)

§ 8.3. In hiring practices and in the procurement of goods and services, the Medical School shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability. (2002, cc. 87, 478)

§ 9. The Medical School may borrow money and issue bonds as hereinafter provided. (1964, c. 471; 1987, c. 329; 2002, cc. 87, 478)

§ 10. In addition to the powers granted by general law or by its charter, any county, city, or town in the Commonwealth is empowered to cooperate with the Medical School as follows:

(a) To make such appropriations and provide such funds for the operation and carrying out the purposes of the Medical School as the governing body may deem proper, either by outright donation or by loan, or the governing body may agree with the Medical School to take such action.

(b) To dedicate, sell, convey, or lease any of its interest in property, or grant liens, easements, licenses or any other privileges therein or thereon to or for the benefit of the Medical School.

(c) To cause parks, playgrounds, and recreational, community, educational, water, sewer or drainage facilities, or any other works, which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with property of or any facility or project of the Medical School.

(d) To furnish, dedicate, close, pave, install, grade or regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places, which it is otherwise empowered to undertake.

(e) To plan or replan, zone or rezone any part of such county, city, or town in connection with the use of any property of the Medical School or any property adjacent to the property of the Medical School or any facilities or projects that it is otherwise empowered to undertake, in accordance with general laws.

(f) To cause services to be furnished to the Medical School of the character that such county, city, or town is empowered to furnish.

(g) To purchase any of the bonds of the Medical School or legally invest in such bonds any funds belonging to or within the control of such county, city, or town and exercise all the rights of any holder of such bonds.

(h) To do any and all things necessary or convenient to aid or cooperate in the planning, undertaking, construction or operation of any of the plans, projects or facilities of the Medical School.

(i) To enter into agreements with the Medical School respecting action to be taken by such county, city, or town pursuant to any of the above powers. (1964, c. 471; 1987, c. 329; 1991, c. 454; 2002, cc. 87, 478)

§ 11. The Medical School is hereby authorized to issue bonds from time to time in its discretion for the purpose of paying all or any part of the cost of any project within the Commonwealth of Virginia, financing any of its programs or its general operations, or refunding any bonds or other obligations of the Medical School now or hereafter outstanding whether or not the bonds or obligations to be refunded have matured or are then subject to redemption.

Refunding bonds may be issued in exchange for bonds or obligations being refunded, to pay the principal, premium, if any, and interest accrued and to accrue on such bonds or obligations, or any portion thereof, to maturity or earlier date of redemption or to pay the purchase price of any such bonds or obligations to be retired upon such purchase, as may be determined by the Medical School.

The Medical School may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable as to principal and interest from any one or more of the following sources: (i) its revenues generally; (ii) the income and revenues of a particular project (including revenues from the sale or lease of such project); (iii) the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds; (iv) the proceeds of the sale or lease of any project or projects, whether or not they are financed from the proceeds of such bonds; (v) funds realized from the enforcement of security interests or other liens securing such bonds; (vi) proceeds from the sale of bonds of the Medical School; (vii) payments due under letters of credit, policies of municipal bond insurance, guarantees, or other credit enhancements securing payment of bonds of the Medical School; (viii) any reserve or sinking funds created to secure such payment; or (ix) other available funds of the Medical School.

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

"Bonds" includes bonds, notes, revenue certificates, lease participation certificates, and other evidences of indebtedness or deferred purchase financing arrangements.

"Cost" means costs of construction, reconstruction, renovation, site work, acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights and interests; costs of demolition, removal, or relocation of buildings or structures; costs of labor, materials, machinery, and all other kinds of equipment; financing charges; costs of issuance of the bonds, including printing, engraving, advertising, legal, and other similar expenses; credit enhancement and liquidity facility fees; fees for interest rate caps, collars, and swaps; interest on bonds and other borrowing in connection with a project prior to and during construction thereof and for a period not exceeding one year after the completion of such construction; costs of engineering and inspections, financial, legal, and accounting services, plans, specifications, studies, surveys, estimates of costs and of revenues,

feasibility studies, administrative expenses, including administrative expenses during the start-up of any project; provisions for working capital to be used in connection with any project; reserve funds and other reserves for the payment of principal and interest on bonds; and all other expenses necessary, desirable, or incidental to the construction, reconstruction, renovation, and acquisition of projects, the financing of same, or placing of the same in operation.

Any such bonds may be additionally guaranteed by, or secured by a pledge of any grant, contribution, or appropriation from, a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, or a pledge of any income or revenues of the Medical School, or a mortgage of, or a deed of trust or other lien or a security interest in, any particular project or projects or other property of the Medical School or any individual or entity referred to above.

Neither the members of the Board of the Medical School nor any person executing any bonds issued under the provisions of this act shall be liable personally on the bonds by reason of the issuance thereof. The bonds of the Medical School (and such bonds shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof; neither the Commonwealth nor any political subdivision thereof, other than the Medical School, shall be liable thereon, nor shall such bonds be payable out of any funds or properties of the Commonwealth or any political subdivision thereof, other than those of the Medical School. The bonds shall not constitute indebtedness within the meaning of any debt limitation or restriction on any Virginia local government. Bonds of the Medical School are declared to be issued for an essential public and governmental purpose. (1964, c. 471; 1987, c. 329; 1991, c. 454; 2002, cc. 87, 478)

§ 12. Bonds of the Medical School shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest payable at such time or times at such rate or rates, as may be determined by the Medical School, or as may be determined in such manner as the Medical School may provide, including the determination by agents designated by the Medical School under guidelines established by the Medical School. Such bonds may be made redeemable or subject to tender before maturity, at the option of the Medical School, at such price or prices and under such terms and conditions as may be fixed by the Medical School prior to the issuance of the bonds.

The Medical School shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company or securities depository within or without the Commonwealth.

In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bond, such signature or such facsimile

shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth of Virginia. The bonds may be issued in coupon or registered form or both, as the Medical School may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payments of principal of and premium, if any, and interest on such bonds.

The Medical School may contract for the services of one or more banks, trust companies, financial institutions, or other entities or persons, within or outside the Commonwealth, for the authentication, registration, transfer, exchange, and payment of the bonds, or may provide such services itself. The Medical School may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Medical School.

Prior to the preparation of definitive bonds, the Medical School may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Medical School may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed, stolen, or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things that are specifically required by this act. (1964, c. 471; 1987, c. 329; 1991, c. 454; 2002, cc. 87, 478)

§ 13. In the discretion of the Medical School, any bonds issued under the provisions of this act may be issued pursuant to or secured by a trust indenture by way of conveyance, deed of trust or mortgage of any project or any other property of the Medical School, whether or not financed in whole or in part from the proceeds of such bonds, or by a trust or other agreement by and between the Medical School and a corporate trustee (which may be any trust company or bank having the powers of a trust company within or without the Commonwealth) or other agent for bondholders, or by both such conveyance, deed of trust or mortgage and indenture, trust or other agreement.

Such trust, indenture or agreement, or the resolution providing for the issuance of such bonds may pledge or assign fees, rents and other charges to be received. Such trust indenture or trust or other agreement, or resolution providing for the issuance of such bonds, may contain such provisions for

protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants providing for the repossession and sale by the Medical School or any trustees under any trust indenture or agreement of any project, or part thereof, upon any default under the lease or sale of such project, setting forth the duties of the Medical School in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of any project or other property of the Medical School, the amounts of fees, rents and other charges to be charged, the collection of such fees, rents, and other charges, and the custody, safeguarding and application of all moneys of the Medical School, and conditions or limitations with respect to the issuance of additional bonds.

It shall be lawful for any national bank with its main office in the Commonwealth or any other state or any bank or trust company incorporated under the laws of the Commonwealth or another state that may act as depository of the proceeds of such bonds or of other revenues of the Medical School to furnish indemnifying bonds or to pledge such securities as may be required by the Medical School.

Such trust indenture, trust, or other agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee or other agent for the bondholders, and may restrict the individual right of action by bondholders.

In addition to the foregoing, such trust indenture, trust or other agreement or resolution may contain such other provisions as the Medical School may deem reasonable and proper for the security of the bondholders, including, without limitation, provisions for the assignment to a corporate trustee or other agent for bondholders of any rights of the Medical School in any project owned, operated, or controlled by, or leases or sales of any projects made by, the Medical School.

All expenses incurred in carrying out the provisions of such trust indenture or agreement or resolution or other agreements relating to any project, including those to which the Medical School may not be a party, may be treated as a part of the cost of a project. (1964, c. 471; 1991, c. 454; 2002, cc. 87, 478)

§ 14. The Medical School is hereby authorized to fix, revise, charge and collect fees, rents and other charges for the use of any project. Such fees, rents and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the principal of and any interest on bonds secured by or otherwise to be paid by such revenues as the same shall become due and payable, to create reserves for such purposes and for other purposes of the Medical School and to pay the cost of maintaining, repairing, and operating the project. Such fees, rents and charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth or any such participating political subdivision.

The fees, rents and other charges received by the Medical School may be applied and be set aside from time to time in the order and in the manner as may be provided in such resolution or trust indenture or agreement, including application to a sinking fund that may be pledged to, and charged

with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided.

All pledges of such fees, rents, and other charges to payment of bonds shall be valid and binding from the time when the pledge is made. The fees, rents and charges so pledged and thereafter received by the Medical School shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Medical School, regardless of whether such parties have notice thereof. Neither the resolution, any trust indenture, trust, nor other agreement by which a pledge is created need be filed or recorded except in the records of the Medical School. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or trust or other agreement. Except as may otherwise be provided in such resolution or such trust indenture or trust or other agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1964, c. 471; 1991, c. 454; 2002, cc. 87, 478)

§ 15. All moneys received pursuant to this act by the Medical School, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. (1964, c. 471; 2002, cc. 87, 478)

§ 16. Any holder of bonds, issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee or other agent for bondholders under any trust indenture or trust or other agreement, except to the extent that the rights herein given may be restricted by such trust indenture or trust or other agreement, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust indenture or trust or other agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such trust indenture or trust or other agreement or resolution to be performed by the Medical School or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges. (1964, c. 471; 1987, c. 329; 1991, c. 454; 2002, cc. 87, 478)

§ 17. The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the promotion of their safety, health, welfare, knowledge, benefit, convenience and prosperity, and as the operation and maintenance of any project that the Medical School is authorized to undertake will constitute the performance of an essential governmental function, no authority shall be required to pay any taxes or assessments upon any project acquired and constructed by it under the provisions of this act; and the bonds issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale

thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. (1964, c. 471; 1987, c. 329; 1991, c. 454; 2002, cc. 87, 478)

§ 18. Bonds issued by the Medical School under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligation is now or may hereafter be authorized by law. (1964, c. 471; 1987, c. 329; 2002, cc. 87, 478)

§ 19. This act shall constitute full and complete authority for the Medical School, without regard to the provisions of any other law, for the purposes, activities, and powers herein authorized, and shall be liberally construed to effect the purposes hereof. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act. (1964, c. 471; 2002, cc. 87, 478)

Economic Development Authority of the City of Newport News

Created
1972 Acts of Assembly, c. 726, as Oyster Point Development Corporation.

Amendments
1976, c. 524 (§ 9)
1979, c. 285 (§§ 1, 5, 9, 17, 18, 19)
1980, c. 46 (§§ 4 through 7, 9, 12)
1987, c. 58 (§ 3)
1988, c. 717 (§ 19)
1992, c. 233 (§§ 1, 3, 4, 7, 9, 11, 14 [repealed])
1993, c. 682 (§§ 1 through 10, 12, 13, 15 through 19; name changed to Economic Development Authority of the City of Newport News)

§ 1. There is hereby created within the city of Newport News, Virginia, a political subdivision of the Commonwealth to be called the Economic Development Authority of the City of Newport News, Virginia.

The Economic Development Authority of the City of Newport News, Virginia is created with the express purpose of developing for sale or lease that property currently owned by the authority called the "Oyster Point Tract," said property being in the city of Newport News and any other property or

interests in property assigned by the city of Newport News to the authority or acquired by the authority. (1972, c. 726; 1979, c. 285; 1992, c. 233; 1993, c. 682)

§ 2. The authority shall be governed by a Board of Directors composed of seven members. The members appointed by the governing body of the city to serve as the Board of Directors of the Industrial Development authority of the City of Newport News, Virginia, shall serve as the members and directors of the authority. All powers and duties of the authority shall be exercised and performed by the directors. Each director shall, before entering on his duties, take and subscribe the oath presented by § 49-1 of the Code of Virginia. At the discretion of the governing body of the city, the City Manager of the City of Newport News, Virginia, shall serve, ex officio, as a nonvoting member of the authority's Board of Directors. (1972, c. 726; 1993, c. 682)

§ 3. The Board shall elect from its membership a chairman and vice-chairman. The City Manager of the City of Newport News or his designee shall serve as secretary-treasurer of the Board. The directors shall meet regularly at such times as may be required. The directors and members of any committee appointed by the Board may be paid such salary as may be specified by the council of the City of Newport News. Any such salary shall be funded by the authority. The Board shall hold regular meetings at such times and places as may be established by its bylaws, and may meet jointly with the Industrial Development Authority for the City of Newport News, Virginia. The Board shall keep detailed minutes of its proceedings which shall be open to public inspection at all times. It shall keep suitable records of all its financial transactions, and shall arrange to have the same audited annually by the internal auditors of the City of Newport News, or by other independent auditors. Such audit shall be furnished to the governing body of the city, and shall be open to public inspection. (1972, c. 726; 1987, c. 58; 1992, c. 233; 1993, c. 682)

§ 4. The authority shall have the following powers:

(a) To contract and be contracted with, to sue and to be sued, and to adopt and use a corporate seal and to alter the same at pleasure.

(b) To acquire, construct, improve, hold and dispose of real or personal property necessary for its purposes; to acquire by purchase or lease real property, or rights, easements or estates therein necessary for its purposes; all to sell, lease and dispose of the same or any portion thereof of interest therein.

(c) To employ a director and such other agents and employees as may be necessary to serve at the pleasure of the Board, and to fix their compensation and prescribe their duties.

(d) To do all acts and things which may be reasonably necessary and convenient to carry out its purpose and powers.

(e) In addition and supplemental to any other powers conferred upon the authority by this act, to exercise all or any powers and authority vested in an industrial development authority established under the Industrial Development and Revenue Bond Act (Chapter 33, Title 15.1 of the Code of Virginia) as amended from time to time, either alone or in conjunction with the powers provided in this Act, including without limitation the power to issue its bonds to pay all or a part of the "cost" of any "facilities" as such terms are defined in the said Industrial Development and Revenue Bond Act.

(f) To establish bylaws and make all rules and regulations deemed expedient for the management of the authority's affairs. (1972, c. 726; 1980, c. 46; 1992, c. 233; 1993, c. 682)

§ 5. The authority shall participate in marketing, economic development and the development of the property within the city of Newport News. The property may be sold or leased for industrial, manufacturing, commercial, business, residential, governmental and any other similar or related purpose or any combination of the purposes herein listed. The governing body of the city is authorized and empowered to transfer to the authority property of the "Oyster Point Tract", and any other property, in such amounts and at such times as it deems necessary to carry out the purpose of this act. The city is authorized and empowered to make appropriations and to provide funds for the operation of the authority and to further its purposes. The city of Newport News is further authorized and empowered to enter into agreements with the authority and under such agreements to contract obligations, both contingent and absolute, to appropriate, donate or contribute, from tax revenues or from any other sources, funds to assist the authority in the financing of any of its projects or the carrying out of any of the purposes of this act. Such agreements and contract obligations may provide for the payment or the guarantee of payment of all or any part of the principal of and interest and redemption premium, if any, on bonds or any part of the principal of and interest and redemption premium, if any, on bonds or other debt obligations issued by the authority. (1972, c. 726; 1979, c. 285; 1980, c. 46; 1993, c. 682)

§ 6. The authority shall have the power to issue bonds from time to time in its discretion for any of its purposes or to carry out any of its powers, including the payment or retirement of bonds previously issued by it. Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government, Commonwealth of Virginia, the city of Newport News, or any political subdivision of the Commonwealth of Virginia which is a part of the authority, or a pledge of any income or revenues of the authority, or a mortgage of any particular facility or facilities or other property of the authority. (1972, c. 726; 1980, c. 46; 1993, c. 682)

§ 7. Neither the directors of the authority nor any person executing bonds issued under the provisions of this act shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the authority shall not be a debt of the Commonwealth or of any political subdivision thereof, and neither the Commonwealth nor any political subdivision thereof, other than the authority, shall be liable thereon nor shall such bond or obligations be payable out of any funds or

properties other than those of the authority except in instances where a political subdivision guarantees such bonds as provided in § 5 hereof. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. (1972, c. 726; 1980, c. 46; 1992, c. 233; 1993, c. 682)

§ 8. The bonds of the authority are declared to be issued for an essential public and governmental purpose. (1972, c. 726; 1993, c. 682)

§ 9. The bonds of the authority shall be authorized by resolution adopted by the Board, and may be issued in one or more series and shall bear such date or dates and mature at such time or times, bear interest at such rate or rates, including variable rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution or its trust indenture or mortgage may provide. The authority may provide for credit enhancement of or liquidity for bonds issued by the authority, upon such terms and conditions as it deems appropriate. The bonds may be sold at public or private sale at such price or prices and upon such terms and conditions as the Board shall deem appropriate. (1972, c. 726; 1976, c. 524; 1979, c. 285; 1980, c. 46; 1992, c. 233; 1993, c. 682)

§ 10. In case any of the directors or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such director or officer, before the delivery of such bonds such signatures shall nevertheless be valid and sufficient for all purposes the same as if such directors or officers have remained in office until such delivery. (1972, c. 726; 1993, c. 682)

§ 11. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this act, shall be fully negotiable as provided in § 15.1-1379 of the Code of Virginia. (1972, c. 726; 1992, c. 233)

§ 12. In order to secure the payment of such bonds by the authority, they shall be secured by a pledge of the revenues and receipts out of which the same may be made payable, and may be secured by a trust indenture covering all or any part of the authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of and additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the authority to others, the creation and maintenance of special funds from such revenues, and the rights and remedies available in the event of default, all as the Board of Directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement and trust indenture made for the benefit of security of any of the bonds of the authority shall continue effective until the principal and interest of the bonds for the

benefit for which the same were made shall have been fully paid or provided for. (1972, c. 726; 1980, c. 46; 1993, c. 682)

§ 13. In the event of default in such payment or in any agreements of the authority made as a part of the contract under which the bonds were issued, whether contained in the proceeding authorizing the bonds, trust or indenture executed as security thereof, the remedy for such default may be enforced by mandamus or by other suit or action at law or equity to compel the authority and the directors, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any trust indenture of the authority by the appointment of a receiver in equity or by foreclosure of any such trust indenture or any one or more of said remedies. (1972, c. 726; 1993, c. 682)

§ 14. [Repealed.] (1992, c. 233)

§ 15. The authority is hereby declared to be performing a public function in behalf of the municipality with respect to which the authority is created and to be a public instrumentality of such municipality. Accordingly, the income, including any profit made on the sale or from all bonds issued by the authority shall at all times be exempt from all taxation by the Commonwealth or any political subdivision thereof. The authority shall be nonprofit and no part of its net earnings remain after payment of its expenses shall inure to the benefit of any individual, firm or authority, except that in the event the Board of Directors of the authority shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the authority, that any net earnings of the authority thereafter accruing shall be paid to the municipality with respect to which the authority was created; provided, however, that nothing herein contained shall prevent the Board of Directors from transferring all or any part of its profits in accordance with the terms of any lease entered into by the authority or any contract laid to said lease. (1972, c. 726; 1993, c. 682)

§ 16. Whenever the Board of Directors of the authority shall, by resolution, determine that the purposes for which the authority was formed have been substantially complied with, and all bonds theretofore issued and all obligations theretofore incurred by the authority have been fully paid, the then members of the Board of Directors of the authority shall thereupon execute and file for record with the governing body of the municipality in which is located the authority, a resolution declaring such facts. If the governing body of the municipality is of the opinion that the facts stated in the authority's resolution are true and that the authority should be dissolved, it shall so dissolve and the authority shall stand dissolved. Upon such dissolution, the title to all funds and properties owned by the authority at the time of such dissolution shall vest in the municipality wherein the authority was created, and the possession of such funds and properties shall forthwith deliver to such municipality. (1972, c. 726; 1993, c. 682)

§ 17. The city of Newport News may transfer property located within the city of Newport News, to the authority by sale, lease or gift. Such transfer may be authorized by a resolution of the governing body

of the municipality without submission of the question to the voters and without regard to the requirements, restrictions, limitations or other provisions contained in any other general, special or local law. Such conveyance may contain restrictions and covenants as set forth and required by the municipality. (1972, c. 726; 1979, c. 285; 1993, c. 682)

§ 18. Nothing contained in this act shall be deemed to authorize the authority to occupy, use or develop or plan or in any way control any other property other than the property referred to in this act. (1972, c. 726; 1979, c. 285; 1993, c. 682)

§ 19. In addition to other powers conferred in this act, the authority shall have the power to borrow money and accept contributions, grants, and other financial assistance from the federal government and agencies or instrumentalities thereof for or in aid of the construction and development of the property referred to herein or for the retirement or refunding of its bonds. To these ends the authority shall have the power to comply with such conditions and to execute such mortgages, trust indentures and agreements as may be necessary, convenient or desirable. The powers granted and the dues imposed in this act shall be construed to be independent and severable.

Furthermore, the authority shall have the ability to acquire property by condemnation proceedings in the manner and in accordance with the procedure provided in Title 25 of the Code of Virginia.

Furthermore, the authority, by a resolution duly adopted be the Board, shall have the authority to transfer moneys by gift or by loan to the City of Newport News upon such terms and conditions as are mutually agreed upon. (1972, c. 726; 1979, c. 285; 1988, c. 717; 1993, c. 682)

§ 20. If any one or more sections, subdivisions, sentences or parts of any of this act shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid. (1972, c. 726)

Economic Development Partnership Authority, Virginia

§ 2.2-2201.Short title; definitions

A. This article shall be known and may be cited as the "Virginia Commercial Space Flight Authority Act."

B. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Commercial Space Flight Authority.

"Board" means the board of directors of the Authority.

"Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility or the provision for or funding of any activity that will further the purposes described in § 2.2-2202.

1995, c. 758, §§ 9-266.1, 9-266.2; 2001, c. 844; 2012, cc. 779, 817.

§ 2.2-2202.Declaration of public purpose; Virginia Commercial Space Flight Authority created

The General Assembly has determined that there exists in the Commonwealth a need to promote industrial and economic development and scientific and technological research and development through the development and promotion of the commercial and government aerospace industry.

In order to facilitate and coordinate the advancement of these needs, there is hereby created the Virginia Commercial Space Flight Authority, with the powers and duties set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public functions, and the exercise by the Authority of the powers and duties conferred by this article shall be deemed and held to be the performance of an essential government function of the Commonwealth and a public purpose.

1995, c. 758, § 9-266.3; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2203.Board of directors; members and officers; Executive Director

The Authority shall be governed by a board of directors consisting of nine members, two of whom shall be the Secretary of Transportation and the Director of the Virginia Department of Aviation or their respective designees. The remaining seven members shall be appointed by the Governor and shall have experience in at least one of the following fields: (i) the aerospace industry, (ii) the financial industry, (iii) the marketing industry, (iv) scientific and technological research and development; or (v) higher education. Members of the Board appointed by the Governor shall be appointed for terms of four years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members shall serve at the pleasure of the Governor and shall be confirmed by the General Assembly. Members of the Board shall receive reimbursement for their

expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on Board business.

The Board shall annually elect one of its members as chairman and another as vice-chairman and may also elect from its membership, or appoint from the Authority's staff, a secretary and a treasurer and prescribe their powers and duties. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings. Five members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also serve as the Chief Executive Officer of the Authority and exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. Such compensation shall be established at a level that will enable the Authority to attract and retain a capable Executive Director. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary to carry out the powers and duties of the Authority.

1995, c. 758, § 9-266.4; 1999, cc. 412, 421, 433; 2001, c. 844; 2009, c. 82; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2204.Powers of the Authority

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the power to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board;

4. Adopt a strategic plan pursuant to § 2.2-2203.2 and plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain and operate projects pursuant to such plan;

5. Adopt an annual budget for the Authority's capital improvements and operations;

6. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the power of the Authority shall be exercised and its duties performed. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary and expedient. Such bylaws, rules, and regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.);

7. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of projects of, the sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority; the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties; the payment of the costs accomplishing its purposes set forth in § 2.2-2202; the payment of the principal of and interest on its obligations; and the creation of reserves for such purposes, for other purposes of the Authority and to pay the cost of maintaining, repairing and operating any project and fulfilling the terms and provisions of any agreements made with the purchasers or holders of any such obligations and any other purposes as set forth in this article;

8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2202 or for refunding bonds previously issued by the Authority, whether such outstanding bonds have matured or are then subject to redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof, by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to provide for the security for said bonds and the rights of holders thereof. However, the total principal amount of bonds, including refunding bonds, outstanding at any time shall not exceed $50 million, excluding from such limit any revenue bonds. The Authority shall not issue any bonds, other than revenue bonds, that are not specifically authorized by a bill or resolution passed by a majority vote of those elected to each house of the General Assembly;

9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including interstate compacts that have been authorized by the General Assembly and where necessary consented to by the United States Congress and agreements with any person or federal agency;

10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as

may be necessary, and to fix their compensation to be payable from funds made available to the Authority;

11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants, donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made;

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; foster the utilization of scientific and technological research, information discoveries and data and obtain patents, copyrights and trademarks thereon; coordinate the scientific and technological research efforts of public institutions and private industry and collect and maintain data on the development and utilization of scientific and technological research capabilities;

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority; and

15. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

1995, c. 758, § 9-266.5; 1996, c. 111; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2234.Short title; declaration of public purpose; Authority created

A. This article shall be known and may be cited as the "Virginia Economic Development Partnership Act."

B. The General Assembly has determined that there exists in the Commonwealth a need to encourage, stimulate and support the development and expansion of the economy of the Commonwealth through economic development.

C. To achieve the objective of subsection B, there is created a political subdivision of the Commonwealth to be known as the Virginia Economic Development Partnership Authority. The Authority's exercise of powers and duties conferred by this article shall be deemed the performance of

an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

1995, c. 638, §§ 2.1-548.26, 2.1-548.28; 2001, c. 844.

§ 2.2-2235.1.Board of directors; members and officers; Chief Executive Officer

A. The Authority shall be governed by a board of directors (the Board) consisting of the Secretary of Commerce and Trade, the Secretary of Finance, the Chairman of the Virginia Growth and Opportunity Board, the Executive Director of the Virginia Port Authority, and the Staff Directors of the House Committee on Appropriations and the Senate Committee on Finance, serving as ex officio, voting members, and 11 voting members to be appointed as follows:

1. Seven nonlegislative citizen members appointed by the Governor; and

2. Four nonlegislative citizen members appointed by the Joint Rules Committee.

B. 1. Each of the nonlegislative citizen members appointed by the Governor and the Joint Rules Committee shall possess expertise in at least one of the following areas: marketing; international commerce; finance or grant administration; state, regional, or local economic development; measuring the effectiveness of incentive programs; law; information technology; transportation; workforce development; manufacturing; biotechnology; cybersecurity; defense; energy; or any other industry identified in the comprehensive economic development policy developed pursuant to § 2.2-205.

2. Each of the nine regions defined by the Virginia Growth and Opportunity Board pursuant to subdivision A 1 of § 2.2-2486 shall be represented by at least one member of the Board. In determining such geographical representation, ex officio members of the Board may be considered to represent the region in which they serve in their official capacity.

C. After the initial staggering of terms, members shall serve terms of four years, except that ex officio members of the Board shall serve terms coincident with their terms of office. No member shall be eligible to serve more than two terms; however, after the expiration of the term of a member appointed to serve three years or less, two additional terms may be served if appointed thereto. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

D. Members of the Board shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

E. The Board shall be deemed a supervisory board within the meaning of § 2.2-2100.

F. The Board shall elect a chairman from the nonlegislative citizen members of the Board, and the Secretary of Commerce and Trade shall serve as vice-chairman. The Board shall also elect a secretary and a treasurer, who need not be members of the Board, and may also elect other subordinate officers, who need not be members of the Board. The Chairman and the Vice-chairman, with approval by the Board, shall create an executive committee of the Board. The Board may also form advisory committees, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board.

G. A majority of the members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority. The meetings of the Board shall be held at least quarterly or at the call of the chairman.

H. The Board shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, whose title shall be President and Chief Executive Officer and may be referred to as the President or as the Chief Executive Officer and who shall serve at the pleasure of the Board and carry out such powers and duties conferred upon him by the Board.

2017, cc. 804, 824; 2018, c. 829.

§ 2.2-2236.Powers and duties of the Chief Executive Officer

The Chief Executive Officer shall employ or retain such agents or employees subordinate to the Chief Executive Officer as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's approval. Employees of the Authority shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. The Chief Executive Officer shall also exercise such of the powers and duties relating to the direction of the Commonwealth's economic development efforts conferred upon the Authority as may be delegated to him by the Board, including powers and duties involving the exercise of discretion. The Chief Executive Officer shall also exercise and perform such other powers and duties as may be lawfully delegated to him or as may be conferred or imposed upon him by law.

1995, c. 638, § 2.1-548.32; 1996, cc. 590, 598; 1998, c. 359; 2001, c. 844; 2010, c. 869.

§ 2.2-2236.1.Internal auditor; duties

A. The Board shall appoint an internal auditor, who shall not be a member of the Board and who shall report directly to the Board. The internal auditor shall have the following duties:

1. Perform periodic audits, as deemed advisable by the internal auditor, on any operations, accounts, and transactions of the Authority, including the Division of Incentives, and report its findings to the Board; and

2. Develop and implement an annual work plan that identifies anticipated auditing activities for the fiscal year. Prior to implementation, the work plan shall be presented by the auditor to the Board for approval by the executive committee of the Board at the last meeting of the executive committee in the fiscal year immediately preceding the year in which the annual work plan would become effective.

B. After review by the Board, a copy of the audit reports required by subsection A shall be submitted to the special subcommittee for economic development of the Joint Legislative Audit and Review Commission.

2017, cc. 804, 824.

§ 2.2-2237.Powers of Authority

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the power to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Acquire, purchase, hold, use, lease or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and to lease as lessee, any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board and to lease as lessor to any person, any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board and to sell, transfer or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board, provided that the terms of any conveyance or lease of real property shall be subject to the prior written approval of the Governor;

4. Fix, alter, charge and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority;

5. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including agreements with any person or federal agency;

6. Employ, at its discretion, consultants, researchers, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary, and to fix their compensation to be payable from funds made available to the Authority. The Authority may hire employees within and without the Commonwealth and the

United States without regard to whether such employees are citizens of the Commonwealth. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.);

7. Receive and accept from any federal or private agency, foundation, corporation, association or person, grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof or from any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

8. Render advice and assistance and to provide services to state agencies, local and regional economic development entities, private firms, and other persons providing services or facilities for economic development in Virginia;

9. Develop, undertake, and provide programs, alone or in conjunction with any person, for economic research, industrial development research, and all other research that might lead to improvements in economic development in Virginia;

10. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed;

11. Do all acts and things necessary or convenient to carry out the powers granted to it by law, and perform any act or carry out any function not inconsistent with state law that may be useful in carrying out the provisions of this article; and

12. Administer any program established under the Virginia Jobs Investment Program described in § 2.2-2240.3.

1995, c. 638, §§ 2.1-548.33, 2.1-548.34, 2.1-548.35; 2001, c. 844; 2014, cc. 41, 464; 2016, c. 32.

§ 2.2-2237.1.Board of directors to develop strategic plan for economic development; marketing plan; operational plan; submission

A. The Board and the Chief Executive Officer shall develop and update biennially, prior to the start of each of the Commonwealth's biennial budget periods, a strategic plan for specific economic development activities for the Commonwealth as a whole. The strategic plan shall be responsive to the comprehensive economic development policy developed pursuant to § 2.2-205. The strategic plan of the Authority shall, at a minimum, include:

1. The identification of specific goals and objectives for the Authority and the development of quantifiable metrics and performance measures for attaining each such goal and objective;

2. A systematic assessment of how the Authority can best add value in carrying out each of its statutory powers and duties; and

3. Such other information deemed appropriate by the Board to ensure that the Authority fully executes its powers and duties.

B. The Authority shall report annually by November 1 on its strategic plan, any modifications to the strategic plan, and its progress toward meeting the goals and objectives as stated in the strategic plan. The report shall be submitted to the Governor, the Director of the Department of Planning and Budget, the special subcommittee on economic development of the Joint Legislative Audit and Review Commission, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations.

C. The Board shall include in its strategic planning process the participation of key economic development partners, including state, regional, and local economic development agencies and organizations, rural stakeholders, and international trade organizations.

D. In addition, the Board and the Chief Executive Officer shall develop and update annually prior to the start of the fiscal year :

1. A marketing plan for the Commonwealth as a whole. The marketing plan of the Authority shall, at a minimum, include:

a. Identification of the Authority's specific and measurable marketing goals and the timetable to achieve such goals;

b. Identification of specific marketing activities, including efforts intended to secure economic development opportunities in proximity to high unemployment areas;

c. The resources and staff allocated to such marketing activities; and

d. The development of quantifiable metrics and performance measures for attaining each such goal.

The Authority shall report annually by November 1 on its marketing plan, any modifications to the marketing plan, and its progress toward meeting the goals and objectives as stated in the marketing plan. The report shall be submitted to the Governor, the special subcommittee on economic development of the Joint Legislative Audit and Review Commission, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations; and

2. An operational plan for carrying out the powers and duties of the Authority. The operational plan of the Authority shall, at a minimum, include:

a. A process to evaluate the Authority's effectiveness in exercising the powers and duties conferred by this article, including the Authority's ability to work with other state, regional, and local economic development organizations and international trade organizations; and

b. A strategy for coordinating with state agencies that administer economic development incentive programs and relevant executive branch committees, councils, authorities, and commissions to maximize the effectiveness of state economic development programs and activities.

The Authority shall report annually by November 1 on its operational plan, any modifications to the operational plan, and its progress toward meeting the goals and objectives as stated in the operational plan. Such report shall contain the audited financial statements of the Authority for the year ending the previous June 30 and shall be submitted to the Governor, the special subcommittee on economic development of the Joint Legislative Audit and Review Commission, and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations.

2017, cc. 804, 824; 2020, c. 591.

§ 2.2-2237.2. Office of the Attorney General to provide instruction to Board

The Attorney General or his designee assigned as counsel to the Board shall provide instruction to the Board on its responsibilities and obligations as a supervisory board within 30 days after the initial appointment of members of the Board. Thereafter, such counsel shall provide such instruction biennially.

2017, cc. 804, 824.

§ 2.2-2237.3. Division of Incentives

A. Within the Authority shall be created a Division of Incentives that shall be responsible for reviewing, vetting, tracking, and coordinating economic development incentives administered by or through the Authority and for aligning those incentives with economic development incentives offered by other entities in the Commonwealth.

B. No project that includes an offer of economic development incentives by the Commonwealth, including grants or loans from the Commonwealth's Development Opportunity Fund, shall be approved by the Governor until (i) the Division of Incentives has undertaken appropriate due diligence regarding the proposed project and the Secretary of Commerce and Trade has certified that the proposed incentives to be offered are appropriate based on the investment and job creation anticipated to be generated by the project and (ii) when required by § 30-310, the MEI Project Approval Commission has reviewed the proposed incentives.

C. Any contract or memorandum of understanding for the award of economic development incentives by the Commonwealth shall set forth the investment and job creation requirements for the payment of

the incentive and shall include a stipulation that the business beneficiary of the incentives shall be liable for the repayment of all or a portion of the incentives to the Commonwealth if the business beneficiary fails to make the required investments or create the required number of jobs. For purposes of this section, an incentive awarded by the Commonwealth shall include an incentive awarded from a fund operated by the Commonwealth, including the Commonwealth's Development Opportunity Fund. If it is determined that a business beneficiary is liable for the repayment of all or a portion of an economic development incentive awarded by the Commonwealth, the Board may refer the matter to the Office of the Attorney General pursuant to § 2.2-518. Prior to the referral to the Office of the Attorney General, the Board shall direct any political subdivision that is a party to the relevant contract or memorandum of understanding to assign its rights to the Commonwealth arising under such contract or memorandum of understanding in which the business beneficiary is liable to repay all or a portion of an economic development incentive awarded by the Commonwealth. In any such matter referred to the Office of the Attorney General, a business beneficiary liable to repay all or a portion of an economic development incentive awarded by the Commonwealth shall also be liable to pay interest, administrative charges, attorney fees, and other applicable fees.

D. Notwithstanding any other provision of law, approval of the Board shall be required to grant an extension for an approved project to meet the investment and job creation requirements set forth in the contract or memorandum of understanding. Notwithstanding any other provision of law, approval of both the Board and the MEI Project Approval Commission shall be required to grant any additional extensions.

E. The Division of Incentives shall provide semiannual updates to the Board of the status and progress of investment and job creation requirements for all projects for which economic development incentives have been awarded, until such time as the investment and job creation requirements are met or the incentives are repaid to the Commonwealth. Updates shall be provided more frequently upon the request of the Board, or if deemed necessary by the Division of Incentives.

F. The Board shall establish a subcommittee, consisting of ex officio members of the Board authorized pursuant to § 60.2-114 and federal law to receive and review employment information received from the Virginia Employment Commission, in order to assist the Division of Incentives with the verification of employment and wage claims of those businesses that have received incentive awards. Such information shall be confidential and shall not be (i) redisclosed to other members of the Board or to the public in accordance with the provisions of subdivision C 2 of § 60.2-114 or (ii) subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

G. For purposes of this section, the award of economic development incentives by the Commonwealth shall include an award of funds from the Commonwealth's Development Opportunity Fund, regardless of whether the contract or memorandum of understanding for the disbursement of funds is with the Commonwealth or a political subdivision thereof and the business beneficiary.

2017, cc. 804, 824; 2018, c. 829; 2020, c. 591.

§ 2.2-2238. Economic development services

A. It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the economy of the Commonwealth. The Authority is charged with the following duties and responsibilities to:

1. See that there are prepared and carried out effective economic development marketing and promotional programs;

2. Make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;

3. Formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the location of new businesses in the Commonwealth and the retention and growth of existing businesses;

4. Encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;

5. Encourage the coordination of the economic development efforts of public institutions, regions, communities, and private industry and collect and maintain data on the development and utilization of economic development capabilities;

6. Establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade;

7. Encourage the export of products and services from the Commonwealth to international markets;

8. Advise, upon request, the State Board for Community Colleges in designating technical training programs in Virginia's comprehensive community colleges for the Community College Incentive Scholarship Program pursuant to former § 23-220.4; and

9. Offer a program for the issuance of export documentation for companies located in Virginia exporting goods and services if no federal agency or other regulatory body or issuing entity will provide export documentation in a form deemed necessary for international commerce.

B. The Authority may develop a site and building assessment program to identify and assess the Commonwealth's industrial sites of at least 100 acres. In developing such a program, the Authority shall establish assessment guidelines and procedures for identification of industrial sites, resource requirements, and development oversight. The Authority shall invite participation by regional and industry stakeholders to assess potential sites, identify product shortfalls, and make recommendations

to the Governor and General Assembly for marketing such sites, in alignment with the goals outlined in the Governor's economic development plan.

C. The Authority may encourage the import of products and services from international markets to the Commonwealth.

1995, c. 638, § 2.1-548.29; 1996, cc. 590, 598; 1997, cc. 437, 448; 1999, c. 542; 2001, cc. 483, 557, 844; 2004, cc. 650, 872; 2009, cc. 374, 569; 2015, c. 342; 2016, c. 315; 2017, cc. 13, 19; 2020, c. 591.

§ 2.2-2239.Planning and research

It shall also be the duty of the Authority to:

1. Assist in the development of the comprehensive economic development strategy for the Commonwealth, starting the first year of each new gubernatorial administration, consistent with the provisions of Article 3 (§ 2.2-204 et seq.) of Chapter 2;

2. Report annually to the Governor on the status of the implementation of the comprehensive economic development strategy and recommend legislative and executive actions related to the implementation of the comprehensive economic development strategy; and

3. Conduct such studies and research, in collaboration with state agencies, baccalaureate institutions of higher education, local and regional industrial authorities and organizations, and other persons within and without the Commonwealth, as the Board deems necessary, to assist in the development of the comprehensive economic strategy and the development of recommendations and advice on the improvement of economic development and related programs and strategies across the Commonwealth.

1995, c. 638, § 2.1-548.30; 2001, c. 844.

§ 2.2-2239.1.Advisory Committee on Business Development and Marketing

A. The Board shall establish an Advisory Committee on Business Development and Marketing (the Committee) consisting of 10 nonlegislative citizen members representing local or regional economic development entities from each of the regions designated by the Virginia Growth and Opportunity Board in accordance with § 2.2-2486 as follows:

1. Four nonlegislative citizen members, at least one of whom shall be from Northern Virginia, one of whom shall be from Hampton Roads, and one of whom shall be from Richmond, to be appointed by the Governor and approved by the General Assembly;

2. Five nonlegislative citizen members appointed by the Joint Rules Committee; and

3. One nonlegislative citizen member of the Board appointed by the Chairman of the Board.

B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired

terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. Members appointed to the Committee shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Administrative and staff support for the Committee shall be provided by the Authority upon approval of the Chairman of the Board or the Chief Executive Officer. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum.

C. The Committee shall advise the Board on all matters relating to business development and marketing and shall make recommendations upon request of the Board.

2017, cc. 804, 824; 2018, c. 829.

§ 2.2-2239.2.Advisory Committee on International Trade

A. The Board shall establish an Advisory Committee on International Trade (the Committee) consisting of the Secretary of Agriculture and Forestry, serving as an ex officio member with voting privileges and whose term is coincident with his term of office, and nine nonlegislative citizen members as follows:

1. One member who is a member of the Board of Commissioners of the Virginia Port Authority and two nonlegislative citizen members possessing experience or expertise in international trade or trade promotion appointed by the Governor and approved by the General Assembly;

2. Five nonlegislative citizen members possessing experience or expertise in international trade or trade promotion appointed by the Joint Rules Committee; and

3. One nonlegislative citizen member of the Board appointed by the Chairman of the Board.

The Virginia Manufacturing Association shall submit to the Governor and the Joint Rules Committee a list of 12 recommendations for appointments to the Committee. One of the Governor's appointments pursuant to subdivision 1 shall be made from such list, and two of the Joint Rules Committee's appointments pursuant to subdivision 2 shall be made from such list.

B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. Members appointed to the Committee shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Administrative and staff support for the Committee shall be provided by the Authority upon approval of the Chairman of the Board or the Chief Executive Officer. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum.

C. The Committee shall advise the Board on all matters relating to international trade and trade promotion and shall make recommendations upon request of the Board.

2017, cc. 804, 824; 2018, c. 829.

§ 2.2-2240.Nonstock corporation to assist economic development

The Board may establish nonprofit, nonstock corporations under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as public instrumentalities exercising public and essential governmental functions, to assist the Board and the Authority in (i) promoting Virginia's economic development and tourism promotion efforts in the national and international corporate community; (ii) raising money in the corporate and nonprofit community to pay for advertising and promotion of the Commonwealth; (iii) raising nonstate dollars to complement state and local economic development activities; or (iv) conducting or undertaking other activities useful in carrying out the provisions of this article.

The board of directors of any such corporation shall be composed of the Chief Executive Officer of the Authority and eight members appointed by the Board of the Authority. However, any such corporation established to promote the tourism industry in the Commonwealth shall be composed of the Chief Executive Officer of the Authority, six members appointed by the Board of the Authority, and six members who represent the tourism industry appointed by the Governor. The terms of the members of any corporation established to promote the tourism industry in the Commonwealth appointed by the Governor shall be four years.

The Board shall require any such corporation to report to it at least annually on its activities.

1995, c. 638, § 2.1-548.43; 1996, cc. 590, 598; 2001, c. 844; 2010, c. 869.

§ 2.2-2240.1.Grants paid to the Authority to promote research, development, and commercialization of products

A. The General Assembly may appropriate grants to the Authority for use by a nonprofit, public benefit research institute that (i) conducts research and development for government agencies, commercial businesses, foundations, and other organizations and (ii) commercializes technology.

B. The Authority is hereby authorized to create a nonprofit, nonstock corporation to receive such grants and to oversee the administration of the payment of the grants. As a condition to the payment of any grants to the Authority under this section, the General Assembly may require that such nonprofit, nonstock corporation be created.

C. Notwithstanding the provisions of § 2.2-2240, the Board of Directors of the nonprofit, nonstock corporation shall consist of nine voting members as follows: (i) the president of the University of Virginia, or his designee, (ii) the president of Virginia Polytechnic Institute and State University, or his designee, (iii) the president of James Madison University, or his designee, (iv) the president (or the designee of such president) of Virginia Commonwealth University, Christopher Newport University,

the University of Mary Washington, Radford University, Virginia State University, Norfolk State University, Old Dominion University, George Mason University, or Longwood University, as appointed by the Governor, with appointments to this position rotated equally among such baccalaureate public institutions of higher education, (v) one citizen member who shall have substantial experience in research and development in the fields of pharmaceuticals, engineering, energy, or similar sciences, appointed by the Governor, (vi) a representative of a nonprofit, public benefit research institute that has entered into a Memorandum of Agreement with the Commonwealth, (vii) the Secretary of Commerce and Trade, or his designee, (viii) the Secretary of Administration, or his designee, and (ix) a representative of a local government that has concluded a Memorandum of Agreement with such research institute. Citizen members appointed by the Governor shall serve for four-year terms, but no citizen member shall serve for more than two full successive terms. A vacancy for a citizen member shall be filled by the Governor for the unexpired term.

D. The Board is authorized to make grant payments only to those nonprofit, public benefit research institutes described in subsection A that have entered into a Memorandum of Agreement (MOA) with the Commonwealth. The MOA shall, at a minimum, (i) require the research institute to perform research, development, and commercialization activities that improve society and facilitate economic growth; (ii) require research to be conducted collaboratively with Virginia public and private institutions and that such collaborative research benefit the capabilities, facilities, and staff of all organizations involved; (iii) require the research institute to develop protocols for the commercialization efforts of the institute, including protocols addressing intellectual property rights; (iv) require the Board to evaluate fulfillment of key milestones for the research institute, which shall include but not be limited to milestones relating to job creation, research institute reinvestment goals, research proposals submissions, and royalties, and to annually evaluate the Commonwealth's investment in the research institute by reporting on the institute's progress in meeting such milestones; and (v) establish relationships and expectations between the research institutes and public institutions of higher education in the Commonwealth, including opportunities for principal investigators to serve as adjunct faculty and the creation of internships for students and postdoctoral appointees.

E. The maximum amount of grants awarded by the Board shall not exceed a total of $22 million per recipient through June 30, 2013.

F. The Board of any nonprofit, nonstock corporation created under this section shall be established in the executive branch of state government. The records of the corporation, its Board members, and employees that are deemed confidential or proprietary shall be exempt from disclosure pursuant to subdivision 3 of § 2.2-3705.6 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

2007, c. 693; 2020, c. 738.

§ 2.2-2240.2.Major Employment and Investment Project Site Planning Grant Fund established

A. There is hereby created in the state treasury a special nonreverting fund to be known as the MEI Site Planning Grant Fund, hereafter referred to as "the Fund," to be administered by the Authority. The Fund shall consist of such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director of the Authority.

B. Moneys in the Fund shall be used for the sole purpose of awarding grants on a competitive basis to political subdivisions to assist in the performance of site and site development work for prospective MEI projects, subject to the approval by the Governor. The Authority shall establish guidelines for awarding site planning grants that give consideration in order to (i) ensure geographical representation of awards, (ii) limit the amount of annual recipients, (iii) identify strategic targets and select sites that are compatible with the strategic targets, and (iv) promote regional revenue sharing.

C. For the purposes of this section:

"Local government" means the same as that term is defined in § 62.1-199.

"Major Employment and Investment project" or "MEI project" means the same as that term is defined in § 2.2-2260.

2010, cc. 487, 536.

§ 2.2-2240.3.Definitions; Virginia Jobs Investment Program and Fund; composition; general qualifications

A. As used in this section and §§ 2.2-2240.4, 2.2-2240.5, and 2.2-2240.6, unless the context requires a different meaning:

"Capital investment" means an investment in real property, personal property, or both, at a manufacturing or basic nonmanufacturing facility within the Commonwealth that is or may be capitalized by the company and that establishes or increases the productivity of the manufacturing facility, results in the utilization of a more advanced technology than is in use immediately prior to such investment, or both.

"Full-time employee" means a natural person employed for indefinite duration in a position requiring a minimum of either (i) 35 hours of the employee's time per week for the entire normal year, which "normal year" shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary employees shall not qualify as new full-time employees under the Program.

"Fund" means the Virginia Jobs Investment Program Fund created in this section.

"Program" means the Virginia Jobs Investment Program created in this section.

B. There is hereby created the Virginia Jobs Investment Program to support private sector job creation by encouraging the expansion of existing Virginia businesses and the start-up of new business operations in Virginia. The Program shall support existing businesses and economic development prospects by offering funding to offset recruiting and training and retraining costs incurred by companies that are either creating new jobs or implementing technological upgrades and by providing assistance with workforce-related challenges and organizational development workshops.

C. The Program shall consist of the following component programs:

1. The Virginia New Jobs Program;

2. The Workforce Retraining Program; and

3. The Small Business New Jobs and Retraining Programs.

D. To be eligible for assistance under any of the component programs of the Program, a company shall:

1. Create or sustain employment for the Commonwealth in a basic sector industry or function, which would include businesses or functions that directly or indirectly derive more than 50 percent of their revenues from out-of-state sources, as determined by the Authority;

2. Pay a minimum entry-level wage rate per hour of at least 1.35 times the federal minimum wage. In areas that have an unemployment rate of one and one-half times the statewide average unemployment rate, the wage rate minimum may be waived by the Authority. Only full-time positions that qualify for benefits shall be eligible for assistance;

3. Meet such additional criteria as may be set forth by the Authority.

E. There is hereby established in the state treasury a special nonreverting fund to be known as the Virginia Jobs Investment Program Fund (the Fund). The Fund shall consist of any moneys appropriated thereto by the General Assembly from time to time and designated for the Fund. Any moneys deposited to or remaining in the Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the Fund and be available for allocation under this article in ensuing fiscal years. Moneys in the Fund shall be used solely for grants to eligible businesses as permitted by the Program. The total amount of funds provided to eligible businesses under the Program for any year, shall not exceed the amount appropriated by the General Assembly to the Fund for such year, plus any carryover from previous years. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the President and Chief Executive Officer or his designee. The Fund shall be administered by the President and Chief Executive Officer.

2014, cc. 41, 464.

§ 2.2-2240.4.Virginia New Jobs Program

A. The Authority shall develop as a component of the Virginia Jobs Investment Program the Virginia New Jobs Program to support the expansion of existing Virginia companies and new facility locations involving competition with other states or countries.

B. In addition to the requirements of subsection D of § 2.2-2240.3 regarding company eligibility, to be eligible for assistance, an expansion of an existing company or a new company location shall (i) create a minimum of 25 net new jobs for full-time employees, (ii) make a capital investment of at least $1 million, and (iii) include Virginia in a current competition for the location of the project with at least one other state or country.

The Secretary of Commerce and Trade may waive these requirements but shall promptly provide written notice of any such waiver to the Chairmen of the Senate Finance and House Appropriations Committees, which notice shall include a justification for any waiver of these requirements.

2014, cc. 41, 464.

§ 2.2-2240.5.Workforce Retraining Program

A. The Authority shall develop as a component of the Virginia Jobs Investment Program the Workforce Retraining Program to provide consulting services and funding to assist companies and businesses with retraining their existing workforces to increase productivity.

B. In addition to the requirements of subsection D of § 2.2-2240.3 regarding company eligibility, to be eligible for assistance a company shall demonstrate that (i) it is undergoing integration of new technology into its production process, a change of product line in keeping with marketplace demands, or substantial change to its service delivery process that would require assimilation of new skills and technological capabilities by the firm's existing labor force and (ii) for each such integration of new technology, change of product, or substantial change to its service delivery process, (a) no less than 10 full-time employees are involved and (b) a minimum capital investment of $500,000 will be made within a 12-month period.

The Secretary of Commerce and Trade may waive these requirements but shall promptly provide written notice of any such waiver to the Chairmen of the Senate Finance and House Appropriations Committees, which notice shall include a justification for any waiver of these requirements.

2014, cc. 41, 464.

§ 2.2-2240.6.Small Business New Jobs and Retraining Programs

A. The Authority shall develop as a component of the Virginia Jobs Investment Program the Small Business New Jobs and Retraining Programs to support the establishment or expansion of Virginia's small businesses or to improve their efficiency through retraining.

B. In addition to the requirements of subsection D of § 2.2-2240.3 regarding company eligibility, to be eligible for assistance for new job creation a company shall create a minimum of five net new jobs for full-time employees and make a capital investment of at least $100,000. In addition to the requirements of subsection D of § 2.2-2240.3 regarding company eligibility, to be eligible for assistance for retraining a company shall demonstrate that (i) it is undergoing integration of new technology into its production process, a change of product line in keeping with marketplace demands, or substantial change to its service delivery process that would require assimilation of new skills and technological capabilities by the firm's existing labor force and (ii) for each such integration of new technology, change of product, or substantial change to its service delivery process, (a) no less than five full-time employees are involved and (b) a minimum capital investment of $50,000 will be made within a 12-month period.

The Secretary of Commerce and Trade may waive these requirements but shall promptly provide written notice of any such waiver to the Chairmen of the Senate Finance and House Appropriations Committees, which notice shall include a justification for any waiver of these requirements.

2014, cc. 41, 464.

§ 2.2-2241.Moneys of Authority

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other orders of such persons as the Authority may authorize to execute such warrants or orders.

1995, c. 638, § 2.1-548.39; 2001, c. 844.

§ 2.2-2242.Forms of accounts and records

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts and books of the Authority.

1995, c. 638, § 2.1-548.40; 2001, c. 844; 2004, c. 650; 2020, c. 591.

§ 2.2-2243.Exemptions from taxes or assessments

The exercise of the powers granted by this article shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their living conditions, and as the undertaking of activities in the furtherance of the purposes of the Authority constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under

the provisions of this article or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of any property of the Authority businesses for which local or state taxes would otherwise be required.

1995, c. 638, § 2.1-548.41; 2001, c. 844.

§ 2.2-2244.Exemption of Authority from personnel and procurement procedures

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) of and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of this title shall not apply to the Authority in the exercise of any power conferred under this article.

1995, c. 638, § 2.1-548.38; 2001, c. 844.

§ 2.2-2245.Appropriations by any government

Any government may make appropriations for the acquisition, construction, improvement, maintenance or operation of any property acquired, constructed, improved, maintained or operated by the Authority.

1995, c. 638, § 2.1-548.36; 2001, c. 844.

§ 2.2-2246.Conveyance, lease or transfer of property by a city or county to the Authority

Any city or county within the Commonwealth in order to provide for the construction, reconstruction, improvement, repair or management of any property, or in order to accomplish any of the purposes of this article may, with or without consideration or for a nominal consideration, lease, sell, convey or otherwise transfer to the Authority any real, personal or mixed property located within such city or county.

1995, c. 638, § 2.1-548.37; 2001, c. 844.

Educational Facilities Authority Act

§ 23.1-1220.Definitions

As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia College Building Authority established in § 23.1-1200.

"Bonds" or "revenue bonds" means revenue bonds of the Authority issued under the provisions of this article, including revenue refunding bonds, notes, and other obligations that may be secured by a mortgage, the full faith and credit, or any other lawfully pledged security of a participating institution.

"Costs" means (i) all or any part of the cost of construction, acquisition, alteration, enlargement, reconstruction, and remodeling of a project, including all lands, structures, real or personal property, rights, rights-of-way, air rights, franchises, easements, and interests acquired or used in connection with a project; (ii) the cost of demolishing or removing any building or structure on land acquired in connection with a project, including the cost of acquiring any lands to which such building or structure may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period after completion of such construction and acquisition, provisions for reserves for principal and interest, and provisions for extensions, enlargements, additions, replacements, renovations, and improvements; (iii) the cost of architectural, engineering, financial, and legal services, plans, specifications, studies, surveys, and estimates of cost and revenues; (iv) administrative expenses; (v) expenses necessary or incident to determining the feasibility or practicability of constructing the project; and (vi) such other expenses as may be necessary or incident to constructing and acquiring the project, financing such construction, acquiring the project, and placing the project in operation.

"Participating institution" means any (i) organization that is exempt from federal income taxation pursuant to § 501(c)(3) of the Internal Revenue Code and that is owned or controlled by a public institution of higher education or whose purpose is to support or otherwise benefit a public institution of higher education or (ii) nonprofit private institution of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education that (a)(1) finances and constructs or (2) acquires a project or (b) refunds or refinances obligations, a mortgage, or advances as provided in this article.

"Project" means a structure suitable for use as a dormitory or other multi-unit housing facility for students, faculty, officers, or employees, a dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletics facility, health care facility, maintenance, storage or utility facility, any related structure or facility, or any other structure or facility required or useful for instructing students, conducting research, or operating an institution of higher education, including parking facilities and other facilities or structures essential or convenient for the orderly conduct of such institution of higher education. "Project" includes landscaping, site

preparation, furniture, equipment and machinery, and other similar items necessary or convenient for the intended use of a particular facility or structure. "Project" does not include books, fuel, supplies, or other items whose costs are customarily deemed to result in a current operating charge, any facility used for sectarian instruction or as a place of religious worship, or any facility used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

1972, c. 686, § 23-30.41; 1973, c. 205; 2016, cc. 532, 588, 658.

§ 23.1-1221.Declaration of policy and purpose

A. For the benefit of the people of the Commonwealth, the increase of their commerce, welfare, and prosperity, and the improvement of their health and living conditions, it is essential that (i) this and future generations of youth be given the fullest opportunity to learn and develop their intellectual and mental capacities and (ii) participating institutions be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities.

B. The purpose of this article is to provide a measure of assistance and an alternative method to enable participating institutions to provide the facilities and structures that are sorely needed to accomplish the purposes of this article, all to the public benefit and good, to the extent and manner provided in this article.

1972, c. 686, § 23-30.39; 2016, c. 588.

§ 23.1-1222.Expenses of administering article

All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the provisions of this article, and no liability or obligation shall be incurred by the Authority pursuant to this article beyond the extent to which moneys have been provided under the provisions of this article.

1972, c. 686, § 23-30.43; 2016, c. 588.

§ 23.1-1223.Powers and duties of Authority

A. The Authority shall assist participating institutions in the acquisition, construction, financing, and refinancing of projects.

B. The Authority may:

1. Determine the location and character of any project to be financed under the provisions of this article;

2. Construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate any project to be financed under the provisions of this article;

3. Enter into contracts for any purpose set forth in subdivision 2;

4. Enter into contracts for the management and operation of any project;

5. Issue bonds, bond anticipation notes, and other obligations of the Authority for any of its corporate purposes and fund or refund such bonds, bond anticipation notes, or other obligations as provided in this article;

6. Fix, revise, charge, and collect rates, rents, fees, and charges for the use of and for the services furnished by a project or any portion of a project;

7. Contract with any person, partnership, association, corporation, or other entity to fix, revise, charge, and collect rates, rents, fees, and charges pursuant to subdivision 9;

8. Designate a participating institution as its agent to take actions pursuant to subdivisions 1 through 4, 6, and 7;

9. Establish regulations for the use of a project or any portion of a project or designate a participating institution as its agent to establish regulations for the use of a project in which such institution is participating;

10. Employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as it deems necessary and determine their compensation;

11. Receive and accept from any public agency loans or grants for or in aid of the construction of a project or any portion of a project;

12. Receive and accept from any source loans, grants, aid, or contributions of money, property, labor, or other things of value to be held, used, and applied only for the purposes for which such loans, grants, aid, and contributions are made;

13. Mortgage any project and the site of any project for the benefit of the holders of revenue bonds issued to finance such project;

14. Make loans to any participating institution for the cost of a project in accordance with an agreement between the Authority and such institution, but no such loan shall exceed the total cost of the project as determined by such institution and approved by the Authority;

15. Make loans to participating institutions to refund outstanding obligations, mortgages, or advances issued, made, or given by such participating institutions for the cost of a project;

16. Charge to and equitably apportion among participating institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this article; and

17. Do all things necessary or convenient to carry out the purposes of this article.

C. In carrying out the purposes of this article, the Authority may undertake a joint project for two or more participating institutions, and all other provisions of this article shall apply to and for the benefit of the Authority and the institutions of higher education participating in such joint project.

1972, c. 686, § 23-30.42; 2016, cc. 532, 588, 658.

§ 23.1-1224.Duties; conveyance of title to projects

When (i)(a) the principal of and interest on revenue bonds of the Authority issued to finance the cost of a project for any participating institutions, including any revenue refunding bonds issued to refund and refinance such revenue bonds, have been fully paid and retired or (b) adequate provision has been made to fully pay and retire such bonds; (ii) all other conditions of the resolution or trust agreement authorizing and securing the same have been satisfied; and (iii) the lien of such resolution or trust agreement has been released in accordance with the provisions of such resolution or trust agreement, the Authority shall convey title to such project to such participating institution free and clear of all liens and encumbrances if title to such project is not yet vested in such participating institution.

1972, c. 686, § 23-30.45; 2016, c. 588.

§ 23.1-1225.Powers; acquisition of property

The Authority may, directly or through a participating institution as its agent, acquire by (i) purchase solely from funds provided under the provisions of this article, (ii) gift, or (iii) devise, such lands, structures, property, real or personal, rights, rights-of-way, air rights, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, that are located within the Commonwealth as it may deem necessary or convenient for the acquisition, construction, or operation of a project, upon such terms and at such prices as it deems reasonable and can be agreed upon between it and the owner of the property and take title to the property in the name of the Authority or any participating institution as its agent.

1972, c. 686, § 23-30.44; 2016, c. 588; 2017, c. 314.

§ 23.1-1226.Powers; issuance of negotiable notes

The Authority may issue negotiable notes for any corporate purpose or renew any notes by the issuance of new notes, whether or not the notes to be renewed have matured. The Authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. Such notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any resolution authorizing notes or any issuance of notes by the Authority may contain any provision that the Authority may include in any resolution authorizing revenue bonds or any issuance of revenue bonds by the Authority, and the Authority may include in any note any term, covenant, or condition that it may include in any bond. All such notes are payable solely from the revenues of the Authority, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

1972, c. 686, § 23-30.46; 2016, c. 588.

§ 23.1-1227.Powers; issuance of revenue bonds

A. The Authority may issue revenue bonds for any corporate purpose, and all such revenue bonds, notes, bond anticipation notes, or other obligations of the Authority issued pursuant to this article are negotiable for all purposes, notwithstanding their payment from a limited source and without regard to any other law.

B. In anticipation of the sale of such revenue bonds, the Authority may issue and renew negotiable bond anticipation notes, but the maximum maturity of any such note, including renewals, shall not exceed five years from the date on which the original note was issued. Such notes shall be paid from any revenues of the Authority available for such purpose and not otherwise pledged or from the proceeds of sale of the Authority's revenue bonds issued in anticipation of such sale. Such notes shall be issued in the same manner as the revenue bonds. Such notes and the resolution authorizing such notes may contain any provisions, conditions, or limitations that the Authority may include in a bond resolution.

C. The revenue bonds and notes of every issue are payable solely out of revenues to the Authority, subject only to any agreement with (i) the holders of particular revenue bonds or notes to pledge any particular revenues or (ii) any participating institution.

D. Revenue bonds and notes are negotiable instruments that are subject only to the provisions of the revenue bonds and notes for registration but may be payable from a special fund.

E. Revenue bonds may be issued as serial bonds, term bonds, or both. Revenue bonds shall be authorized by resolution of the members of the Authority and bear such date, mature at such time, not exceeding 50 years from such date, bear interest at such rate or rates that is payable at such time, be in such denomination, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful United States currency at such place, and be subject to such terms of redemption as such resolution provides. Revenue bonds or notes may be sold at public or private sale for such price or prices as the Authority determines. Pending preparation of the definitive bonds, the Authority may issue interim receipts or certificates that shall be exchanged for such definitive bonds.

F. Any resolution authorizing revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of such revenue bonds, relating to:

1. Pledging all or any part of the revenues of a project, to any revenue-producing contract made by the Authority with any individual, partnership, corporation, association, or other public or private body to secure the payment of the revenue bonds or any particular issue of revenue bonds, subject to any existing agreements with bondholders;

2. Charging rentals, fees, and other charges and setting forth the amounts to be raised annually with such charges and the use and disposition of the revenues;

3. Establishing, setting aside, regulating, and disposing of reserves or sinking funds;

4. Limiting the right of the Authority or its agent to restrict and regulate the use of the project;

5. Limiting the purpose to which the proceeds of the sale of any issue of revenue bonds to be issued may be applied and pledging such proceeds to secure the payment of the revenue bonds or any issue of the revenue bonds;

6. Limiting the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

7. Establishing a procedure by which the terms of any contract with bondholders may be amended or abrogated that includes the number of bondholders required to consent to such amendment or abrogation and the manner in which such consent may be given;

8. Limiting the amount of moneys derived from the project to be expended for operating, administrative, or other expenses of the Authority;

9. Defining the acts or omissions that constitute a default in the duties of the Authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default;

10. Setting forth the duties, obligations, and liabilities of any trustee or paying agent; and

11. Mortgaging a project and the site of such project for the purpose of securing the bondholders.

G. Neither the members of the Authority nor any person executing revenue bonds or notes is liable personally on the revenue bonds or notes or is subject to any personal liability or accountability by reason of the issuance of such revenue bonds or notes.

H. The Authority may purchase its bonds or notes with funds available for such purpose. The Authority may hold, pledge, cancel, or resell such bonds or notes subject to and in accordance with agreements with bondholders.

1972, c. 686, § 23-30.47; 2016, c. 588.

§ 23.1-1228.Powers; security for revenue bonds

A. The Authority may secure any revenue bonds issued under the provisions of this article by a trust agreement between the Authority and a corporate trustee that may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. Such trust agreement or the resolution providing for the issuance of such revenue bonds may (i) pledge or assign the revenues to be received or proceeds of any contract pledged, (ii) convey or mortgage the project or any portion of the project, or (iii) contain provisions for protecting and enforcing the rights and remedies of the bondholders that the Authority deems reasonable and proper and are not in violation of law, including

provisions that may be included in any resolution of the Authority authorizing revenue bonds pursuant to this article.

B. Any bank or trust company incorporated under the laws of the Commonwealth that may act as depository of the proceeds of bonds, revenues, or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the Authority.

C. Any such trust agreement may set forth the rights and remedies of the bondholders and the trustee and restrict the individual right of action by bondholders.

D. Any such trust agreement or resolution may contain such other provisions as the Authority deems reasonable and proper for the security of the bondholders.

E. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

1972, c. 686, § 23-30.48; 2016, c. 588.

§ 23.1-1229.Powers and duties; rates, rents, fees and charges; sinking fund

A. The Authority may fix, revise, charge, and collect rates, rents, fees, and charges for the use of and the services furnished by each project and contract with any person, partnership, association, corporation, or other public or private body to perform such acts. The aggregate of such rates, rents, fees, and charges shall be fixed and adjusted to provide funds that, when combined with other revenues, is sufficient to (i) pay the uncovered cost of maintaining, repairing, and operating each portion of the project; (ii) pay the principal of and the interest on outstanding revenue bonds of the Authority as such principal and interest becomes due and payable; and (iii) create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such revenue bonds of the Authority. No such rate, rent, fee, or charge shall be subject to supervision or regulation by any department, commission, board, body, bureau, or agency of the Commonwealth other than the Authority.

B. The Authority shall set aside in a sinking fund or other similar fund a sufficient amount of the revenues derived from a project, except the part of such revenues that is necessary to pay the cost of maintenance, repair, and operation of the project, provide reserves, or make renewals, replacements, extensions, enlargements, and improvements as set forth in the resolution authorizing the issuance of any revenue bonds of the Authority or in the trust agreement securing such revenue bonds. The Authority shall pledge such sinking fund or other similar fund to pay the principal of and the interest on such revenue bonds as such principal and interest becomes due and the redemption or purchase price of bonds retired by call or purchase as provided in the resolution authorizing the issuance of any revenue bonds of the Authority or in the trust agreement securing such revenue bonds. Such pledge is valid and binding from the time when the pledge is made. The rates, rents, fees, and charges and other revenues or moneys so pledged and received by the Authority shall immediately be subject to

the lien of such pledge without any physical delivery or further act. The lien of any such pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of whether such parties have notice of such lien. No resolution authorizing the issuance of any revenue bonds of the Authority or trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund or other similar fund is subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Such sinking fund or other similar fund is a fund for all such revenue bonds issued to finance a project by a participating institution, without distinction or priority of one revenue bond over another, but the Authority may provide in any such resolution or trust agreement (i) that such sinking fund or other similar fund is the fund for a particular project by a participating institution and the revenue bonds issued to finance a particular project and (ii) for the issuance of revenue bonds having a subordinate lien to other revenue bonds of the Authority with respect to the security authorized and, in such case, the Authority may create separate or other similar funds with respect to such subordinate lien bonds.

1972, c. 686, § 23-30.50; 2016, cc. 532, 588, 658.

§ 23.1-1230.Powers; issuance of refunding revenue bonds

A. The Authority may provide for the issuance of revenue bonds to (i) refund any of its outstanding revenue bonds, including the payment of any redemption premium thereon and any interest accrued or to accrue on the earliest or any subsequent date of redemption, purchase, or maturity of such revenue bonds or (ii) pay all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion of a project.

B. The Authority may (i) apply the proceeds of any revenue bonds issued to refund outstanding revenue bonds to purchase, retire at maturity, or redeem such outstanding revenue bonds either on their earliest or any subsequent redemption date, upon their purchase, or at their maturity and (ii) place the proceeds of revenue bonds issued to refund outstanding revenue bonds in escrow pending such application to be applied to such purchase, retirement, or redemption on the date that it determines.

C. The Authority may invest and reinvest proceeds placed in escrow pursuant to subsection B in direct obligations of the United States, certificates of deposit, or time deposits secured by direct obligations of the United States that mature at such time as is appropriate to ensure the prompt payment of principal, interest, and any redemption premium of the outstanding revenue bonds to be so refunded, pending the purchase, retirement at maturity, or redemption of such outstanding revenue bonds. The Authority may apply interest, income, and any profits earned or realized on any such investment to pay the outstanding revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and any interest, income, and

profits earned or realized on the investments on such proceeds may be returned to the Authority for its lawful use.

D. The Authority may invest or reinvest the portion of the proceeds of any revenue bonds issued to pay all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project in direct obligations of the United States or certificates of deposit or time deposits secured by direct obligations of the United States that mature not later than the time when such proceeds are needed to pay all or any part of such cost. The Authority may apply any interest, income, and profits earned or realized on such investment to the payment of all or any part of such cost or use such interest, income, and profits in any lawful manner.

E. All refunding revenue bonds issued pursuant to this section are subject to the provisions of this article in the same manner and to the same extent as other revenue bonds issued pursuant to this article.

1972, c. 686, § 23-30.54; 2016, c. 588.

§ 23.1-1231.Revenue bonds not obligations of Commonwealth or political subdivision

Revenue bonds issued under the provisions of this article (i) do not constitute a debt, liability, or pledge of the faith and credit of the Commonwealth or any political subdivision of the Commonwealth and (ii) are payable solely from the funds provided from revenues as set forth in this article. Each such revenue bond shall state on its face that (a) neither the Commonwealth nor the Authority is obligated to pay such revenue bonds or the interest thereon except from revenues of the project or the portion of the project for which they are issued and (b) neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision of the Commonwealth is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this article shall not directly, indirectly, or contingently obligate the Commonwealth or any political subdivision of the Commonwealth to levy or pledge any form of taxation for such bonds or make any appropriation for their payment.

1972, c. 686, § 23-30.49; 2016, c. 588.

§ 23.1-1232.Moneys received deemed trust funds

All moneys that the Authority receives pursuant to this article, whether as proceeds from the sale of bonds or as revenues, are trust funds to be held and applied solely as provided in this article. Any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this article, the resolution authorizing the bonds of any issue, or the trust agreement securing such bonds.

1972, c. 686, § 23-30.51; 2016, c. 588.

§ 23.1-1233.Remedies of bondholders or holders of other obligations

Any (i) holder of revenue bonds, notes, bond anticipation notes, other notes, or other obligations of the Authority issued under the provisions of this article or any of the coupons appertaining to any such obligation and (ii) trustee under any trust agreement, except to the extent that such rights are restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds or other obligations, may, either at law or in equity, by suit, action, mandamus, or other proceedings, (a) protect and enforce all rights under the laws of the Commonwealth or such resolution or trust agreement and (b) enforce and compel the performance of all duties required by this article or by such resolution or trust agreement to be performed by the Authority or any officer, employee, or agent of the Authority, including the fixing, charging, and collecting of the rates, rents, fees, and charges authorized by this article and required by the provisions of such resolution or trust agreement to be fixed, charged, and collected.

1972, c. 686, § 23-30.52; 2016, c. 588.

§ 23.1-1234.Exemption from taxation

Neither the Authority nor its agent are required to pay any taxes or assessments upon or with respect to a project, any property acquired or used by the Authority or its agent under the provisions of this article, or the income from any such project or property. Any bonds issued under the provisions of this article, the transfer of such bonds, and the income from such bonds, including any profit made on the sale of such bonds, are exempt from taxation of any kind by the Commonwealth and the localities and other political subdivisions of the Commonwealth.

1972, c. 686, § 23-30.53; 2016, c. 588.

§ 23.1-1235.Bonds as legal investments

Bonds issued by the Authority under the provisions of this article are securities (i) in which all public officers and bodies of the Commonwealth and its political subdivisions, insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them and (ii) that may properly and legally be deposited with and received by any officer of the Commonwealth or any of its localities or any agency or political subdivision of the Commonwealth for any lawful purpose.

1972, c. 686, § 23-30.55; 2016, c. 588.

§ 23.1-1236.Nature of article

This article is supplemental and additional to powers conferred by other laws, but the issuance of revenue bonds and revenue refunding bonds under the provisions of this article need not comply with the requirements of any other law applicable to the issuance of bonds. Except as otherwise expressly provided in this article, no power granted to the Authority under the provisions of this article is subject to the supervision or regulation of or requires the approval or consent of the Commonwealth, any

locality or political subdivision of the Commonwealth, or any department, division, commission, board, body, bureau, official, or agency of any such locality or political subdivision.

1972, c. 686, § 23-30.56; 2016, c. 588.

§ 23.1-1237.Article liberally construed

This article, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes of this article.

1972, c. 686, § 23-30.57; 2016, c. 588.

§ 23.1-1238.Article controls inconsistent laws

To the extent that the provisions of this article are inconsistent with the provisions of any general statute or special act or parts thereof, the provisions of this article control.

1972, c. 686, § 23-30.58; 1973, c. 205; 2015, c. 709; 2016, c. 588.

Electric Authorities Act

§ 15.2-5400.Short title

This chapter shall be known and may be cited as the "Electric Authorities Act."

1979, c. 416, § 15.1-1603; 1997, c. 587.

§ 15.2-5401.Intent of General Assembly

It is the intent of the General Assembly by the passage of this chapter to authorize the creation of electric authorities by localities of this Commonwealth, either acting jointly or separately, in order to provide facilities for the generation, transmission, and distribution of electric power and energy, and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth.

It is further the intent of the General Assembly that in order to achieve the economies and efficiencies made possible by the proper planning, financing, sizing and location of facilities for the generation, transmission, and distribution of electric power and energy which are not practical for any locality or electric authority acting alone, and to insure an adequate, reliable and economical supply of electric power and energy to the inhabitants of the Commonwealth, electric authorities shall be authorized to jointly cooperate and plan, finance, develop, own and operate with other electric authorities and other public corporations and governmental entities and investor-owned electric power companies and electric power cooperative associations or corporations, within or outside the Commonwealth, electric generation, transmission, and distribution facilities in order to provide for the present and future requirements of the electric authorities and their participating localities. It is further the intent of the General Assembly that an authority that is created by the Town of Elkton and that is limited by its articles of incorporation to having the Town of Elkton as its sole member throughout its life is authorized to become an authority to distribute electric energy for retail sale. The distribution of electric energy for retail sale by an authority that is created by the Town of Elkton and that is limited by its articles of incorporation to having the Town of Elkton as its sole member throughout its life shall be limited to the geographic area that was served as of January 1, 2006, by the Town of Elkton.

Accordingly, it is determined that the exercise of the powers granted herein will benefit the inhabitants of the Commonwealth and serve a valid public purpose in improving and otherwise promoting their health, welfare and prosperity.

This chapter shall be liberally construed in conformity with these intentions.

1979, c. 416, § 15.1-1604; 1997, c. 587; 2006, cc. 929, 941.

§ 15.2-5402.Definitions

Wherever used in this chapter, unless a different meaning clearly appears in the context:

"Authority" means a political subdivision and a body politic and corporate created, organized and existing pursuant to the provisions of this chapter, or if the authority is abolished, the board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers given by this chapter shall be given by law.

"Bonds" or "revenue bonds" means bonds, notes and other evidences of indebtedness of an authority issued by the authority pursuant to the provisions of this chapter.

"Cost" or "cost of a project" means, but shall not be limited to, the cost of acquisition, construction, reconstruction, improvement, enlargement, betterment or extension of any project, including the cost of studies, plans, specifications, surveys, and estimates of costs and revenues relating thereto, the cost of labor and materials; the cost of land, land rights, rights-of-way and easements, water rights, fees, permits, approvals, licenses, certificates, franchises, and the preparation of applications for and securing the same; administrative, legal, engineering and inspection expenses; financing fees, expenses and costs; working capital; costs of fuel and of fuel supply resources and related facilities; interest on bonds during the period of construction and for such reasonable period thereafter as may be determined by the issuing authority; establishment of reserves; and all other expenditures of the issuing authority incidental, necessary or convenient to the acquisition, construction, reconstruction, improvement, enlargement, betterment or extension of any project and the placing of the project in operation.

"Governmental unit" means any incorporated city or town in the Commonwealth owning on January 1, 1979, a system or facilities for the generation, transmission or distribution of electric power and energy for public and private uses and engaged in the generation or retail distribution of electricity; any incorporated city in the Commonwealth which on January 1, 1979, has a population of 200,000 or more; or any county or incorporated city or town in the Commonwealth which after January 1, 1979, is authorized to participate in an authority pursuant to an act of the General Assembly.

"Project" means any system of facilities for the generation, transmission, transformation, supply, or distribution of electric power and energy by any means whatsoever, including fuel and fuel supply resources and other related facilities, any interest therein and any right to output, capacity or services thereof, but does not include facilities for the distribution of electric energy for retail sale unless the facilities are owned by an authority created by a governmental unit that is exempt from the referendum requirement of § 15.2-5403, and the distribution is limited to retail sales within the geographic area that was served as of January 1, 2006, by the governmental unit that is the sole member of such authority.

"Unit" means any governmental unit; any electric authority; any investor-owned electric power company; any electric cooperative association or corporation; the Commonwealth or any other state;

or any department, institution, commission, public instrumentality or political subdivision of the Commonwealth, any other state, or the United States.

1979, c. 416, § 15.1-1605; 1997, c. 587; 2006, cc. 929, 941.

§ 15.2-5403.Creation of electric authority; referendum

The governing body of a governmental unit may by ordinance, or the governing bodies of two or more governmental units may by concurrent ordinances or agreement authorized by ordinance of each of the respective governmental units, create an electric authority, under any appropriate name and title containing the words "electric authority." Upon compliance with the provisions of this section and §§ 15.2-5404 and 15.2-5405, the authority shall be a political subdivision of the Commonwealth and a body politic and corporate. Any such ordinance shall be adopted in accordance with applicable general or special laws or charter provisions providing for the adoption of ordinances of the particular governmental unit, and shall be published once a week for two successive weeks prior to adoption in a newspaper of general circulation within the governmental unit. The second publication shall not be sooner than one calendar week after the first publication.

No governmental unit shall participate as a member of such an authority unless and until such participation is authorized by a majority of the voters voting in a referendum held in the governmental unit on the question of whether or not the governmental unit should participate in the authority. The referendum shall be held as provided in §§ 24.2-682 and 24.2-684. The foregoing referendum requirement shall not apply to the Town of Elkton if the Town creates an authority by an ordinance that includes articles of incorporation which comply with the provisions of § 15.2-5404 and also set forth a statement that such authority shall have only the Town as its sole member throughout its life.

1979, c. 416, § 15.1-1606; 1997, c. 587; 2006, cc. 929, 941.

§ 15.2-5404.Articles of incorporation

Each ordinance or agreement providing for the creation of an authority shall include articles of incorporation which shall set forth:

1. The name of the authority and the address of its principal office;

2. The names of the governmental units which are to be the initial members of the authority;

3. The purpose or purposes for which the authority is to be created;

4. The number of directors who shall initially serve on the board of directors which shall exercise the powers of the authority, the number of directors from each member governmental unit, and the names, addresses and terms of office of the initial directors of the authority; and

5. Any other provisions for regulating the business of the authority or the conduct of its affairs, including provisions for amendment of the articles of incorporation.

1979, c. 416, § 15.1-1607; 1997, c. 587.

§ 15.2-5405.Certificate of incorporation or charter; addition and withdrawal of members; board of directors; indemnification of directors, officers or employees

A. After adoption or approval of the ordinances or agreement providing for the creation of an authority, the articles of incorporation of the authority shall be filed with the State Corporation Commission. If the State Corporation Commission finds that the articles of incorporation conform to law, and the creation of such an authority is in the public interest, a certificate of incorporation or charter shall forthwith be issued, and thereupon the authority shall constitute a political subdivision of the Commonwealth and a body politic and corporate and shall be deemed to have been lawfully and properly created, established and authorized to exercise the powers granted under this chapter.

In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract or action of the authority, the authority, in the absence of establishing fraud in the premises, shall be conclusively deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance of the aforesaid certificate by the State Corporation Commission. A copy of such certificate, duly certified by the State Corporation Commission, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive evidence of the filing and contents thereof.

Notice of the issuance of such certificate by the State Corporation Commission shall be given to each of the member governmental units of the authority by the State Corporation Commission.

B. After the creation of an authority, any other governmental unit may become a member thereof upon application to such authority after the adoption of an ordinance by the governing body of the governmental unit authorizing such governmental unit to become a member of the authority, and with the unanimous consent of the members of the authority evidenced by ordinances of their respective governing bodies. Except for an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403, any governmental unit may withdraw from an authority; however, all contractual rights acquired and obligations incurred while a governmental unit was a member shall remain in full force and effect.

In the case of the joining of a new member governmental unit to an authority, or in the case of the withdrawal of an existing member governmental unit from an authority, the articles of incorporation of the authority shall be amended to evidence such joinder or withdrawal, as the case may be, and such amendment shall be filed with the State Corporation Commission. Thereupon, the State Corporation Commission shall issue a certificate of joinder or withdrawal, as the case may be, to which shall be attached a copy of the amendment to the articles of incorporation. The joining or withdrawal shall become effective upon the issuance of such certificate.

C. The powers of each authority created by the governing body of a single governmental unit shall be exercised by a board of five directors, or, at the option of the governing body of the particular governmental unit, a number of directors equal to the number of persons on the governing body of the

governmental unit. The powers of each authority created by the governing bodies of two or more governmental units shall be exercised by a board of such number of directors specified in its articles of incorporation, which shall be not less than one member for each governmental unit and not less than a total of five directors. The directors of an authority shall be selected in the manner and for the terms provided by the ordinance of a single governmental unit, or the concurrent ordinances or agreement of two or more of the governmental units creating the authority. No director shall be appointed for a term of more than four years but a director may be reappointed and succeed himself or herself. Directors shall hold office until their successors have been appointed. When one or more additional governmental units join an existing authority, each of such joining governmental units shall appoint not less than one director of the authority.

The directors of the authority shall elect one of their number chairman of the authority, and shall elect a secretary and treasurer and such other officers as are deemed necessary who need not be directors of the authority. The offices of secretary and treasurer may be combined. A majority of the directors of the authority shall constitute a quorum, and the vote of a majority of the directors shall be necessary for any action taken by the authority. No vacancy in the board of directors of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. If a vacancy occurs by reason of the death, disqualification or resignation of a director, the governing body of the governmental unit which appointed such director shall appoint a successor to fill his unexpired term. In the event of a vacancy in the board of directors for any reason, a successor shall be appointed within six months of the date on which such vacancy occurred.

Whenever a governmental unit withdraws from an authority, the term of any director appointed to the board of directors from such governmental unit shall immediately terminate, and, if such termination results in less than five directors of the authority, additional directors shall be selected in the manner and for the terms provided by the ordinances or agreement creating the authority so as to comply with the requirements of this section. No elected official of a member governmental unit shall be a director of an authority. No person shall serve as a director unless he resides within the governmental unit which has appointed him. Directors shall receive such compensation as shall be fixed from time to time by resolution or resolutions of the governing body or bodies of the member governmental unit or units of the authority, and shall be reimbursed for any actual expenses necessarily incurred in the performance of their duties.

D. An authority may defend, indemnify against loss or liability and save harmless any of its directors, officers or employees whenever a claim or demand is made or threatened, or whenever proceeded against in any investigation or before any court, board, commission or other public body to defend or maintain his official position or a position taken in the course of the execution of his duties or because of any act or omission arising out of the performance of his official duties if the director, officer or employee acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the

best interests of the authority. If it is ultimately determined that a director, officer or employee of an authority is entitled to be indemnified by the authority as authorized in this section, he shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him in connection therewith. Expenses, including attorneys' fees, incurred in defending a civil action, suit or proceeding may be paid by an authority in advance of the final disposition of such action, suit or proceeding as authorized in the manner provided in this section upon receipt of an undertaking by or on behalf of the director, officer or employee, to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the authority as authorized in this section.

The indemnification provided by this section shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer or employee, and shall inure to the benefit of the heirs, executors and administrators of such person. An authority shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer or employee of the authority against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the authority would have the power to indemnify him against such liability under the provisions of this section.

1979, c. 416, § 15.1-1608; 1997, c. 587; 2006, cc. 929, 941.

§ 15.2-5405.1.Applicability of personnel and procurement procedures to certain authorities

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall apply to an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 in the exercise of any power conferred under this article only to the extent that such provisions would have applied to the sole member of such authority in the exercise of such power directly.

2006, cc. 929, 941.

§ 15.2-5406.Rights, powers and duties of authority

An authority shall have all of the rights and powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the rights and powers:

1. To adopt bylaws or rules for the regulation of its affairs and the conduct of its business;

2. To adopt an official seal and alter the same at pleasure;

3. To maintain an office at such place or places as it may designate;

4. To sue and be sued;

5. To receive, administer and comply with the conditions and requirements respecting any gift, grant or donation of any property or money;

6. To study, plan, research, develop, finance, construct, reconstruct, acquire, improve, enlarge, extend, better, lease, own, operate and maintain any project or any interest in any project, within or outside the Commonwealth, including the acquisition of an ownership interest in any project as a tenant in common with any other unit or units whether public or private, and to enter into and perform contracts with respect thereto, and if the authority acquires an ownership interest as a tenant in common in any project within the Commonwealth, the surrender or waiver by any such owner of its right to partition such property for a period not exceeding the period for which the property is used or useful for electric utility purposes shall not be invalid and unenforceable by reason of length of such period or as unduly restricting the alienation of such property;

7. To acquire by private negotiated purchase or lease or otherwise an existing project, a project under construction, or other property within or outside the Commonwealth, either individually or jointly with any other unit or units whether public or private; to acquire by private negotiated purchase or lease or otherwise any facilities for the development, production, manufacture, procurement, handling, transportation, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water; and to enter into agreements by private negotiation or otherwise, for such period as the authority shall determine, for the development, production, manufacture, procurement, handling, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water;

8. To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, including an interest in land less than the fee thereof;

9. To sell, lease, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;

10. To dispose of by private negotiated sale or lease or otherwise an existing project, a project under construction, or other property owned either individually or jointly, and to dispose of by private negotiated sale or lease or otherwise any facilities for the development, production, manufacture, procurement, handling, transportation, storage, fabrication, enrichment, processing or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water;

11. To borrow money and issue revenue bonds of the authority in the manner hereinafter provided;

12. To accept advice and money from any member governmental unit of the authority;

13. To apply and contract for and to expend assistance from the United States or other public or private sources, whether in form of a grant or loan or otherwise;

14. To fix, charge and collect rents, rates, fees and charges for output or capacity of any project and for the use of, or for, the other services, facilities and commodities sold, furnished or supplied through any project;

15. To authorize the acquisition, construction, operation or maintenance of any project by any unit or individual on such terms as the authority shall deem proper, and, in connection with any project which is owned jointly by the authority and one or more units, to act as agent, or designate one or more of the other units to act as agent, for all the owners of the project for the construction, operation or maintenance of such project;

16. To generate, produce, transmit, deliver, exchange, purchase or sell electric power and energy at wholesale or retail, and to enter into contracts for any or all such purposes;

17. To negotiate and enter into contracts for the purchase, sale, exchange, interchange, wheeling, pooling, transmission or use of electric power and energy at wholesale or retail with any unit within or outside the Commonwealth;

18. To purchase power and energy and related services from any source on behalf of its member governmental units and other customers and to sell the same to its member governmental units and other customers in such amounts, with such characteristics, for such periods of time and under such terms and conditions as the authority shall determine;

19. In the event of any annexation by a governmental unit which is not a member governmental unit of the authority of lands, areas, or territory in which the authority's projects exist, to continue to do business and to exercise jurisdiction over its properties and facilities in and upon or over such lands, areas or territory as long as any bonds remain outstanding or unpaid, or any contracts or other obligations remain in force;

20. To amend the articles of incorporation with respect to the name or powers of such authority or in any other manner not inconsistent with this chapter by following the procedure prescribed by law for the creation of an authority;

21. To enter into contracts with any unit on such terms as the authority shall deem proper for the purposes of acting as a billing and collecting agent for electric service or electric service fees, rents or charges imposed by any such unit;

22. To pledge or assign any moneys, fees, rents, charges or other revenues and any proceeds derived by the authority from the sales of bonds, property, insurance or condemnation awards;

23. To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this chapter, including contracts with persons, firms, corporations and others;

24. To apply to the appropriate agencies of the Commonwealth, the United States or any state thereof, and to any other proper agency for such permits, licenses, certificates or approvals as may be necessary, to construct, maintain and operate projects in accordance with such licenses, permits, certificates or approvals; and to obtain, hold and use such licenses, permits, certificates and approvals in the same manner as any other person or operating unit;

25. To employ such persons as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor; and

26. To do all acts and things necessary and convenient to carry out the purposes and to exercise the powers granted to the authority herein.

In undertaking a project, an authority shall apply to the appropriate agencies of the Commonwealth, the United States, or any state therein, for such permits, licenses, certificates, or approvals as may be necessary, including, in any event, those referred to in §§ 56-46.1, 56-234.3, and 56-265.2; former § 62.1-3; and Chapter 7 (§ 62.1-80 et seq.) of Title 62.1 of the Code of Virginia. An authority shall construct, maintain and operate such projects in accordance with such permits, licenses, certificates and approvals. The foregoing sentence shall apply to an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 only to the extent that it would have applied to the governmental unit that is the sole member of such authority if the governmental unit had directly undertaken the project.

In determining which project or projects to undertake in furtherance of its purposes and powers under this chapter, an authority shall take into account estimated future power requirements of member governmental units which have entered into, or propose to enter into, contracts with the authority for the purchase of output, capacity, use or services of such project or projects, and in making such determinations the authority shall consider the following:

1. Economies and efficiencies to be achieved in constructing, on a large scale, facilities for the generation and distribution of electric power and energy;

2. Needs of the authority for reserve and peaking capacity and to meet obligations under pooling and reserve-sharing agreements reasonably related to its needs for power and energy to which the authority is or may become a party;

3. Estimated useful life of such project;

4. Estimated time necessary for the planning, development, acquisition, or construction of such project and length of time required in advance to obtain, acquire or construct an additional power supply for the member governmental units of the authority; and

5. Reliability and availability of alternative power supply sources and cost of such alternative power supply sources.

Nothing herein contained shall prevent an authority from undertaking studies to determine whether there is a need for a project or whether such project is feasible.

1979, c. 416, § 15.1-1609; 1997, c. 587; 2006, cc. 929, 941.

§ 15.2-5406.1.Retail distribution of electric energy limited to certain authorities

Notwithstanding any other provision in this chapter to the contrary, an authority is not authorized to distribute electric energy for retail sale unless the authority is an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403. Such distribution shall be limited to retail sales within the geographic area that was, as of January 1, 2006, by the governmental unit of such authority. Nothing in this chapter shall be construed to impair or abridge the exclusive territorial electric distribution rights or property rights of any certificated incumbent public service company operating in the Commonwealth. No such authority is authorized or empowered to take by condemnation, eminent domain, or otherwise, the electric distribution system, utility facilities, or other utility property of any public service company without the consent of such public service company.

2006, cc. 929, 941.

§ 15.2-5406.2.Tort claims against certain authorities

An authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 shall be subject to tort liability only to the extent that the governmental unit that is the sole member of such authority is subject to such liability.

2006, cc. 929, 941.

§ 15.2-5407.Membership in more than one authority

Nothing herein contained shall prohibit any governmental unit from being a member of more than one authority for the purpose of obtaining an adequate electric power supply.

1979, c. 416, § 15.1-1610; 1997, c. 587.

§ 15.2-5408.Sale of power and energy, including capacity and output to member governmental units by authority; duration of contracts; source of payments; furnishing of money, property or services by member governmental units

Any member governmental unit of an authority may contract to buy from the authority power and energy required for its present or future requirements, including the capacity and output of one or more specified projects. Any such contract may provide that the governmental unit so contracting shall be obligated to make payments required by the contract whether or not a project is completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of a project or the power and energy contracted for, and that such payments under the contract shall not be subject to any reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance by the authority or any other member

governmental unit under the contract or any other instrument. Such contracts with respect to any project may also provide, in the event of default by any member governmental unit which is a party to any such contract for such project in the performance of its obligations thereunder, for other member governmental units which are parties to any such contract for such project to succeed to the rights and interests and assume the obligations of the defaulting party, pro rata or otherwise as may be agreed upon in such contracts.

Notwithstanding the provisions of any other law or local charter provision to the contrary, any such contracts with respect to the sale or purchase of capacity, output, power or energy from a project may extend for a period not exceeding fifty years from the date a project is estimated to be placed in normal continuous operation; the execution and effectiveness thereof shall not be subject to any authorizations or approvals by the Commonwealth or any agency, commission or instrumentality or political subdivision thereof except as specifically required and provided in this chapter.

Payments by a governmental unit under any contract for the purchase of capacity and output from an authority shall be made solely from, and may be secured by a pledge of and lien upon, the revenues derived by such governmental unit from the ownership and operation of the electric system of such governmental unit, and such payments may be made as an operating expense of such electric system. No obligation under such contract shall constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the governmental unit or upon any of its income, receipts or revenues, except the revenues of its electric system, and neither the faith and credit nor the taxing power of the governmental unit are, or may be, pledged for the payment of any obligation under any such contract. A governmental unit shall be obligated to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through its electric system sufficient to provide revenues adequate to meet its obligations under any such contract and to pay any and all other amounts payable from or constituting a charge and lien upon such revenues, including amounts sufficient to pay the principal of and interest on bonds of such governmental unit heretofore or hereafter issued for purposes related to its electric system. Any pledge made by a governmental unit pursuant to this paragraph shall be governed by the laws of the Commonwealth.

Any member governmental unit of an authority may furnish the authority with money and provide the authority with personnel, equipment and property, both real and personal. Any member governmental unit may also provide any services to an authority. Any member governmental unit may contract for, advance or contribute funds to an authority as may be agreed upon by the authority, and the member governmental unit and the authority shall repay such advances or contributions from proceeds of bonds, from operating revenues or from any other funds of the authority, together with interest thereon as may be agreed upon by the member governmental units and authority.

1979, c. 416, § 15.1-1611; 1997, c. 587.

§ 15.2-5409.Sale of capacity and output to nonmembers; limitations

An authority may sell or exchange the capacity or output of a project not then required by any of its member governmental units for such consideration, for such period, and upon such other terms and conditions as may be determined by the parties, to any person, firm, association or corporation, public or private within or outside the Commonwealth; however, this shall not authorize retail sales by an authority to any nongovernmental end user of electric capacity or energy, except as set forth in § 15.2-5406.1, and sales of such capacity or output of a project shall not be made in such amounts, for such periods of time, and under such terms and conditions as will cause the interest on bonds issued to finance the cost of a project to become taxable by the federal government.

1979, c. 416, § 15.1-1612; 1997, c. 587; 2006, cc. 929, 941.

§ 15.2-5410.Contents of agreement as to joint ownership of project; designation of party to agreement as agent for construction, operation and maintenance of project; powers and duties of agent

Any agreement between an authority and a unit with respect to the joint ownership of a project shall provide that each party to the agreement shall own a percentage of the project equal to the percentage of the money furnished or the value of property supplied by the respective parties for the acquisition and construction thereof and shall own and control a like percentage of the output thereof. The agreement shall further provide that an authority shall be liable only for its own acts thereunder and that no moneys or other contributions supplied by an authority shall be applied in any way to the account of any other party to the agreement. Any such agreement may contain such terms, conditions, and provisions as the board of directors of an authority shall deem to be in the best interest of such authority.

The agreement may include, but shall not be limited to, provisions for the construction, operation and maintenance of a project by one of the parties thereto, which shall be designated in or pursuant to such agreement as agent on behalf of itself and the other parties, or by such other means as may be determined by the parties and provisions for a uniform method of determining, and allocating among the parties, costs of construction, operation, maintenance, renewals, replacements, and improvements with respect to such project. In carrying out its functions and activities as such agent with respect to the construction, operation, and maintenance of such a project, including without limitation the letting of contracts therefor, the agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other parties. Notwithstanding the provisions of any other law to the contrary, the authority may delegate its powers and duties with respect to the construction, operation and maintenance of such project to such agent, and all actions taken by the agent in accordance with the provisions of such agreement shall be binding upon each of the parties without further action or approval by their respective boards of directors or governing bodies. The agent shall be required to exercise all such

powers and perform its duties and functions under the agreement in a manner consistent with prudent utility practice.

As used in this section, "prudent utility practice" means any of the practices, methods, and acts at a particular time which, in the exercise of reasonable judgment in the light of the facts, including but not limited to the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition.

1979, c. 416, § 15.1-1613; 1997, c. 587.

§ 15.2-5411.Contracts for planning, acquisition, construction, etc., of projects

An authority may contract for the planning, acquisition, construction, reconstruction, operation, maintenance, repair, extension, and improvement of a project or may contract with one or more units to perform these functions, by advertising for bids, preparing plans and specifications in advance of construction, or securing performances and payment bonds to the extent that its board of directors determines that these actions are desirable in furtherance of the purposes of this chapter. Except as otherwise provided by this section, no contract shall be invalid or unenforceable by reason of nonperformance of the conditions required by any other law relating to public contracts.

1979, c. 416, § 15.1-1614; 1997, c. 587.

§ 15.2-5412.Issuance of bonds by authority

An authority may issue from time to time its bonds in such principal amounts as the authority shall deem necessary to provide sufficient funds to carry out any of its corporate purposes and powers, including but not limited to the payment of all or any part of the cost of a project or projects. The principal of, redemption premium, if any, and interest on such bonds shall be payable solely from, and may be secured solely by, a pledge of and lien upon the revenues, or any portion thereof, derived or to be derived by the authority from one or more of its projects, or contributions or advances from its members, or moneys derived from any source, as the authority shall determine. Bonds of the authority shall be authorized by a resolution adopted by its board of directors, and such resolution shall be spread upon its minutes. The bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding fifty years from their date or dates, shall have such rank or priority and may be made redeemable before maturity at the option of the authority, at such price or prices and under such terms and conditions, as may be determined by the authority. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. In case any officer whose signature or a facsimile of

whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of such bonds, his signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner, either, at public or at private sale, and for such price as it may determine to be for the best interest of the authority and the member governmental units to be served thereby.

The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and bonds may be issued without obtaining the consent of the Commonwealth or any political subdivisions, or of any agency, commission or instrumentality of either thereof, and without any other approvals, proceedings or the happening of any conditions or things other than those specifically required by this chapter and the provisions of the resolution authorizing the issuance of such bonds or the trust agreement securing the same.

1979, c. 416, § 15.1-1615; 1997, c. 587.

§ 15.2-5413.Interim receipts and temporary bonds; lost, stolen and destroyed bonds

Prior to the preparation of definitive bonds, the authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

Should any bond issued under this chapter or any coupon appertaining thereto become mutilated or be lost, stolen or destroyed, the authority may cause a new bond or coupon of like date, number and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for such lost, stolen or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen or destroyed bond or coupon has (i) paid the reasonable expense and charges in connection therewith; (ii) in the case of a lost, stolen or destroyed bond or coupon, filed with the authority or its fiduciary evidence satisfactory to such authority or its fiduciary that such bond or coupon was lost, stolen or destroyed and that the holder was the owner thereof; and (iii) furnished indemnity satisfactory to the authority.

1979, c. 416, § 15.1-1616; 1997, c. 587.

§ 15.2-5414.Bonds not debts of Commonwealth or member governmental unit

Bonds issued under the provisions of this chapter shall not be deemed to constitute a pledge of the faith and credit of the Commonwealth or of any governmental unit thereof. All such bonds shall contain a statement on their face substantially to the effect that neither the faith and credit of the

Commonwealth nor the faith and credit of any governmental unit of the Commonwealth is pledged to the payment of the principal of or the interest on such bonds. The issuance of bonds under the provisions of this chapter shall not directly, indirectly or contingently obligate the Commonwealth or any governmental unit of the Commonwealth to levy any taxes whatever therefor or to make any appropriation for their payment.

1979, c. 416, § 15.1-1617; 1997, c. 587.

§ 15.2-5415.Security for bonds; trust agreement; bond resolution

In the discretion of any authority, any revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee. Such corporate trustee, and any depository of funds of the authority, may be any trust company or bank having the powers of a trust company within the Commonwealth. The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign all or a portion of the revenues to be received by the authority in respect of any project or projects but shall not convey or mortgage any project, may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, and may restrict the individual right of action by bondholders. The trust agreement or the resolution providing for the issuance of such bonds may contain covenants including, but not limited to, the following:

1. The pledge of all or any part of the revenues derived from the project or projects to be financed by the bonds or from the electric system or facilities of the authority;

2. The rents, rates, fees and charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants and funds received or to be received by the authority;

3. The setting aside of reserves and the investment, regulation and disposition thereof;

4. The custody, collection, securing, investment, and payment of any moneys held for the payment of bonds;

5. Limitations or restrictions on the purposes to which the proceeds of the sale of bonds then or thereafter to be issued may be applied;

6. Limitations or restrictions on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured or the refunding of outstanding or other bonds;

7. The procedure, if any, by which the terms of any contract with bondholders may be amended, the percentage of bonds the bondholders of which must consent thereto, and the manner in which such consent may be given;

8. Events of default and the rights and liabilities arising thereupon, the terms and conditions upon which bonds issued under this chapter shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived;

9. The preparation and maintenance of a budget;

10. The retention or employment of consulting engineers, independent auditors, and other technical consultants;

11. Limitations on or the prohibition of free service to any person, firm or corporation, public or private;

12. The acquisition and disposal of property, and the appointment of a receiver of the funds and property of the authority in the event of a default;

13. Provisions for insurance and for accounting reports and the inspection and audit thereof; and

14. The continuing operation and maintenance of the project or projects.

Any pledge made by an authority pursuant to this chapter shall be governed by the laws of the Commonwealth.

1979, c. 416, § 15.1-1618; 1997, c. 587.

§ 15.2-5416.Rents, rates, fees and other charges

The authority is hereby authorized to fix, charge and collect rents, rates, fees and other charges for the purchase of output or capacity of, or for the use of and for the electric power and energy or services, facilities and commodities sold, furnished or supplied by, any project. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times to (i) pay the cost of maintaining, operating and repairing the project or projects on account of which such bonds are issued, including reserves for such purposes and for replacement and depreciation and necessary extensions; (ii) pay the principal of and redemption premium, if any, and interest on the revenue bonds as the same shall become due and to create and maintain reserves therefor; (iii) comply with the terms of any resolution or trust agreement securing bonds of the authority; and (iv) pay any and all amounts which the authority may be obligated to pay from such revenues by law or contract.

In fixing rents, rates, fees and other charges as provided in this section, the authority shall hold a public hearing, advertised as required in § 15.2-5403, at which hearing the public may submit comments with respect to such rents, rates, fees and other charges to the authority. The authority shall charge and collect the rates, fees and charges so fixed or revised. Rates, rentals, fees and charges for the sale or purchase of output or capacity of, or for the use of and for the electric power and energy or services, facilities and commodities sold, furnished or supplied by a project may be fixed and revised and charged and collected by the authority under this chapter without obtaining the approval or consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things which are specifically required by this chapter.

1979, c. 416, § 15.1-1619; 1997, c. 587.

§ 15.2-5417.Moneys received deemed trust funds

Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The resolution authorizing the issuance of bonds or the trust agreement securing such bonds may provide that any of such moneys may be temporarily invested and reinvested, pending the disbursement thereof, in such securities and other investments as shall be provided in such resolution or trust agreement, and shall provide that any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and the resolution or trust agreement may provide.

1979, c. 416, § 15.1-1620; 1997, c. 587.

§ 15.2-5418.Bondholders' and trustees' remedies

Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder, or, to the extent permitted by law, under such trust agreement or resolution authorizing the issuance of such bonds or under any agreement or other contract executed by the authority pursuant to this chapter, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by any authority or by any officer thereof, including the fixing, charging and collecting of rents, rates, fees and charges for the purchase of output or capacity of any project or for the use of or for the electric power and energy or services furnished by any project.

1979, c. 416, § 15.1-1621; 1997, c. 587.

§ 15.2-5419.Refunding bonds

An authority created hereunder is hereby authorized to provide by resolution for the issuance of revenue refunding bonds of the authority for the purpose of refunding any revenue bonds then outstanding and issued under the provisions of this chapter, whether or not such outstanding bonds have matured or are then subject to redemption. Each such authority is further authorized to provide by resolution for the issuance of a single issue of revenue bonds of the authority for the combined purposes of (i) paying the cost of any project and (ii) refunding the revenue bonds of the authority which have been issued under the provisions of this chapter and are then outstanding, whether or not such outstanding bonds have matured or are then subject to redemption. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the authority with respect to the bonds, shall be governed by the foregoing provisions of this chapter insofar as they are applicable.

1979, c. 416, § 15.1-1622; 1997, c. 587.

§ 15.2-5420.Status of bonds under Uniform Commercial Code

Notwithstanding any of the provisions of this chapter or any recitals in any bonds issued under this chapter, all such bonds shall be deemed to be investment securities under the Uniform Commercial Code as enacted in this Commonwealth, subject only to the provisions of the bonds pertaining to registration.

1979, c. 416, § 15.1-1623; 1997, c. 587.

§ 15.2-5421.Bonds as legal investments and lawful security

The bonds issued pursuant to this chapter shall be and are hereby declared to be legal and authorized investments for banks, savings institutions, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and guardians and for all public funds of the Commonwealth or other political corporations or subdivisions of the Commonwealth. Such bonds shall be eligible to secure the deposit of any and all public funds of the Commonwealth and any and all public funds of localities, school districts or other political corporations or subdivisions of the Commonwealth, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

1979, c. 416, § 15.1-1624; 1996, c. 77; 1997, c. 587.

§ 15.2-5422.Bonds exempt from taxation

Bonds, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from all taxation by the Commonwealth or any political subdivision thereof, except inheritance or gift taxes.

1979, c. 416, § 15.1-1625; 1997, c. 587.

§ 15.2-5423.Payments in lieu of property taxes; license tax

A project owned by an authority shall be exempt from property taxes. However, an authority, other than an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403, owning a project shall, in lieu of property taxes, pay to any governmental body authorized to levy property taxes, the amount which would be assessed as taxes on real and personal property of a project if such project were otherwise subject to valuation and assessment by the State Corporation Commission, in the same manner as are public utility companies. Such payments in lieu of taxes shall be due and shall bear interest, if unpaid, as in the cases of taxes on other property. Authorities, other than an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403, shall pay the annual state license tax imposed by § 58.1-2626, or an equal amount in lieu of such tax, to the same extent as if § 58.1-2626 were by its terms expressly applicable to authorities. Payments in lieu of taxes made hereunder shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law. The retail sales of an authority created by a

governmental unit exempt from the referendum requirement of § 15.2-5403 shall be subject to the taxes imposed under § 58.1-2900. Except as herein expressly provided with respect to projects owned by an authority, no other property of such authority used or useful in the generation, transmission, transformation, and distribution of electric power and energy shall be subject to payment in lieu of taxes.

1979, c. 416, § 15.1-1626; 1997, c. 587; 2006, cc. 929, 941.

§ 15.2-5423.1.Exemption from taxation for certain authorities

An authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 is hereby declared to be performing a public function on behalf of the governmental unit that is the sole member of such authority with respect to which the authority is created and to be a public instrumentality of such governmental unit. Accordingly, an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 shall be exempt from state and local taxation to the same extent that the governmental unit that is the sole member of such authority is exempt from such taxation.

2006, cc. 929, 941.

§ 15.2-5424.Transfer, etc., of property of political subdivisions upon request of authority

The governing body of any political subdivision, notwithstanding any contrary provision of law, is hereby authorized to transfer jurisdiction over, to permit the use of, lease, lend, grant or convey to the authority upon the request of the authority, upon such terms and conditions as the governing body of such subdivision may agree with the authority as reasonable and fair, such real or personal property as may be necessary or desirable in connection with the acquisition, construction, improvement, operation or maintenance of any project by the authority, including public roads and other property already donated to public use. However, the authority must pay full market value for any such real or personal property conveyed by the governing body of any political subdivision to the authority. Whenever any railroad tracks, pipes, poles, wires, conduits or other structures or facilities which are located in, along, across, over or under any public road, street, highway, alley or other public right-of-way shall become an obstruction to, interfere with or be endangered by the construction, operation or maintenance of any project of the authority, the political subdivision having ownership, control or jurisdiction over such public road, street, highway, alley or other public right-of-way may, as the exercise of an essential governmental function, order the safeguarding, maintaining, relocating, rebuilding, removing and replacing of such railroad tracks, pipes, poles, wires, conduits or other structures or facilities by the owner thereof at the expense of the authority, and subject to the provisions of § 25.1-102.

1979, c. 416, § 15.1-1627; 1997, c. 587.

§ 15.2-5425.Eminent domain

An authority created under the provisions of this chapter is hereby vested with the power of eminent domain and the same authority to exercise the power of eminent domain as is granted in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 and as is granted in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1, subject to the provisions of § 25.1-102, provided that this power shall not be used to acquire existing power supply facilities or plants held for future use. Furthermore, no authority may condemn property outside of the territorial limits of its member governmental units without obtaining the consent of the governing body of the locality in which such property is located; however, in any case in which the approval by such locality is withheld, the authority seeking such approval may petition for the convening of a special court, pursuant to §§ 15.2-2135 through 15.2-2141.

1979, c. 416, § 15.1-1628; 1997, c. 587; 2003, c. 940.

§ 15.2-5426.Annual reports

Each authority, promptly following the close of the calendar year, shall submit an annual report of its activities for the preceding year to the governing body of its member governmental unit. Each such report shall set forth a complete operating and financial statement covering the operation of the authority during such year. The authority shall cause an audit of its books and accounts to be made at least once each year by a certified public accountant, and the cost thereof may be treated as part of the cost of a project, or otherwise as part of the expense of operation of the project by such audit.

1979, c. 416, § 15.1-1629; 1997, c. 587.

§ 15.2-5427.Liability of members or officers

No member of any authority or officer of any governing body of any member governmental unit creating such authority, or person or persons acting in their behalf, while acting within the scope of their authority shall be subject to any personal liability by reason of his carrying out of any of the powers expressly given in this chapter.

1979, c. 416, § 15.1-1630; 1997, c. 587.

§ 15.2-5428.Dissolution of authority

Whenever the board of directors of an authority and its member governmental units determines that the purposes for which it was created have been substantially fulfilled or are impractical or impossible to accomplish and that all bonds theretofore issued and all other obligations theretofore incurred by the authority have been paid or that cash or a sufficient amount of United States government securities has been deposited for their payment, the board of directors of the authority and the governing bodies of the member governmental units may adopt resolutions or ordinances declaring and finding that the authority should be dissolved, and that appropriate articles of dissolution shall be filed with the State Corporation Commission. Upon the filing of such articles of dissolution by the authority, such dissolution shall become effective, and the title to all funds and other property owned by the authority at the time of such filing shall vest in the member governmental units of the authority.

1979, c. 416, § 15.1-1631; 1997, c. 587.

§ 15.2-5429.Legislative consent to application of laws of other states

Legislative consent is hereby given (i) to the application of the laws of other states with respect to taxation, payments in lieu of taxes, and the assessment thereof, to any authority created pursuant to this chapter, which has acquired or has an interest in a project, real or personal, situated outside the Commonwealth or which owns or operates a project outside the Commonwealth pursuant to this chapter and (ii) to the application of regulatory and other laws of other states and of the United States to any authority which owns or operates a project outside the Commonwealth.

1979, c. 416, § 15.1-1632; 1997, c. 587.

§ 15.2-5430.Provisions of chapter cumulative; construction

Neither this chapter nor anything herein contained shall be construed as a restriction or limitation upon any powers which an authority or governmental unit acting under the provisions of this chapter might otherwise have under any laws of this Commonwealth, but shall be construed as cumulative of any such powers. This chapter shall be construed as complete and independent authority for the performance of each and every act and thing authorized by this chapter. No proceedings, notice or approval shall be required for the organization of an authority or the issuance of any bonds or any instrument as security therefor, except as herein provided, any other law to the contrary notwithstanding. However, nothing herein shall be construed to deprive the Commonwealth and its political subdivisions of their respective police powers over properties of an authority or to impair any power thereover of any official or agency of the Commonwealth and its political subdivisions which may be otherwise provided by law. Nothing contained in this chapter shall be deemed to authorize an authority to occupy or use any land, streets, buildings, structures or other property of any kind, owned or used by any political subdivision within its jurisdiction, or any public improvement or facility maintained by such political subdivision for the use of its inhabitants, without first obtaining the consent of the governing body thereof.

1979, c. 416, § 15.1-1633; 1997, c. 587.

§ 15.2-5431.Provisions of chapter controlling over other statutes and charters

Any provision of this chapter which is found to be in conflict with any other statute or charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict.

1979, c. 416, § 15.1-1634; 1997, c. 587; 2015, c. 709.

Essex County Airport Authority

Created

1988 Acts of Assembly, c. 871.

Amendments
2012, c. 745 (§§ 1, 3, 5)

§ 1. Definitions.
As used in this act the words and terms herein shall have the following meanings, unless the context shall indicate another or different meaning or intent:

A. The word "Authority" shall mean the Essex County Airport Authority hereinafter created or, if the authority shall be abolished, the board, body, commission, or agency succeeding to the principal functions thereof or upon whom the powers given by this act to the Authority shall be conferred by law. The Authority is the same political subdivision formerly known as the Tappahannock-Essex County Airport Authority. As such, the Authority has all rights, obligations, and duties of the Tappahannock-Essex County Airport Authority, including but not limited to all leases, contracts, grants-in-aid, bonds, and all other agreements of whatsoever nature; holds title to all realty and personalty held by the former Tappahannock-Essex County Airport Authority; and may exercise all powers that might at any time past have been exercised by the Tappahannock-Essex County Airport Authority.

B. The word "project" shall mean an airport for general, commercial, and private use acquired, maintained, constructed, or reconstructed by the Authority under the provisions of this act, together with all necessary and convenient approaches, air navigation equipment, roads, and streets used in connection with such airport.

C. The term "cost of the project" shall embrace the cost of acquisition, construction or reconstruction (including improvements), landscaping, and conservation; the cost of acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the Authority for the operation of the project; the cost of demolishing or removing any buildings or structures on land acquired, including the cost of acquiring any land to which such buildings or structures may be moved; the cost of all machinery and equipment, financing charges, interest prior to and during construction or reconstruction, and, if deemed advisable by the Authority for a period not exceeding one year after completion of the project, the cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, provision for working capital and a reserve for interest; other expenses necessary or incident to determining the feasibility or practicability of the project; administrative expenses; and such other expenses as may be necessary or incident to the project, the financing, and the placing of the project in operation.

D. The word "bonds" or the words "revenue bonds" shall mean revenue bonds or refunding bonds of the Authority, notes, interim certificates and any other evidences of indebtedness issued under the provisions of this act. (1988, c. 871; 2012, c. 745)

§ 2. Credit of Commonwealth and political subdivisions not pledged.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any county, city, town, district or other political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any county, city, town, district or other political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the Commonwealth or any county, city, town or district therein or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor. Each such revenue bond shall contain a statement on its face substantially to the foregoing effect. All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the provisions of this act, and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this act. (1988, c. 871)

§ 3. "Essex County Airport Authority."

There is hereby created and constituted a political subdivision of the Commonwealth to be known as the "Essex County Airport Authority." The exercise by the Authority of the powers conferred by this act in the acquisition, construction, reconstruction, operation, and maintenance of the project authorized by this act shall be deemed and held to be the performance of an essential governmental function.

Until July 1, 2013, the Authority shall consist of seven members; three members shall be appointed by the Tappahannock Town Council, and four members shall be appointed by the Board of Supervisors of Essex County. As of and after July, 1, 2013, the Authority shall consist of five members who shall be appointed by the Board of Supervisors of Essex County with at least one member residing in the Town of Tappahannock; on that date, the terms of members previously appointed by the Tappahannock Town Council shall be deemed expired, but the terms of members previously appointed by the Board of Supervisors of Essex County shall not be affected hereby, with two members' terms to end June 30, 2013; one member's term to end June 30, 2014; one member's term to end June 30, 2015; and the new member residing in the Town of Tappahannock to be appointed by the Board of Supervisors shall have an initial term expiring June 30, 2014. All appointments shall require only a simple motion passed by majority vote. Members shall be subject to removal from office under provisions of Article 1.1, Chapter 6, Title 24.1, Code of Virginia, 1950 as amended.

Members of the Authority shall serve for a term of three years and may be reappointed. Interim vacancies occurring in the membership of the Authority due to deaths, resignations, etc., will be filed only for the unexpired term of that member. A member shall continue to serve until his successor shall be duly appointed and qualified.

The Authority shall annually in July elect one of its members as chairman and another as vice-chairman and shall also elect annually a secretary-treasurer, who may or may not be a member of the Authority.

The secretary-treasurer shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates.

Three members of the Authority shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the other rights and perform all the duties of the Authority, and no vacancy in the membership of the Authority shall impair the validity of any bonds or other evidences of indebtedness issued by the Authority.

The Authority shall meet at least monthly, at a time and place to be determined by the members and at such other times as the members may deem necessary or appropriate; minutes of all meetings shall be recorded with copies provided to the Board of Supervisors of Essex County.

The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties, but otherwise shall serve without compensation. (1988, c. 871; 2012, c. 745)

§ 4. General grant of powers.

The Authority is hereby authorized and empowered:

A. To adopt bylaws for the regulation of its affairs and the conduct of its business;

B. To adopt an official seal and alter the same at pleasure;

C. To determine, in its discretion, the design standards and the materials of construction, and to acquire, construct, reconstruct, maintain, repair and operate the project;

D. To issue revenue bonds of the Authority for any of its purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

E. To fix and revise from time to time and charge and collect tolls, rates, fees, rentals and other charges for the use of the project;

F. To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

G. To employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

H. To accept real, personal or mixed property, including money, from individuals, partnerships, corporations and other business entities;

I. To borrow money on a short-term basis and issue from time to time its notes therefor payable on such terms, conditions or provisions as it may deem advisable;

J. To sue and be sued in its own name, plead and be impleaded;

K. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act; and

L. To do all acts and things necessary and convenient to carry out the powers expressly granted in this act. (1988, c. 871)

§ 5. Acquisition of property.

A. The Authority is hereby authorized and empowered to acquire by eminent domain in accordance with the applicable provisions of § 5.1-34 and Title 25.1 of the Code of Virginia, as amended, or by purchase from funds provided under the provisions of this act, and such other moneys as may be provided by federal, state and local governments or by gift, such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for the project, upon such terms and conditions as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and commissions of the Commonwealth, with the approval of the Governor, and, notwithstanding any contrary provisions of law, general or special, the County of Essex and all other local governments of the Commonwealth, without the necessity for any advertisement, order of court, or other action or formality, are hereby authorized and empowered to lease, lend, grant, give, transfer, or convey to the Authority at its request upon such terms and conditions as may be mutually agreed upon any real, personal, or mixed property, including money, which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public highways and other property already devoted to public use. All agreements or arrangements entered into by the Town of Tappahannock and the County of Essex to provide support for bonds or other obligations of the Authority issued or incurred before July 1, 2013, are hereby continued and shall remain in force and effect in accordance with their terms, provided that four-sevenths of any payment made pursuant to any such agreement or arrangement shall be provided by the County of Essex and three-sevenths of any such payment shall be provided by the Town of Tappahannock.

B. Title to any property acquired by the Authority shall be taken in the name of the Authority. (1988, c. 871; 2012, c. 745)

§ 6. Revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or

rates not exceeding such interest rate as is permissible by law, shall mature at such time times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form, the manner of execution of the bonds and shall fix the denomination or denominations the bonds and the place or places of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. In case any officer whose signature or facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provisions of this act, such bonds shall be deemed to be negotiable instruments under the laws of Commonwealth. The bonds may be issued in such form as the Authority may determine. The Authority may sell such bonds in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this act.

The proceeds of the bonds shall be used solely for the payment of the cost of the project and operating expenses and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim certificates or temporary bonds exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this act. (1988, c. 871)

§ 7. Trust agreement.

In the discretion of the Authority, any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such

trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not conveyor mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, reconstruction, improvement, maintenance, repair, operation and insurance of the project, the rates of tolls or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project. (1988, c. 871)

§ 8. Revenues.

The Authority is hereby authorized to fix, revise, charge and collect tolls or other charges for the use of the project and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the airport for placing thereon telephone, telegraph, electric light or power lines, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls or other charges shall be so fixed and adjusted in respect of the aggregate of tolls or other charges from the project as to provide a fund sufficient with other revenues, if any, to pay (i) the cost of improving, maintaining, repairing and operating such project and (ii) the principal of and interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. The tolls and all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of improvement, maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Any pledge made by the Authority pursuant to this act shall be governed by the laws of the Commonwealth. The disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1988, c. 871)

§ 9. Trust funds.

All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds or as revenues, or as grants, appropriations or other funds provided by federal; state or local governments, shall be deemed to be trust funds to be held and applied solely as provided in this act. The Authority shall, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues to be received by a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this act, subject to such regulations as this act and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds. (1988, c. 871)

§ 10. Remedies.

Any holder of bonds issued under the provisions of this act and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement made either at law or in equity or by applicable federal grant restrictions and/or requirements, by suit, action, injunction, mandamus or other proceedings, may protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of tolls or other charges. (1988, c. 871)

§ 11. Refunding bonds.

The Authority is hereby authorized to provide by resolution for the issuance of its refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable. (1988, c. 871)

§ 12. Exemption from taxation.

The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the Authority shall not

be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom; and the bonds issued under the provisions of this act, their transfer and income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof. (1988, c. 871)

§ 13. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1988, c. 871)

§ 14. Act liberally construed.

This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1988, c. 871)

§ 15. Constitutional construction.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein. (1988, c. 871)

§ 16. Inconsistent laws inapplicable.

All other general or special laws inconsistent with any provision of this act are hereby declared to be not applicable to the provisions of this act. (1988, c. 871)

City of Fairfax Parking Authority

Created

1958 Acts of Assembly, c. 536, as Town of Fairfax Parking Authority.

Amendments

1991, c. 21 (§§ 1 through 17, 18 [added]; name changed to City of Fairfax Parking Authority Act)

§ 1. Short title.

This Act shall be known and may be cited as the "City of Fairfax Parking Authority Act." (1958, c. 536; 1991, c. 21)

§ 2. Declaration of public necessity.

It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the City of Fairfax in the Commonwealth is necessary to the health, safety and general welfare of the public, whether residing in the municipality or traveling to, through or from such municipality in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of the municipality; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the present time a public nuisance; that such parking prevents the free circulation of traffic in, through and from the municipality, and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions for sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided; and that the enactment of the provisions of this Act is hereby declared to be a public necessity. (1958, c. 536; 1991, c. 21)

§ 3. Definitions.

As used in this Act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Authority created under the provisions of this Act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this Act to the Authority shall be given by law.

(b) The word "cost" as applied to Parking Facilities or to extensions or additions thereto shall include the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and interests acquired by the Authority for such construction or reconstruction or the operation thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during construction, and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal services, cost of plans and specifications, surveys and estimates of cost and of revenues, administrative expense and such other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof and the placing of the Parking Facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this Act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(c) The words "governing body" shall mean the board, commission, council or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.

(d) The word "municipality" shall mean the City of Fairfax in the Commonwealth of Virginia.

(e) The words "Parking Facilities" shall mean and shall include lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to public use for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and buses, waiting rooms, lockers, and offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the instruction or operation thereof; however, the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles. (1958, c. 536; 1991, c. 21)

§ 4. Creation of the Authority.

(a) The governing body of the municipality may by resolution signify its determination to organize an Authority under the provisions of this Act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than ten days prior to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereon. Such municipality shall not be required to make any other publication of such resolution under the provisions of any other law.

(b) Such resolution shall include articles of incorporation which shall set forth:

(1) the name of the Authority;

(2) a statement that such Authority is organized under this Act;

(3) the name of the organizing municipality; and

(4) the names and addresses of the first members of the Authority appointed by the organizing municipality.

(c) Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the Commonwealth of Virginia. (1958, c. 536; 1991, c. 21)

§ 5. Membership of the Authority.

The Authority organized under the provisions of this Act shall consist of five members selected by said governing body of the organizing municipality who shall serve for terms expiring one, two, three, four, and five years, respectively, from the date of appointment, the term of each such member to be designated by the governing body. The successor of each member of the Authority shall be appointed

for a term of five years but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Authority before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitution of the United States and the Constitution of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Authority.

The Authority shall select one of its members as Chairman and another as Vice-Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice-Chairman, Secretary and Treasurer shall be as provided in the by-laws of the Authority.

A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of all of the members of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all of the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties.

The City Manager, or his designee, of the organizing municipality shall serve as an ex officio, nonvoting member of the Authority. (1958, c. 536; 1991, c. 21)

§ 6. General grant of powers.

The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and the Authority is hereby authorized and empowered:

(a) to adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to maintain an office at such place or places as it may designate;

(d) to sue and be sued in its own name, plead and be impleaded;

(e) to construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of the organizing municipality;

(f) to issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;

(g) to issue revenue refunding bonds of the Authority as hereinafter provided;

(h) to fix and revise from time to time and to charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and

revise from time to time regulations in respect of the use, operation and occupancy of such parking facilities or part thereof;

(i) to accept from any authorized agency of the federal government loans or grants for the planning, construction or acquisition of any parking facilities and to enter into agreements with such agency respecting any such loans or grants, and to receive and accept aid and contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants or contributions may be made;

(j) to acquire in the name of the Authority by gift, purchase or the exercise of the right of eminent domain in accordance with the laws of the Commonwealth of Virginia which are applicable to the exercise of such powers by cities or towns, any lands or rights in lands and interest therein, and to acquire such personal property as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facilities; however, no property of any corporation itself having the power of eminent domain may be condemned hereunder, and the Authority shall not condemn any lands or personal property or right or interest therein, unless authorized so to do by resolution of the governing body of the city;

(k) to lease all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this Act; however, no enterprise involving the sale or dispensing of any product or commodity used in or for the servicing of motor vehicles shall be conducted on any space thereon;

(l) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; however, all such expenses shall be payable solely from funds made available under the provisions of this Act; and

(m) to do all acts and things necessary or convenient to carry out the powers granted by this Act. (1958, c. 536; 1991, c. 21)

§ 7. Revenue bonds.

The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving, extending or enlarging any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates not exceeding per the maximum rate permitted by law to be paid by public bodies, as may be determined by the Authority, and may be made redeemable before maturity, at the

option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Act or any recitals in any bonds issued under the provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than the maximum rate permitted by law to be paid by public bodies, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this Act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision,

and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this Act.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth or of any municipality or other political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any municipality or other political subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds. (1958, c. 536; 1991, c. 21)

§ 8. Revenues.

The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by any parking facilities or parts thereof owned or operated by the Authority. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission, or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all times (a) to pay the cost of maintaining, repairing and operating the parking facilities or parts thereof owned or operated by the Authority, including reserves for such purposes, and (b) to pay the principal of and the interest on all bonds issued by the Authority under the provisions of this Act as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the Authority may enter into contracts relating to use of the services and facilities of the parking facilities on such terms and conditions as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms. (1958, c. 536; 1991, c. 21)

§ 9. Trust agreement.

In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received, but shall not convey or mortgage any parking facilities or any part thereof, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such

indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this Act otherwise provided, the Authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any parking facilities or parts thereof, to such officer, board, or depository as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of operation.

All pledges of revenues under the provisions of this Act shall be valid and binding from the time when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. (1958, c. 536; 1991, c. 21)

§ 10. Trust funds.

All moneys received pursuant to the authority of this Act shall be deemed to be trust funds, to be held and applied solely as provided in this Act. Any officer to whom, or bank, trust company or fiscal agent to which such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this Act and the resolution authorizing the issuance of bonds or trust agreement securing such bonds may provide. (1958, c. 536; 1991, c. 21)

§ 11. Remedies.

Any holder of revenue bonds issued under provisions of this Act and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this Act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of rates, rentals, fees and charges for the use of or for the services and facilities furnished by any parking facilities. (1958, c. 536; 1991, c. 21)

§ 12. Exemption from taxation.

As adequate off-street parking facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this Act to effect such purposes constitutes the

performance of essential municipal functions, and as parking facilities constructed under the provisions of this Act constitute the performance of essential municipal functions, and as parking facilities constructed pursuant to the provisions of this Act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this Act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the Commonwealth. (1958, c. 536; 1991, c. 21)

§ 13. Revenue refunding bonds.

The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (a) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions or enlargements of any parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the provisions of this Act in so far as the same may be applicable. (1958, c. 536; 1991, c. 21)

§ 14. Contributions.

The municipality is authorized to make contributions or advances to an Authority which it organizes under the provisions of this Act, from any moneys which may be available for such purpose, to provide for the preliminary expenses of such Authority in carrying out the provisions of this Act or to pay any item of cost of any parking facilities. (1958, c. 536; 1991, c. 21)

§ 15. Actions taken by Authority.

Any action taken by the Authority under the provisions of this Act may be authorized by resolution of the Authority at any regular or special meeting and each such resolution of the Authority shall take effect immediately and need not be published or posted. (1958, c. 536; 1991, c. 21)

§ 16. Additional method.

This Act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; however, the issuance of revenue bonds or revenue

refunding bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds. (1958, c. 536; 1991, c. 21)

§ 17. Provisions of act severable.
The provisions of this Act are severable; if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (1958, c. 536; 1991, c. 21)

§ 18. Construction.
This Act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof. (1991, c. 21)

Fairfax County Airport Authority

Created
1964 Acts of Assembly, c. 642.

Amendments
1966, c. 372 (§§ 1, 4-a, 5, 7)

§ 1. Definitions.
As used in this Act the following words and term shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Fairfax County Airport Authority hereinafter created or, if the Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or upon whom the powers given by this Act to the Authority shall be conferred by law.

(b) The word "project" shall mean an airport and appurtenant facilities for general, commercial and private use constructed by or for the Authority under the provisions of this Act, together with all necessary and convenient approaches, roads and streets used in connection with such airport.

(c) The term "cost of the project" shall embrace the cost of construction, landscaping and conservation, the cost of acquisition of all land; rights of way, property, rights, easements and interests acquired by the Authority for the construction and operation of the project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the Authority for a period not exceeding one year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, provision for working capital and a reserve for interest, other expenses

necessary or incident to determining the feasibility or practicability of constructing the project, administrative expenses, and such other expenses as may be necessary or incident to the construction of the project, the financing of such construction and the placing of the project in operation.

(d) The word "bonds" or the words "revenue bonds" shall mean revenue bonds or revenue refunding bonds and notes of the Authority issued under the provisions of this Act.

(e) The word "owner" shall include all individuals, copartnerships, associations or corporations and also municipalities, political subdivisions and all public agencies and instrumentalities having any title or interest in any property, rights, easements and interests authorized to be acquired by this Act. (1964, c. 642; 1966, c. 372)

§ 2. Credit of Commonwealth and political subdivisions not pledged.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any county, city, district or political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any county, city, district or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues. The issuance of revenue bonds under the provisions of this Act shall not directly or indirectly or contingently obligate the Commonwealth or any county, city or district therein or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect.

All expenses incurred in carrying out the provisions of this Act shall be payable solely from funds provided under the provisions of this Act and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this Act. (1964, c. 642)

§ 3. "Fairfax County Airport Authority."

If the governing body of the county of Fairfax shall by resolution declare that there is need for an airport authority to be created for the purpose of establishing and operating one or more airports or landing fields for such political subdivision, an airport authority shall upon adoption of such resolution, be created and constituted a political subdivision of the Commonwealth to be known as the "Fairfax County Airport Authority". The exercise by the Authority of the powers conferred by this Act in the construction, operation and maintenance of the project authorized by this Act shall be deemed and held to be the performance of an essential governmental function.

The Authority shall consist of five members, all of whom shall be appointed by the governing body of the county of Fairfax, all of whom shall be residents of such county. Two of the members of the Authority first appointed shall continue in office for terms expiring on the thirtieth day of June three years from the date that this Act shall have become effective, two for terms expiring on the thirtieth day

of June two years from the date that this Act shall have become effective, and one for a term expiring on the thirtieth day of June within the year from the date that this Act shall have become effective, the term of each such member to be designated by said governing body and to continue until his successor shall be duly appointed and qualified. The successor of each such member shall be appointed for a term of five years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Authority shall be eligible for reappointment. Members of the Authority shall be subject to removal from office in like manner as are State, county, town and district officers under the provisions of §§ 15.1-63 to 15.1-66, inclusive, of the Code of Virginia. The Authority shall annually elect one of its members as chairman and another as vice chairman and shall also elect annually a secretary-treasurer, who mayor may not be a member of the Authority.

The secretary-treasurer shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates.

Three members of the Authority shall constitute a quorum and the affirmative vote of three members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

Before the issuance of any revenue bonds under the provisions of this Act the secretary-treasurer of the Authority shall execute a surety bond in the penal sum of fifty thousand dollars, such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the Commonwealth as surety and to be approved by the attorney general and filed in the office of the secretary of the Commonwealth.

The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties. Each member shall also be paid the sum of twenty dollars per day for each day or portion thereof during which he is engaged in the performance of his duties, with the maximum payable to anyone member in anyone calendar year of fifteen hundred dollars. (1964, c. 642)

§ 4. General grant of powers.

The Authority is hereby authorized and empowered:

(a) to adopt by-laws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to determine the location of the project, to determine, in its discretion and without reference to any other provisions of any State law, the design standards and the materials of construction, and to construct, maintain, repair and operate the project;

(d) to issue revenue bonds of the Authority for any of its purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this Act;

(e) to fix and revise from time to time and charge and collect tolls, rates, fees, rentals and other charges for the use of the project;

(f) to acquire, accept, hold and dispose of real and personal property including gifts and contributions from political subdivisions, persons or corporations, in the exercise of its powers and the performance of its duties under this Act;

(g) to employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(h) to enter upon any lands and premises for the purpose of making such surveys, soundings, borings and examinations as the Authority may deem necessary or convenient for its purposes, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings; provided, however, the Authority shall pay any actual damage resulting to such lands and premises as a result of such entry and activities as a part of the cost of the project;

(i) to sue and be sued in its own name, plead and be impleaded;

(j) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act, and to enter into grant agreements with the United States government for airport planning, development and operation under the Federal Airport Act and other appropriate federal laws;

(k) to do all acts and things necessary or convenient to carry out the powers expressly granted in this Act; and

(l) to borrow money and to issue bonds, refunding bonds, notes, certificates or other evidence of indebtedness of the Authority. (1964, c. 642)

§ 4-a. In addition to the powers conferred by the preceding section, the Authority is hereby empowered to lease, sell or encumber any real or personal property owned by the Authority. (1964, c. 642; 1966, c. 372)

§ 5. Acquisition of property.

(a) The Authority is hereby authorized and empowered to acquire by purchase solely from funds provided under the provisions of this Act, such lands, structures, property, rights, rights of way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and the commissions of the Commonwealth, with the approval of the Governor, and the County of Fairfax, notwithstanding any contrary provisions of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court or other action or formality, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public highways and other real property already devoted to public use.

(b) The Authority is authorized and empowered to acquire by the exercise of the power of eminent domain limited to the definition of "project" as set forth herein, any lands, property, rights, rights of way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any person, copartnership, association, public service, public utility or other corporation, or of the county, deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration, replacement or relocation of public or private property damaged or destroyed, whenever a reasonable price cannot be agreed upon or whenever the Authority cannot agree on the terms of purchase or settlement with the owner or owners because of the incapacity of such owner or owners or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because such owner or owners are nonresidents of the Commonwealth, or are unknown, or are unable to convey valid title to such property. Such proceedings shall be in accordance with and subject to the provisions of any and all laws of the Commonwealth applicable to the exercise of the power of eminent domain in the name of the State Highway Commissioner and subject to the provisions of § 25-233 of the Code of Virginia, 1950, as fully as if the Authority were a corporation possessing the power of eminent domain; provided, however, that title to any property condemned by the Authority shall immediately vest in the Authority, and the Authority shall be entitled to the immediate possession of such property upon the deposit with the clerk of the court in which such condemnation proceedings are originated, of the total amount of the appraised price of the property and court costs and fees as provided by said laws, notwithstanding that any of the parties to such proceedings shall appeal from any decision in such condemnation proceedings. Whenever the Authority shall make such deposit in connection with any condemnation proceeding, the making of such deposit shall not preclude the Authority from appealing any decision rendered in such proceedings. Upon the deposit with the clerk of the court of the appraised price, any person or persons entitled thereto may, upon petition to the

court, be paid his or their pro rata share of 90% of such appraised price. The acceptance of such payment shall not preclude such person or persons from appealing any decision rendered in such proceedings. If the appraisement is greater or less than the amount finally determined by the decision in such proceeding or by an appeal, the amount of the increase or decrease shall be paid by or refunded to the Authority.

The terms "appraised price" and "appraisement" as used in this section mean the value determined by two competent real estate appraisers appointed by the Authority for such purposes.

The acquisition of any such property by condemnation or by the exercise of the power of eminent domain shall be and is hereby declared to be a public use of such property.

(c) Title to any property acquired by the Authority shall be taken in the name of the Authority.

(d) In any eminent domain proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the Authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security nor any act or obligation of the Authority shall impose any liability upon the Commonwealth or upon any county, or other political subdivision of the Commonwealth.

(e) If the owner, lessee or occupier of any property to be condemned or otherwise acquired shall refuse to remove his property therefrom or give up possession thereof, the Authority may proceed to obtain possession in any manner provided by law.

(f) The Commonwealth, subject to the approval of the Governor, hereby consents to the use of any lands or property owned by the Commonwealth which are deemed by the Authority to be necessary for the construction or operation of the project.

(g) No property shall be acquired by any method by the Authority without the prior approval of the location of the situs of such property by the governing body of the county after public hearing held thereon. (1964, c. 642; 1966, c. 372)

§ 6. Revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding six per centum (6%) per annum, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such

terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this Act or any recitals in any bonds issued under the provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this Act.

The proceeds of the bonds shall be used solely for the payment of the cost of the project, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Act. (1964, c. 642)

§ 7. Trust agreement.

In the discretion of the Authority any bonds issued under the provisions of this Act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received. In connection with the issuance of such bonds or in order to secure the payment thereof, the Authority shall have power under such agreement to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, to vest in the trustee thereunder the right to foreclose such mortgage and to provide the terms and conditions upon which such trustee or the holders of bonds or any proportion thereof may exercise the right to foreclosure. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project, the rates of toll or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project. (1964, c. 642; 1966, c. 372)

§ 8. Revenues.

The Authority is hereby authorized to fix, revise, charge and collect tolls or other charges for the use of the project and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right of way adjoining the airport for placing thereon telephone, telegraph, electric light or power lines, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls or other charges shall be so fixed and adjusted in respect of the aggregate of tolls or other charges from the project as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such project and (b) the principal of and interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. The tolls and all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the

payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls and other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1964, c. 642)

§ 9. Trust funds.

All moneys received pursuant to the provisions of this Act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Act. (1964, c. 642)

§ 10. Remedies.

Any holder of bonds issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this Act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this Act or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of tolls or other charges. (1964, c. 642)

§ 11. Exemption from taxation.

The exercise of the powers granted by this Act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this Act or upon the income therefrom; and the bonds issued under the provisions of this Act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof. (1964, c. 642)

§ 12. Revenue refunding bonds.

The Authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this Act in so far as the same may be applicable. (1964, c. 642)

§ 13. Act liberally construed.

This Act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1964, c. 642)

§ 14. Constitutional construction.

The provisions of this Act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decisions of such court shall not affect or impair any of the remaining provisions of this Act. It is hereby declared to be the legislative intent that this Act would have been adopted had such unconstitutional provisions not been included therein. (1964, c. 642)

§ 15. Inconsistent laws inapplicable.

All other general or special laws inconsistent with any provision of this Act are hereby declared to be inapplicable to the provisions of this Act. (1964, c. 642)

Fort Monroe Authority

§ 2.2-2201.Short title; definitions

A. This article shall be known and may be cited as the "Virginia Commercial Space Flight Authority Act."

B. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Commercial Space Flight Authority.

"Board" means the board of directors of the Authority.

"Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility or the provision for or funding of any activity that will further the purposes described in § 2.2-2202.

1995, c. 758, §§ 9-266.1, 9-266.2; 2001, c. 844; 2012, cc. 779, 817.

§ 2.2-2202.Declaration of public purpose; Virginia Commercial Space Flight Authority created

The General Assembly has determined that there exists in the Commonwealth a need to promote industrial and economic development and scientific and technological research and development through the development and promotion of the commercial and government aerospace industry.

In order to facilitate and coordinate the advancement of these needs, there is hereby created the Virginia Commercial Space Flight Authority, with the powers and duties set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public functions, and the exercise by the Authority of the powers and duties conferred by this article shall be deemed and held to be the performance of an essential government function of the Commonwealth and a public purpose.

1995, c. 758, § 9-266.3; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2203.Board of directors; members and officers; Executive Director

The Authority shall be governed by a board of directors consisting of nine members, two of whom shall be the Secretary of Transportation and the Director of the Virginia Department of Aviation or their respective designees. The remaining seven members shall be appointed by the Governor and shall have experience in at least one of the following fields: (i) the aerospace industry, (ii) the financial industry, (iii) the marketing industry, (iv) scientific and technological research and development; or (v) higher education. Members of the Board appointed by the Governor shall be appointed for terms of four years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members shall serve at the pleasure of the Governor and shall be confirmed by the General Assembly. Members of the Board shall receive reimbursement for their

expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on Board business.

The Board shall annually elect one of its members as chairman and another as vice-chairman and may also elect from its membership, or appoint from the Authority's staff, a secretary and a treasurer and prescribe their powers and duties. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings. Five members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also serve as the Chief Executive Officer of the Authority and exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. Such compensation shall be established at a level that will enable the Authority to attract and retain a capable Executive Director. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary to carry out the powers and duties of the Authority.

1995, c. 758, § 9-266.4; 1999, cc. 412, 421, 433; 2001, c. 844; 2009, c. 82; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2204.Powers of the Authority

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the power to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board;

4. Adopt a strategic plan pursuant to § 2.2-2203.2 and plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain and operate projects pursuant to such plan;

5. Adopt an annual budget for the Authority's capital improvements and operations;

6. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the power of the Authority shall be exercised and its duties performed. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary and expedient. Such bylaws, rules, and regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.);

7. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of projects of, the sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority; the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties; the payment of the costs accomplishing its purposes set forth in § 2.2-2202; the payment of the principal of and interest on its obligations; and the creation of reserves for such purposes, for other purposes of the Authority and to pay the cost of maintaining, repairing and operating any project and fulfilling the terms and provisions of any agreements made with the purchasers or holders of any such obligations and any other purposes as set forth in this article;

8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2202 or for refunding bonds previously issued by the Authority, whether such outstanding bonds have matured or are then subject to redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof, by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to provide for the security for said bonds and the rights of holders thereof. However, the total principal amount of bonds, including refunding bonds, outstanding at any time shall not exceed $50 million, excluding from such limit any revenue bonds. The Authority shall not issue any bonds, other than revenue bonds, that are not specifically authorized by a bill or resolution passed by a majority vote of those elected to each house of the General Assembly;

9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including interstate compacts that have been authorized by the General Assembly and where necessary consented to by the United States Congress and agreements with any person or federal agency;

10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as

may be necessary, and to fix their compensation to be payable from funds made available to the Authority;

11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants, donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made;

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; foster the utilization of scientific and technological research, information discoveries and data and obtain patents, copyrights and trademarks thereon; coordinate the scientific and technological research efforts of public institutions and private industry and collect and maintain data on the development and utilization of scientific and technological research capabilities;

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority; and

15. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

1995, c. 758, § 9-266.5; 1996, c. 111; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2336.Short title; declaration of public purpose; Fort Monroe Authority created; successor in interest to Fort Monroe Federal Area Development Authority

A. This article shall be known and may be cited as the Fort Monroe Authority Act.

B. The General Assembly finds and declares that:

1. Fort Monroe, located on a barrier spit at Hampton Roads Harbor and the southern end of Chesapeake Bay where the Old Point Comfort lighthouse has been welcoming ships since 1802, is one of the Commonwealth's most important cultural treasures. Strategically located near Virginia's Historic Triangle of Williamsburg, Yorktown, and Jamestown, the 565-acre site has been designated a National Historic Landmark District;

2. As a result of decisions made by the federal Defense Base Closure and Realignment Commission (known as the BRAC Commission), Fort Monroe will cease to be an army base in 2011, and at that time most of the site will revert to the Commonwealth;

3. The planning phase of Fort Monroe's transition from use as a United States Army base was managed by the Fort Monroe Federal Area Development Authority (FMFADA), originally established by the City of Hampton pursuant to legislation enacted by the General Assembly in 2007. The Fort Monroe Federal Area Development Authority, a partnership between the City and the Commonwealth, has fulfilled its primary purpose of formulating a reuse plan for Fort Monroe;

4. It is the policy of the Commonwealth to protect the historic resources at Fort Monroe, provide public access to the Fort's historic resources and recreational opportunities, exercise exemplary stewardship of the Fort's natural resources, and maintain Fort Monroe in perpetuity as a place that is a desirable one in which to reside, do business, and visit, all in a way that is economically sustainable;

5. Fort Monroe's status is unique. Municipal services will need to be provided to Fort Monroe's visitors, residents, and businesses. Both the Commonwealth and the FMFADA are signatories to a Programmatic Agreement under Section 106 of the National Historic Preservation Act that requires several specific actions be taken, including the enforcement of design standards to be adopted by the FMFADA or its successor to govern any new development or building restoration or renovation at Fort Monroe. There exists a need for an entity that can manage the property for the Commonwealth and ensure adherence to the findings, declarations, and policies set forth in this section; and

6. The creation of an authority for this purpose is in the public interest, serves a public purpose, and will promote the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth.

C. The Fort Monroe Authority is created, with the duties and powers set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public functions, and the exercise by the Authority of the duties and powers conferred by this article shall be deemed and held to be the performance of an essential governmental function of the Commonwealth. The exercise of the powers granted by this article and its public purpose shall be in all respects for the benefit of the inhabitants of the Commonwealth.

D. The Fort Monroe Authority is the successor in interest to that political subdivision formerly known as the Fort Monroe Federal Area Development Authority. As such, the Authority stands in the place and stead of, and assumes all rights and duties formerly of, the Fort Monroe Federal Area Development Authority, including but not limited to all leases, contracts, grants-in-aid, and all other agreements of whatsoever nature; holds title to all realty and personalty formerly held by the Fort Monroe Federal Area Development Authority; and may exercise all powers that might at any time past have been exercised by the Fort Monroe Federal Area Development Authority, including the powers

and authorities of a Local Redevelopment Authority under the provisions of any and all applicable federal laws, including the Defense Base Closure and Realignment Act of 2005.

E. The Fort Monroe Authority shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and the Board shall adopt procedures consistent with that Act to govern its procurement processes.

F. Employees of the Fort Monroe Authority shall be eligible for membership in the Virginia Retirement System and all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law.

G. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) shall not apply to the Fort Monroe Authority.

2011, c. 716; 2020, cc. 269, 800.

§ 2.2-2337. Definitions

As used in this article, unless the context requires a different meaning:

"Area of Operation" means land owned by the Commonwealth at Fort Monroe.

"Authority" means the Fort Monroe Authority.

"Board" means the Board of Trustees created in § 2.2-2338.

"Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by the Authority pursuant to this article.

"City of Hampton" or "City" means the City of Hampton, Virginia, a municipal corporation of the Commonwealth of Virginia.

"Design Standards" means the standards developed as a requirement of the Programmatic Agreement and referred to in that document as the "Historic Preservation Manual and Design Standards" which govern the restoration, rehabilitation, and renovation of the contributing elements to the Fort Monroe National Historic Landmark District and new construction, additions, and reconstruction of buildings so they are compatible with the overall character of the District, as they may be adopted or amended from time to time.

"Facility" means a particular building or structure or particular buildings or structures, including all equipment, appurtenances, and accessories necessary or appropriate for the operation of such facility.

"Fort Monroe Master Plan" or "Master Plan" means the plan that identifies the long-term vision for the reuse of the Area of Operation, key implementation projects, and a detailed implementation strategy for attracting new uses and investment to the Area of Operation as approved by the Authority and produced in accordance with the public participation plan as adopted by the Authority.

"Fort Monroe Reuse Plan" or "Reuse Plan" means the document created by the Fort Monroe Federal Area Development Authority and adopted as an official operating document on August 20, 2008, as it may be amended from time to time.

"Programmatic Agreement for the Closure and Disposal of Fort Monroe, Va." or "Programmatic Agreement" means that certain agreement, as it may be amended from time to time, entered into among the U.S. Army, the Virginia State Historic Preservation Officer, the Advisory Council on Historic Preservation, the Commonwealth of Virginia, the Fort Monroe Federal Area Development Authority and the National Park Service and signed by all Signatory Parties as of April 27, 2009, pursuant to § 106 of the National Historic Preservation Act.

"Project" means any specific enterprise undertaken by the Authority, including the facilities as defined in this article, and all other property, real or personal, or any interest therein, necessary or appropriate for the operation of such property.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

"State Memorandum of Understanding" means an agreement between the Authority, the Secretary of Administration, the State Historic Preservation Officer, and the Governor, on behalf of all state agencies, to protect Fort Monroe and its historic, cultural, and natural assets by carefully implementing the plans, stipulations, requirements, and obligations under the Programmatic Agreement for nonfederal lands following the transfer of properties from the United States Army to the Commonwealth.

"Trustees" means the members of the Board of Trustees of the Authority.

2011, c. 716; 2012, cc. 436, 482; 2014, cc. 676, 681; 2019, cc. 38, 389.

§ 2.2-2338. Board of Trustees; membership

There is hereby created a political subdivision and public body corporate and politic of the Commonwealth of Virginia to be known as the Fort Monroe Authority, to be governed by a Board of Trustees (Board) consisting of 14 members appointed as follows: the Secretary of Natural Resources and the Secretary of Commerce and Trade, or their successor positions if those positions no longer exist, from the Governor's cabinet; the member of the Senate of Virginia and the member of the House of Delegates representing the district in which Fort Monroe lies; two members appointed by the Hampton City Council; and eight nonlegislative citizen members appointed by the Governor, seven of whom shall have expertise relevant to the implementation of the Fort Monroe Reuse Plan, including but not limited to the fields of historic preservation, tourism, environment, real estate, finance, and education, and one of whom shall be a citizen representative from the Hampton Roads region. The

Secretary of Natural Resources and the Secretary of Commerce and Trade shall serve ex officio without voting privileges and may send their deputies or another cabinet member to meetings in the event that official duties require their presence elsewhere. Cabinet members and elected representatives shall serve terms commensurate with their terms of office. Legislative members may send another legislator to meetings as full voting members in the event that official duties require their presence elsewhere.

The Board so appointed shall enter upon the performance of its duties and shall initially and annually thereafter elect one of its members as chairman and another as vice-chairman. The Board shall also elect annually a secretary, who shall be a member of the Board, and a treasurer, who need not be a member of the Board, or a secretary-treasurer, who need not be a member of the Board. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board, and in the absence of both the chairman and vice-chairman, the Board shall elect a chairman pro tempore who shall preside at such meetings. Seven Trustees shall constitute a quorum, and all action by the Board shall require the affirmative vote of a majority of the Trustees present and voting, except that any action to amend or terminate the existing Reuse Plan, or to adopt a new Reuse Plan, shall require the affirmative vote of 75 percent or more of the Trustees present and voting. The members of the Board shall be entitled to reimbursement for expenses incurred in attendance upon meetings of the Board or while otherwise engaged in the discharge of their duties. Such expenses shall be paid out of the treasury of the Authority in such manner as shall be prescribed by the Authority.

2011, cc. 716, 780, 858; 2014, cc. 115, 490, 676, 681; 2017, cc. 215, 732.

§ 2.2-2339. Duties of the Authority

The Authority shall have the power and duty:

1. To do all things necessary and proper to further an appreciation of the contributions of the first permanent English-speaking settlers as well as the Virginia Indians to the building of our Commonwealth and nation, to commemorate the establishment of the first coastal fortification in the English-speaking New World, to commemorate the lives of prominent Virginians who were connected to the largest moated fortification in the United States, to commemorate the important role of African Americans in the history of the site, including the "Contraband" slave decision in 1861 that earned Fort Monroe the designation as "Freedom's Fortress," to commemorate Old Point Comfort's role in establishing international trade and British maritime law in Virginia, and to commemorate almost 250 years of continuous service as a coastal defense fortification of the United States of America;

2. To hire and develop a professional staff including an executive director and such other staff as is necessary to discharge the responsibilities of the Authority;

3. To establish personnel policies and benefits for staff;

4. To oversee the preservation, conservation, protection, and maintenance of the Commonwealth's natural resources and real property interests at Fort Monroe and the renewal of Fort Monroe as a vibrant and thriving community;

5. To adopt an annual budget, which shall be submitted to the Chairmen of the Senate Committee on Finance and the House Committee on Appropriations and the Department of Planning and Budget by July 1 of each year;

6. To provide for additional, more complete, or more timely services than are generally available in the City of Hampton as a whole; and

7. To serve as the Commonwealth's management agent for all the land in the Area of Operation and for the implementation of actions and fulfillment of federal and state obligations for public and private land under the Fort Monroe Master Plan, Programmatic Agreement, Design Standards, Reuse Plan, State Memorandum of Understanding, and any other agreements regarding Fort Monroe to which the Commonwealth is a party, ensuring adherence to the findings, declarations, and policies set forth in this article, unless the Commonwealth and the Authority specifically agree in writing to the contrary.

2011, c. 716; 2012, cc. 436, 482; 2014, cc. 676, 681.

§ 2.2-2339.1.Fort Monroe Master Plan; approval by Governor

The Fort Monroe Master Plan shall be consistent with all preservation commitments and obligations agreed to by the Commonwealth. The Master Plan shall be approved by the Governor before it becomes effective.

2012, cc. 436, 482.

§ 2.2-2340.Additional declaration of policy; powers of the Authority; penalty

A. It is the policy of the Commonwealth that the historic, cultural, and natural resources of Fort Monroe be protected in any conveyance or alienation of real property interests by the Authority. Real property in the Area of Operation at Fort Monroe may be maintained as Commonwealth-owned land that is leased, whether by short-term operating/revenue lease or long-term ground lease, to appropriate public, private, or joint venture entities, with such historic, cultural, and natural resources being protected in any such lease, to be approved as to form by the Attorney General of the Commonwealth of Virginia. If sold as provided in this article, real property interests in the Area of Operation at Fort Monroe may only be sold under covenants, historic conservation easements, historic preservation easements, or other appropriate legal restrictions approved as to form by the Attorney General that protect these historic and natural resources. Properties in the Wherry Quarter and Inner Fort areas identified in the Fort Monroe Reuse Plan may only be sold with the consent of both the Governor and the General Assembly, except that any transfer to the National Park Service shall require only the approval of the Governor. The proceeds from the sale or pre-paid lease of any real or personal

property within the Area of Operation shall be retained by the Authority and used for infrastructure improvements in the Area of Operation.

B. The Authority shall have the power and duty:

1. To sue and be sued; to adopt and use a common seal and to alter the same as may be deemed expedient; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Authority; and to make and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with law, to carry into effect the powers and purposes of the Authority;

2. To foster and stimulate the economic and other development of Fort Monroe, including without limitation development for business, employment, housing, commercial, recreational, educational, and other public purposes; to prepare and carry out plans and projects to accomplish such objectives; to provide for the construction, reconstruction, rehabilitation, reuse, improvement, alteration, maintenance, removal, equipping, or repair of any buildings, structures, or land of any kind; to lease or rent to others or to develop, operate, or manage with others in a joint venture or other partnering arrangement, on such terms as it deems proper and which are consistent with the provisions of the Programmatic Agreement, Design Standards, and Reuse Plan governing any lands, dwellings, houses, accommodations, structures, buildings, facilities, or appurtenances embraced within Fort Monroe; to establish, collect, and revise the rents charged and terms and conditions of occupancy thereof; to terminate any such lease or rental obligation upon the failure of the lessee or renter to comply with any of the obligations thereof; to arrange or contract for the furnishing by any person or agency, public or private, of works, services, privileges, or facilities in connection with any activity in which the Authority may engage, provided, however, that if services are provided by the City of Hampton pursuant to § 2.2-2341 for which the City is compensated pursuant to subsection B of § 2.2-2342, then the Authority may provide for additional, more complete, or more timely services than are generally available in the City of Hampton as a whole if deemed necessary or appropriate by the Authority; to acquire, own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, easement, dedication, or otherwise any real or personal property or any interest therein, which purchase, lease, or acquisition may only be made for less than fair market value if the Board of Trustees determines, upon the advice of the Attorney General, that the transaction is consistent with the fiduciary obligation of the Authority to the Commonwealth and if necessary or appropriate to further the purposes of the Authority; as provided in this article, to sell, lease, exchange, transfer, assign, or pledge any real or personal property or any interest therein, which sale, lease, or other transfer or assignment may be made for less than fair market value; as provided in this article, to dedicate, make a gift of, or lease for a nominal amount any real or personal property or any interest therein to the Commonwealth, the City of Hampton, or other localities or agencies, public or private, within the Area of Operation or adjacent thereto, jointly or

severally, for public use or benefit, such as, but not limited to, game preserves, playgrounds, park and recreational areas and facilities, hospitals, clinics, schools, and airports; to acquire, lease, maintain, alter, operate, improve, expand, sell, or otherwise dispose of onsite utility and infrastructure systems or sell any excess service capacity for offsite use; to acquire, lease, construct, maintain, and operate and dispose of tracks, spurs, crossings, terminals, warehouses, and terminal facilities of every kind and description necessary or useful in the transportation and storage of goods, wares, and merchandise; and to insure or provide for the insurance of any real or personal property or operation of the Authority against any risks or hazards;

3. To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursements, in property or security in which fiduciaries may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled;

4. To undertake and carry out examinations, investigations, studies, and analyses of the business, industrial, agricultural, utility, transportation, and other economic development needs, requirements, and potentialities of its Area of Operation or offsite needs, requirements, and potentialities that directly affect the success of the Authority at Fort Monroe, and the manner in which such needs and requirements and potentialities are being met, or should be met, in order to accomplish the purposes for which it is created; to make use of the facts determined in such research and analyses in its own operation; and to make the results of such studies and analyses available to public bodies and to private individuals, groups, and businesses, except as such information may be exempted pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);

5. To administer, develop, and maintain at Fort Monroe permanent commemorative cultural and historical museums and memorials;

6. To adopt names, flags, seals, and other emblems for use in connection with such shrines and to copyright the same in the name of the Commonwealth;

7. To enter into any contracts not otherwise specifically authorized in this article to further the purposes of the Authority, after approval as to form by the Attorney General;

8. To establish nonprofit corporations as instrumentalities to assist in administering the affairs of the Authority;

9. To exercise the power of eminent domain in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1 within the Authority's Area of Operation; however, eminent domain may only be used to obtain easements across property on Fort Monroe for the provision of water, sewer, electrical, ingress and egress, and other necessary or useful services to further the purposes of the Authority, unless the Governor has expressly granted authority to obtain interests for other purposes;

10. To fix, charge, and collect rents, fees, and charges for the use of, or the benefit derived from, the services or facilities provided, owned, operated, or financed by the Authority benefiting property within the Authority's Area of Operation. Such rents, fees, and charges may be charged to and collected by such persons and in such manner as the Authority may determine from (i) any person contracting for the services or using the Authority facilities or (ii) the owners, tenants, or customers of the real estate and improvements that are served by, or benefit from the use of, any such services or facilities, in such manner as shall be authorized by the Authority in connection with the provision of such services or facilities. Such rents, fees, and charges shall not be chargeable to the Commonwealth or, where such rents, fees or charges relate to services or facilities utilized by the City of Hampton to provide municipal services, to the City of Hampton except as may be provided by lease or other agreement and may be used to fund the provision of the additional, more complete, or more timely services authorized under subdivision 6 of § 2.2-2339, the payments provided under § 2.2-2342, or for other purposes as the Authority may determine to be appropriate, subject to the provisions of subsection B of § 2.2-2342;

11. To receive and expend gifts, grants, and donations from whatever source derived for the purposes of the Authority;

12. To employ an executive director and such deputies and assistants as may be required;

13. To elect any past chairman of the Board of Trustees to the honorary position of chairman emeritus. Chairmen emeriti shall serve as honorary members for life. Chairmen emeriti shall be elected in addition to the nonlegislative citizen member positions defined in § 2.2-2338;

14. To determine what paintings, statuary, works of art, manuscripts, and artifacts may be acquired by purchase, gift, or loan and to exchange or sell the same if not inconsistent with the terms of such purchase, gift, loan, or other acquisition;

15. To change the form of investment of any funds, securities, or other property, real or personal, provided the same are not inconsistent with the terms of the instrument under which the same were acquired, and to sell, grant, or convey any such property, subject to the provisions of subsection A of § 2.2-2340;

16. To cooperate with the federal government, the Commonwealth, the City of Hampton, or other nearby localities in the discharge of its enumerated powers;

17. To exercise all or any part or combination of powers granted in this article;

18. To do any and all other acts and things that may be reasonably necessary and convenient to carry out its purposes and powers;

19. To adopt, amend or repeal, by the Board of Trustees, or the executive committee thereof, regulations concerning the use of, access to and visitation of properties under the control of the

Authority in order to protect or secure such properties and the public enjoyment thereof, with any violation of such regulations being punishable by a civil penalty of up to $100 for the first violation and up to $250 for any subsequent violation, such civil penalty to be paid to the Authority;

20. To provide parking and traffic rules and regulations on property owned by the Authority; and

21. To provide that any person who knowingly violates a regulation of the Authority may be requested by an agent or employee of the Authority to leave the property and upon the failure of such person so to do shall be guilty of a trespass as provided in § 18.2-119.

2011, c. 716; 2012, cc. 436, 482; 2014, cc. 676, 681.

§ 2.2-2341.Relationship to the City of Hampton

A. All of Fort Monroe is within the City of Hampton's jurisdictional limits; therefore, the City of Hampton is the locality and Virginia municipal corporation for the Authority's Area of Operation. Nothing in this article is intended to limit or restrict the otherwise existing authority of the City of Hampton which, except as otherwise provided in this article, is reserved solely for the City of Hampton. As authorized in this article, the Authority may supplement in its Area of Operation the works, services, privileges, or facilities provided by the City of Hampton to provide additional, more complete, or more timely works, services, privileges, or facilities than provided by the City of Hampton.

B. The Authority shall adopt procedures for the implementation of required actions under the Programmatic Agreement and any other agreements regarding Fort Monroe to which the Commonwealth is a party, including adherence to the Reuse Plan and the Design Standards adopted by the Authority. Those procedures shall provide the City of Hampton a reasonable opportunity for review and comment regarding any proposed actions.

C. The City shall be responsible for dealing directly with any taxpayers at Fort Monroe regarding the collection of any taxes or fees which the City believes are due based on real property interests, business activity, ownership of personal property, and other authorized taxes and fees, unless the City and the Authority agree differently in writing.

D. In its comprehensive plan and in adopting a zoning ordinance for the Area of Operation, the City shall recognize the authority of the federal and state obligations for land use regulation placed upon the Fort Monroe Authority by the requirements of the Fort Monroe Master Plan, Programmatic Agreement, Design Standards, Reuse Plan, State Memorandum of Understanding, and any other agreements regarding Fort Monroe to which the Commonwealth is a party.

2011, c. 716; 2014, cc. 676, 681.

§ 2.2-2341.1.Control over the use of certain vehicles

Notwithstanding the provisions of § 46.2-916.3, the Authority shall be solely responsible for regulating the operation of golf carts and utility vehicles within the Area of Operation. Regulations of the Authority

shall provide that golf carts and utility vehicles may only be used by Authority staff and contractors engaged by the Authority while such staff and contractors are conducting the official business of the Authority.

2012, cc. 436, 482.

§ 2.2-2342.Payments to Commonwealth or political subdivisions thereof; payments to the City of Hampton

A. The Authority may agree to make such payments to the Commonwealth or any political subdivision thereof, which payments such bodies are hereby authorized to accept, for any goods, services, licenses, concessions or franchises as the Authority finds consistent with the purposes for which the Authority has been created.

B. It is the intent of this section that the Authority shall pay a fee in lieu of taxes as provided in this section. Such fee shall be payable by the Authority to the City of Hampton and shall be payable, in arrears, for the period January 1 through June 30 on each June 30, and for the period July 1 through December 31 on each December 31. The amount of such fee shall be determined as follows: (i) all property in the Area of Operation shall be assessed as if privately owned; (ii) property that would not be taxed if located elsewhere in the City of Hampton by virtue of the ownership, control, or use of the property, other than property classified solely under subdivision A 1 of § 58.1-3606, shall be excluded from the calculation of the fee in lieu of taxes; and (iii) the total assessed value, less any exemptions, shall then be divided by $100, multiplied by the then-current real estate tax rate set by the City of Hampton, minus the real estate taxes (a) owed to the City of Hampton directly from taxpayers other than the Authority within the Area of Operation, including lessees subject to taxation and billed to the lessee pursuant to subsection E, and (b) collected by the Authority and remitted to the City of Hampton pursuant to subsection E in the calendar year prior to the year for which the fee in lieu of taxes is then determined. The Authority may apply to the assessor of real estate for the City of Hampton and follow the process for recognition of an exemption applicable to other such properties in the City for any property subject to the fee in lieu of taxes, other than property subject to taxation and billed directly to the lessee pursuant to subsection E.

C. The Authority shall use all funds available and manage its finances and take all necessary and prudent actions to ensure that the fee in lieu of taxes provided in subsection B is paid when due and shall notify the City of Hampton and the Trustees as soon as practical if the funds will not be available to pay the fee in lieu of taxes when due and the Trustees shall take all necessary actions to remedy any deficiency. In the event the fee in lieu of taxes is not paid when due, interest thereon shall at that time accrue at the rate, not to exceed the maximum amount allowed by § 2.2-4355, determined by the City of Hampton until such time as the overdue payment and interest are paid. Unpaid fees in lieu of taxes and interest thereon shall rank in parity with liens for unpaid taxes and may be collected by the

City of Hampton as taxes are collected; however, no real property of the Commonwealth or the Authority may be sold in such collection efforts.

D. The Authority shall have the right to contest the assessments made on property at Fort Monroe owned by the Commonwealth or the Authority or any property for which the Commonwealth or the Authority shall be responsible for payment of the fee in lieu of taxes, using the procedures utilized by other citizens of the City of Hampton, including appeals to the Board of Review of Real Estate Assessments for the City of Hampton and appeals therefrom to the Circuit Court of the City of Hampton, which is hereby granted jurisdiction to adjudicate any such appeal by the Authority in the same manner as applicable to private property owners or lessees in the City.

E. Notwithstanding the provisions of § 58.1-3203, all real property in the Area of Operation that is leased, whether by short-term operating/revenue lease or long-term ground lease, shall be assessed as if it were privately owned, and each lessee thereof shall be subject to taxation to be billed and collected by the City of Hampton as if the lessee were the owner, regardless of the term; however, leases for a cumulative term of less than 20 years shall be billed to and collected from the Authority by the City of Hampton. For purposes of this subsection, "cumulative term" includes the original term plus any optional extensions or renewals of that term. The City of Hampton shall have no obligation to assess any leased property that may be subject to taxation pursuant to this subsection unless and until it has received from the Authority a complete and fully executed copy of the lease, which shall include a description of the property comparable to that which would be required for the fee simple conveyance of such leased property. Any property not assessed by the City of Hampton pursuant to this subsection shall remain subject to the provisions of subsection B. This subsection shall not apply to leases of any term with other government entities.

F. The Authority and any lessee that is directly billed by the City of Hampton (i) may apply to the assessor of real estate for the City of Hampton and follow the process for recognition of an exemption applicable to other such properties in the City and (ii) shall have the right to contest the assessments made on property taxed to the lessee pursuant to this section using the procedures utilized by other citizens of the City of Hampton, including appeals to the Board of Review of Real Estate Assessments for the City of Hampton and appeals therefrom to the Circuit Court of the City of Hampton, which is hereby granted jurisdiction to adjudicate any such appeal by a qualifying lessee in the same manner applicable to private property owners and other lessees in the City.

2011, c. 716; 2013, c. 221; 2019, cc. 468, 469.

§ 2.2-2343.Authority may borrow money, accept contributions, etc

In addition to the powers conferred upon the Authority by other provisions of this article, the Authority shall have the power:

1. To borrow moneys or accept contributions, grants, or other financial assistance from the federal government, the Commonwealth, any locality or political subdivision, any agency or instrumentality thereof, including but not limited to the Virginia Resources Authority, or any source, public or private, for or in aid of any project of the Authority, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases, or agreements as may be necessary, convenient, or desirable;

2. To apply for grants from the Urban Public-Private Partnership Redevelopment Fund pursuant to Chapter 24.1 (§ 15.2-2414 et seq.) of Title 15.2. The Authority shall be considered a local government eligible for grants under that chapter. Funds from any source available to the Authority may be used to meet the matching requirement of any such grant;

3. To participate in local group pools authorized pursuant to § 15.2-2703 or to participate in the Commonwealth's risk pool administered by the Division of Risk Management;

4. To utilize the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) and the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) as a qualifying public entity under those statutes;

5. To apply for and receive enterprise zone designation under the Enterprise Zone Grant Act (§ 59.1-538 et seq.). Fort Monroe shall be considered an eligible area for such designation, although the Governor is not obligated to grant such a designation;

6. To act as a local cooperating entity pursuant to § 62.1-148; and

7. To enter into agreements with any public or private utility for the ownership or operation of utility services at Fort Monroe, as provided in § 2.2-2348.1. The Authority and the City may mutually agree that such services should not or need not be included under any franchise agreement that the City has with that utility. The utility shall provide the same service generally available to its other customers in the City at reasonable rates.

2011, c. 716; 2014, cc. 676, 681.

§ 2.2-2344.Authority empowered to issue bonds; additional security; liability thereon

The Authority shall have power to issue bonds from time to time in its discretion for any of its corporate purposes, including the issuance of refunding bonds for the payment or retirement of bonds previously issued by it. The Authority may issue such type of bonds as it may determine, including but not limited to:

1. Bonds on which the principal and interest are payable:

a. Exclusively from the income and revenues of the project or facility financed with the proceeds of such bonds;

b. Exclusively from the income and revenues of certain designated projects or facilities whether or not they are financed in whole or in part with the proceeds of such bonds; or

c. From its revenues generally; and

2. Bonds on which the principal and interest are payable solely from contributions or grants received from the federal government, the Commonwealth, or any other source, public or private.

Any such bonds may be additionally secured by a pledge of any grants or contributions from the federal government, the Commonwealth, any political subdivision of the Commonwealth, or other source, or a pledge of any income or revenues of the Authority, or a mortgage of any particular projects or facilities or other property of the Authority.

Neither the Trustees of the Authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the Authority, and such bonds and obligations shall so state on their face, shall not be a debt of the Commonwealth or any political subdivision thereof other than the issuing Authority, and neither the Commonwealth nor any political subdivision thereof other than the issuing Authority shall be liable thereon, nor shall such bonds or obligations be payable out of any funds or properties other than those of the Authority. The bonds shall not constitute indebtedness within the meaning of any debt limitation or restriction. Bonds of the Authority are declared to be issued for an essential public and governmental purpose.

2011, c. 716.

§ 2.2-2345.Powers and duties of executive director

The executive director shall exercise such powers and duties relating to the Authority conferred upon the Board as may be delegated to him by the Board, including powers and duties involving the exercise of discretion. The executive director shall also exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law.

2011, c. 716.

§ 2.2-2346.Legal services

For such legal services as it may require, the Authority may employ its own counsel and legal staff or make use of legal services made available to it by any public body, or both; however, the Authority shall be required to use any legal services provided by the Office of the Attorney General, if such services are made available, since the property at Fort Monroe is an asset of the Commonwealth.

2011, c. 716.

§ 2.2-2347.Exemption from taxation

The bonds or other securities issued by the Authority, the interest thereon, and all real and personal property and any interest therein of the Authority, and all income derived therefrom by the Authority shall at all times be free from taxation by the Commonwealth, or by any political subdivision thereof.

2011, c. 716.

§ 2.2-2348.Rents, fees, and charges; disposition of revenues

The rents, fees, and charges established by the Authority for the use of its property, projects, and facilities and for any other service furnished or provided by the Authority shall be fixed so that they, together with other revenues of the Authority, shall provide at least sufficient funds to pay the cost of maintaining, repairing, and operating the Authority; its property, projects, and facilities; and the principal and interest of any bonds issued by the Authority or other debts contracted as the same shall become due and payable. A reserve may be accumulated and maintained out of the revenues of the Authority for extraordinary repairs and expenses and for such other purposes as may be provided in any resolution authorizing a bond issue or in any trust indenture securing such bonds. Subject to such provisions and restrictions as may be set forth in the resolution or in the trust indenture authorizing or securing any of the bonds or other obligations issued hereunder, the Authority shall have exclusive control of the revenue derived from the operation of the Authority and the right to use such revenues in the exercise of its powers and duties set forth in this article. No person, firm, association, or corporation shall receive any profit or dividend from the revenues, earnings, or other funds or assets of such authority other than for debts contracted, for services rendered, for materials and supplies furnished, and for other value actually received by the Authority.

The accounts of the Authority shall be audited annually by the Auditor of Public Accounts, or his legally authorized representative, and the cost of such audit shall be borne by the Authority. Copies of the annual audit shall be distributed to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

2011, c. 716.

§ 2.2-2348.1.Ratification of the ownership of certain lands in the City of Hampton known as Fort Monroe; ownership and operation of utilities

A. Notwithstanding any other provision of law, the ownership of certain property located in the City of Hampton, Virginia, consisting of 312.75 acres, more or less, generally known as "Fort Monroe," shall be deemed validly vested in the Commonwealth, with all rights, title, and interest therein, being more particularly described as follows: All that certain lot, piece, or parcel of land situate, lying, and being in the City of Hampton, in the Commonwealth of Virginia, containing 312.75 acres, more or less, described in Exhibit A and illustrated in Exhibit B of that certain Quitclaim Deed recorded in the Clerk's Office of the Circuit Court of the City of Hampton on June 14, 2013, as Instrument No. 130009559.

B. Notwithstanding any other provision of law, the ownership of the roads, water, sewer, and other utility services on that certain property located in the City of Hampton, Virginia, consisting of 561.345 acres, more or less, generally known as "Fort Monroe," shall be deemed validly vested in the Commonwealth, being more particularly described as follows: All those certain lots, pieces, or parcels of land situate, lying, and being in the City of Hampton, in the Commonwealth of Virginia, containing 561.345 acres, more or less, described as Parcels A, B, C, D, E, F, G, and H on that certain survey by the Norfolk District Corps of Engineers dated July 20, 2009, last revised November 15, 2012, entitled "Plat Showing 8 Parcels of Land Totaling +/-561.345 Acres Situated on Fort Monroe, Virginia," and recorded in the Clerk's Office of the Circuit Court of the City of Hampton in Instrument No. 130009559 at Pages 286 and 287.

1. The Authority shall maintain such roads as public rights-of-way to ensure lawful access to the properties within said acreage; however, the Commonwealth may convey its right, title, and interests in such roads to the City of Hampton or the Virginia Department of Transportation, and thereby transfer the obligation to maintain such roads.

2. The Authority shall maintain and operate such water, sewer, and other utility services to ensure that the properties within said acreage have access to such utility services; however, the Commonwealth may convey its right, title, and interest in any such utility owned by the Commonwealth to a public or private entity and thereafter transfer the obligation to maintain and operate such utilities.

2014, cc. 676, 681.

§ 2.2-2349.Powers conferred additional and supplemental; liberal construction

The powers conferred by this article shall be in addition and supplemental to the powers conferred by any other law. This article shall be liberally construed to effect the purposes hereof.

2011, c. 716; 2015, c. 709.

§ 2.2-2349.1.Chapter controlling over inconsistent laws

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special, or local, or parts thereof, the provisions of this chapter shall be controlling.

2012, cc. 436, 482.

§ 2.2-2350.Sovereign immunity

No provisions of this article nor any act of the Authority, including the procurement of insurance or self-insurance, shall be deemed a waiver of any sovereign immunity to which the Authority or its directors, officers, employees, or agents are otherwise entitled.

2011, c. 716.

Fredericksburg Parking Authority

Created
1978 Acts of Assembly, c. 691.

§ 1. Short title.
This Act shall be known and may be cited as the "Fredericksburg Parking Authority Act." (1978, c. 691)

§ 2. Declaration of public necessity.
It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the city of Fredericksburg in the Commonwealth is necessary to the health, safety and general welfare of the public, whether residing in the municipality or traveling to, through or from such municipality in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of the municipality; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the present time a public nuisance; that such parking prevents the free circulation of traffic in, through and from the municipality, and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions of sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided; and that the enactment of the provisions of this act is hereby declared to be a public necessity. (1978, c. 691)

§ 3. Definitions.
As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

A. The word "Authority" shall mean the Authority created under the provisions of this act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the Authority shall be given by law.

B. The word "bonds" or the words "revenue bonds" shall mean revenue bonds, revenue refunding bonds or notes of the Authority issued under the provisions of this act.

C. The word "cost" as applied to parking facilities or to extensions or additions thereto shall include the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and interests acquired by the Authority for such construction or reconstruction or the operation thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during construction, and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal services, cost of plans and specifications, surveys and estimates of cost and of revenues, administrative expense and such

other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof, the placing of the parking facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

D. The words "governing body" shall mean the board, commission, council or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.

E. The "municipality" shall mean the city of Fredericksburg in the Commonwealth of Virginia.

F. The words "parking facilities" shall mean and shall include lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to public use for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and busses, waiting rooms, lockers, an offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the construction or operation thereof; provided, however, the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles. (1978, c. 691)

§ 4. Creation of the Authority.

A. The governing body of the municipality may by resolution signify its determination to organize an Authority under the provisions of this act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than ten days prior to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereon. Such municipality shall not be required to make any other publication of such resolution under the provisions of any other law.

B. Such resolution shall include articles of incorporation which shall set forth:

1. the name of the Authority;

2. a statement that such Authority is organized under this act;

3. the name of the organizing municipality; and

4. the names and addresses of the first members of the Authority appointed by the organizing municipality.

C. Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the Commonwealth of Virginia. (1978, c. 691)

§ 5. Membership of the Authority.

The Authority organized under the provisions of this act shall consist of five members selected by the governing body of the organizing municipality who shall serve for terms expiring one, two, three, four, and five years, respectively, from the date of appointment, the term of each such member to be designated by the governing body. The successor of each member of the Authority shall be appointed for a term of five years but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Authority before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the secretary of the Authority.

The Authority shall select one of its members as chairman and another as vice-chairman and shall also select a secretary and a treasurer who may but need not be members of the Authority. The offices of secretary and treasurer may be combined. The terms of office of the chairman, vice-chairman, secretary and treasurer shall be as provided in the bylaws of the Authority.

A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of all the members of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. (1978, c. 691)

§ 6. General grant of powers.

The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and such Authority is hereby authorized and empowered:

1. to adopt bylaws for the regulation of its affairs and the conduct of its business;
2. to adopt an official seal and alter the same at pleasure;
3. to maintain an office at such place or places as it may designate;
4. to sue and be sued in its own name, plead and be impleaded;
5. to construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of the organizing municipality;
6. to issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;

7. to issue revenue refunding bonds of the Authority as hereinafter provided;

8. to fix and revise from time to time and to charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time regulations in respect of the use, operation and occupancy of such parking facilities or part thereof;

9. to acquire in the name of the Authority by gift, or purchase, any lands or rights in lands and interest therein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facilities;

10. to lease all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this act; provided, however, that no enterprise involving the sale or dispensing of any product or commodity used in or for the servicing of motor vehicles shall be conducted on any space thereon;

11. to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this act;

12. to do all acts and things necessary and convenient to carry out the powers granted by this act; and

13. nothing in this act shall be construed as authorizing the Authority or any lessee to furnish or dispense at, or in connection with, any parking facilities authorized by this act, any product or service other than as provided for in § 3 F. (1978, c. 691)

13. nothing in this act shall be construed as authorizing the Authority or any lessee to furnish or dispense at, or in connection with, any parking facilities authorized by this act, any product or service other than as provided for in § 3 F. (1978, c. 691)

§ 7. Revenue bonds.

The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving, extending or enlarging any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates not exceeding six per centum per annum, as may be determined by the

Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per centum per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such

bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happening of other conditions or things other than those proceedings, conditions or things which are specifically required by this act.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth or of any municipality or other political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any municipality or other political subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds. (1978, c. 691)

§ 8. Revenues.

The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by any parking facilities or parts thereof owned or operated by the Authority. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all times (i) to pay the cost of maintaining, repairing and operating the parking facilities or parts thereof owned or operated by the Authority, including reserves for such purposes, and (ii) to pay the principal of and the interest on all bonds issued by the Authority under the provisions of this act as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the Authority may enter into contracts relating to use of the services and facilities of the parking facilities on such terms as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms. (1978, c. 691)

§ 9. Trust agreement.

In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received. In connection with the issuance of such bonds or in order to secure the payment thereof, the Authority shall have power under such agreement to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, to vest in the trustee thereunder the right to foreclose such mortgage and to provide the terms and conditions upon which such trustee or the holders of bonds or any proportion thereof may exercise the right of foreclosure. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and

enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody, safeguarding and application of all monies, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this act otherwise provided, the Authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any parking facilities or part thereof to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

Any pledge made by the Authority pursuant to this chapter shall be governed by the laws of the Commonwealth. (1978, c. 691)

§ 10. Trust funds.

All monies received pursuant to the Authority of this act shall be deemed to be trust funds, to be held and applied solely as provided in this act. Any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this Act and the resolution authorizing the issuance of bonds or trust agreement securing such bonds may provide. (1978, c. 691)

§ 11. Remedies.

Any holder of revenue bonds issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of rates, rentals, fees and charges for the use of or for the services and facilities furnished by any parking facilities. (1978, c. 691)

§ 12. Exemption from taxation.

As adequate off-street parking facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this act to effect such purposes constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute the performance of essential municipal functions, and as parking facilities constructed under the provision of this act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the Commonwealth. (1978, c. 691)

§ 13. Revenue refunding bonds.

The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (i) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (ii) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions or enlargements of any parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the foregoing provisions of this act insofar as the same may be applicable. (1978, c. 691)

§ 14. Contributions.

The municipality is hereby authorized to make contributions or advances to an authority which it organizes under the provisions of this act from any available monies for any purpose of such Authority. (1978, c. 691)

§ 15. Actions taken by Authority.

Any action taken by the Authority under the provisions of this act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately and need not be published or posted. (1978, c. 691)

§ 16. Additional method.

This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds

or revenue refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds. (1978, c. 691)

§ 17. Severability.
The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (1978, c. 691)

§ 18. Construction.
This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof. (1978, c. 691)

George Washington Toll Road Authority

Created
2009 Acts of Assembly, c. 801.

Amendments
2011, c. 142 (§§ 1, 3)

§ 1. Definitions.
As used in this act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

"Authority" means the George Washington Toll Road Authority created by this act, or if the Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or on whom the powers given by this act to the Authority shall be conferred by law.

"Authority facility" means any or all transportation facilities purchased, constructed or otherwise acquired by the Authority pursuant to the provisions of this act, and all extensions, improvements and betterments thereof.

"Bonds" or "revenue bonds" means revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this act.

"Commonwealth" means the Commonwealth of Virginia.

"Cost" as applied to any Project includes the cost of construction, landscaping and conservation; the cost of acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the Authority for such construction, landscaping and conservation, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of all machinery and equipment, financing charges, interest prior to and during construction and for a period of time after completion

of construction as deemed advisable by the Authority; the cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing the Project, administrative expenses, initial working capital, debt service reserves; and such other expenses as may be necessary or incident to the construction of the Project, the financing of such construction and the placing of the Project in operation. Any obligation or expense incurred by the Department of Transportation or by a participating locality before or after the effective date of this act, for surveys, engineering, borings, plans and specifications, legal and other professional and technical services, reports, studies and data in connection with the construction of a Project shall be repaid or reimbursed by the Authority and the amounts thereof shall be included as a part of the cost of the Project.

"George Washington Region" or "Region" means the areas encompassed by the George Washington Toll Road Authority.

"Highways" includes public highways, roads and streets, whether maintained by the Commonwealth, or a participating locality.

"Limited access highway" means a highway especially designed for through traffic, over which abutters have no easement or right of light, air or access to by reason of the fact that their property abuts upon such limited access highway.

"Owner" includes all individuals, partnerships, associations, organizations and corporations, the participating localities and all public agencies and instrumentalities having any title or interest in any property, rights, easements and interests authorized to be acquired by this act.

"Participating locality" means the City of Fredericksburg and the Counties of Spotsylvania and Stafford.

"Project" means any single facility constituting an Authority facility, as described in the resolution or trust agreement providing for the construction thereof, including extensions, improvements and betterments thereof.

"Revenues" means any or all fees, tolls, rents, rates, receipts, moneys and income derived by the Authority through the ownership and operation of Authority facilities, and shall include any cash contributions made to the Authority by the Commonwealth or any agency or department thereof, and a participating locality not specifically dedicated by the contributor for a capital improvement. However, the Authority may receive no contribution from the Commonwealth for the payment of bonds. (2009, c. 801; 2011, c. 142)

§ 2. Creation of the Authority.

There is hereby created a political subdivision and public body corporate and politic of the Commonwealth to be known as the "George Washington Toll Road Authority," hereinafter referred to as the "Authority," to be governed by a Board of Directors consisting of seven members, all with voting powers: three members to be appointed by the City of Fredericksburg from among its elected officials; three members to be appointed by the County of Spotsylvania from among its elected officials; and the Commissioner of the Virginia Department of Transportation or his designee. The members of the Board, except for the Commissioner, shall be appointed for terms of three years and until their successors have been appointed and are qualified; however, initial appointments may be for more or less than three years so as to stagger the Board. Vacancies in the membership of the Board shall be filled by the appointment of the governing body of the appropriate locality for the unexpired portion of the term.

After the Authority has been in existence for at least one year, additional members from contiguous localities may be admitted as members by a vote of at least 70 percent of Board members. In allowing additional member localities, the Board shall decide on the voting number of new Board members to be seated from each new locality.

The Board so appointed shall enter upon the performance of its duties and shall initially and annually thereafter elect one of its members as Chairman and another as Vice Chairman, and shall also elect annually a Secretary or Secretary-Treasurer who need not be a member of the Board. The Chairman, or in his absence the Vice Chairman, shall preside at all meetings of the Board, and in the absence of both the Chairman and Vice Chairman, the Board shall elect a Chairman pro tempore who shall preside at such meetings. Four Directors shall constitute a quorum, and all action by the Board shall require the affirmative vote of a majority of the Directors present and voting. The members of the Board shall be entitled to reimbursement for expenses incurred in attendance upon meetings of the Board or while otherwise engaged in the discharge of their duties, and each member shall also be paid the sum of $25 per day for each day or portion thereof during which he is engaged in the performance of his duties. Such expenses and compensation shall be paid out of the treasury of the Authority in such manner as shall be prescribed by the Authority. (2009, c. 801)

§ 3. Powers of the Authority.

In order to alleviate highway congestion, promote highway safety, expand highway construction, increase the utility and benefits and extend the services of public highways, including bridges, tunnels and other highway facilities, both free and toll, and otherwise contribute to the economy, industrial and agricultural development and welfare of the Commonwealth and the George Washington Region, the Authority shall have the following powers:

1. To contract and be contracted with; to sue and be sued; and to adopt and use a seal and to alter the same at its pleasure;

2. To acquire and hold real or personal property necessary for its purposes;

3. To sell, lease or otherwise dispose of any personal or real property or rights, easements or estates therein deemed by the Authority not necessary for its purposes;

4. To purchase, construct or otherwise acquire, maintain, repair and operate, or cause to be repaired, maintained and operated, highways and limited access highways, within the boundaries of the Virginia Route 3 corridor, including all bridges, tunnels, overpasses, underpasses, grade separations, interchanges, entrance plazas, approaches, approach roads, tollhouses and administration, storage and other buildings and facilities that the Authority may deem necessary for the operation of such highways and limited access highways. Title to any property acquired by the Authority shall be taken in the name of the Authority;

5. To acquire, own, operate and maintain rapid transit facilities for the transportation of the public, and to enter into contracts with any public service corporations doing business as common carriers of passengers and property for the use of Authority facilities for such purpose;

6. To determine, after appropriate public hearings, the location of any highways or limited access highways constructed or acquired by the Authority, subject to the approval of the Commonwealth Transportation Board and, if required, applicable federal review and approval; and to determine the design standards and materials of construction of such highways based on applicable federal or state engineering and safety standards;

7. To designate with the approval of the Commonwealth Transportation Board the location in the Region, and to establish, limit and control such points of ingress to and egress from any limited access highway constructed by the Authority within the Region as may be necessary or desirable in the judgment of the Authority to insure the proper operation and maintenance of such highway; to prohibit entrance to and exit from such highway from any point or points not so designated; and to construct, maintain, repair and operate service roads connecting with points of ingress to and egress from such highway at such locations in the Region as may be designated by the Authority;

8. To connect any highway constructed or acquired by the Authority with other highways or toll roads with the approval of the Department of Transportation and the owner of such other toll roads, at such location or locations as shall be mutually agreed upon;

9. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including contracts or agreements authorized by this act with the Department of Transportation and any locality;

10. To enter into agreements pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 of the Code of Virginia);

11. To construct grade separations at intersections of any limited access highway constructed by the Authority with public highways, streets or other public ways or places, and to change and adjust

the lines and grades thereof so as to accommodate the same to the design of the grade separation; the cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways, streets, ways and places shall be ascertained and paid by the Authority as part of the cost of such highway;

12. To vacate or change the location of any portion of any public highway, street or other public way or place, public utility, sewer, pipe, main, conduit, cable, wire, tower, pole and other equipment and appliances of the Commonwealth, or a participating locality, and to reconstruct the same in such new location as shall be designated by the Authority, and of substantially the same type and in as good condition as the original highway, street, way, place, public utility, sewer, pipe, main, conduit, cable, wire, tower, pole, equipment or appliance; the cost of such reconstruction and any damage incurred in vacating or changing the location thereof shall be ascertained and paid by the Authority as a part of the cost of the Project in connection with which such expenditures are made; and any public highway, street, or other public way or place vacated or relocated by the Authority shall be vacated or relocated in the manner provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the Authority as a part of the cost of the Project; any changes or modifications to any highway under the jurisdiction or supervision of the Commonwealth Transportation Board or the Department of Transportation are subject to the approval of the Commonwealth Transportation Board or the Department of Transportation, as applicable;

13. To enter upon any lands, waters and premises for the purpose of making such surveys, soundings, borings and examinations as the Authority may deem necessary for its purposes, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry upon any condemnation proceedings; however, the Authority shall pay any actual damage resulting to such lands, water and premises as a result of such entry and activities;

14. To operate or permit the operation of vehicles for the transportation of persons or property for compensation on any limited access highway constructed or acquired by the Authority, provided the State Corporation Commission or the Interstate Commerce Commission shall not be divested of jurisdiction to authorize or regulate the operation of such carriers;

15. Within the Route 3 corridor property owned by the Authority, to establish reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and appliances, herein referred to as "public utility facilities," of a participating locality and of public utility and public service corporations and of any person, firm or other corporation rendering similar services, owning or operating public utility facilities in, on, along, over or under highways constructed by the Authority; and whenever the Authority shall determine that it is necessary that any public utility facilities should be relocated or removed, the Authority may relocate or remove the public utility

facilities in accordance with the regulations of the Authority and the cost and expense of such relocation or removal, including the cost of installing the public utility facilities in a new location or locations and the cost of any lands or any rights or interests in lands and any other rights acquired to accomplish such relocation or removal shall be paid by the Authority as a part of the costs of such highway, and the owner or operator of the public utility facilities may maintain and operate the public utility facilities with the necessary appurtenances in the new location or locations for as long a period and upon the same terms and conditions as it had the right to maintain and operate the public utility facilities in their former location or locations;

16. To borrow money and issue bonds, notes or other evidences of indebtedness for any of its corporate purposes as provided in this act payable solely from the revenues pledged for the payment of such bonds, notes or other evidences of indebtedness;

17. To fix, charge and collect fees, tolls, rents, rates and other charges for the use of Authority facilities and the several parts or sections thereof;

18. To establish rules and regulations for the use of any of the Authority facilities as may be necessary or expedient in the interest of public safety with respect to the use of Authority facilities and property under the control of the Authority;

19. To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, trustees, depositories, paying agents and such other employees and agents as may be necessary in the discretion of the Authority to construct, acquire, maintain and operate Authority facilities and to fix their compensation;

20. To receive and accept from any federal agency for or in aid of the construction of any Authority facility, and to receive and accept from the Commonwealth, or a participating locality and from any other source, grants, contributions or other aid in such construction, or for operation and maintenance, either in money, property, labor, materials or other things of value. However, the Authority may receive no contribution from the Commonwealth for the payment of bonds; and

21. To do all other acts and things necessary to carry out the powers expressly granted in this act. (2009, c. 801; 2011, c. 142)

§ 4. Issuance of revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance from time to time of revenue bonds of the Authority for the purpose of paying all or any part of the cost of Authority facilities or any project or portion of such facilities. The principal of and interest on such bonds shall be payable solely from the revenues pledged for such payment. The bonds of each issue or series shall be dated, shall bear interest at such rate or rates as the Board shall accept or approve and are permitted by law, shall mature at such time or times not exceeding 50 years from the date or dates thereof, as may be determined by the Authority and may contain provisions reserving the right of the Authority to redeem

such bonds before maturity at such price or prices and upon such terms and conditions as may be fixed by the Authority in the resolution authorizing such bonds. Such bonds may be issued in coupon or registered form or both as prescribed by the Authority, and provisions may be made for the registration of coupon bonds as to principal only or as to both principal and interest and for the reconversion of registered bonds into coupon bonds. Such bonds may be issued in any denomination or denominations and may be made payable at any bank or trust company within or without the Commonwealth as the Authority may determine. Such bonds and the coupons attached to coupon bonds shall be signed in such manner either manually or by facsimile signature as shall be determined by the Authority, and sealed with the seal of the Authority or a facsimile thereof. In case any officer whose signature or facsimile thereof shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer or officers had remained in office until the delivery thereof. The Authority may sell such bonds in such manner either at public or private sale and for such price or prices as the Authority may determine. Prior to the preparation of definitive bonds, the Authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall have become mutilated or shall be destroyed or lost. (2009, c. 801)

§ 5. Rates and charges.

Whenever the Authority shall have constructed or otherwise acquired Authority facilities and has issued bonds for such purpose, the Authority shall fix, revise, charge and collect fees, tolls, rents, rates and other charges for the use of such facilities and the different parts or sections thereof, sufficient, together with any other moneys made available and used for that purpose, to pay the principal of and interest on such bonds, together with reserves for such purposes, and to maintain and operate such facilities and to keep the same in good condition and repair. Such fees, tolls, rents, rates and other charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth or of any municipality, county or other political subdivision of the Commonwealth, except no tolls in excess of one dollar shall be imposed or collected unless approved by an affirmative vote of each participating locality. All revenues, when collected, and the proceeds from the sale of revenue bonds, shall be held by the Authority in trust for the benefit of the holders of bonds of the Authority issued for the construction or acquisition of Authority facilities and for the proper maintaining, operating and repairing of the Authority facilities.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth or of any locality or a pledge of the faith and credit of the Commonwealth or of any locality, and shall be payable solely from the funds provided therefor from revenues. (2009, c. 801)

§ 6. Refunding bonds.

The Authority is hereby authorized by resolution to provide for the issuance of refunding revenue bonds with which to refund outstanding revenue bonds or any issue or series of such outstanding bonds, which refunding revenue bonds may be issued at or before the maturity or redemption date of the bonds to be refunded, and to include different issues or series of such outstanding revenue bonds by a single issue of refunding revenue bonds, and to issue refunding revenue bonds to pay any redemption premium and interest to accrue and become payable on the outstanding revenue bonds being refunded to the date of payment or redemption, and to establish reserves for such refunding revenue bonds. Such refunding revenue bonds shall be payable solely from all or that portion of the revenues of the Authority facilities pledged to the payment thereof in the bond resolution pursuant to which the bonds were issued. Such refunding revenue bonds may, in the discretion of the Authority, be exchanged at par for the revenue bonds which are being refunded, or may be sold at public or private sale in such manner and at such price or prices as the Authority shall deem for the best interests of the Authority with such interest rate as may be permitted by law. The proceeds derived from the sale of refunding revenue bonds issued under this act shall be invested in obligations of or guaranteed by the United States government pending the application of such proceeds to the purpose for which such refunding revenue bonds have been issued, and to further secure such refunding revenue bonds the Authority may contract with the purchasers thereof with respect to safekeeping and application of the proceeds thereof and the safekeeping and application of the earnings of such investments. The determination of the Authority with respect to the financial soundness and advantage of the issuance and delivery of refunding revenue bonds authorized under this act shall be conclusive, but nothing herein contained shall require the holders of any outstanding revenue bonds being refunded to accept payment thereof otherwise than as provided in the outstanding bonds. (2009, c. 801)

§ 7. Trust agreement.

In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement or indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth to be selected by the Authority in such manner as it may elect. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign all or any portion of the tolls and other revenues to be received by the Authority from the ownership and operations of Authority facilities; but shall not convey or mortgage any Authority facilities or any part thereof. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as the depository of the proceeds of bonds or of revenue to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such resolution, trust agreement or indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such resolution, trust agreement or indenture may contain such other provisions as the Authority may deem reasonable and proper for the

security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the Authority facilities or portion thereof.

All or any portion of the revenues derived from the ownership and operation of Authority facilities, as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement or indenture securing the same, may be pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement nor indenture by which a pledge is created need be filed or recorded except in the records of the Authority. (2009, c. 801)

§ 8. Covenants to secure bonds.

Any resolution authorizing the issuance of bonds of the Authority may, for the benefit and security of the holders from time to time of such bonds, contain covenants by the Authority for said purpose, including covenants as to, among other things:

1. The operation, maintenance and repair of the Authority facilities;

2. The purpose or purposes to which the proceeds of the sale of such bonds may be applied and the use and disposition thereof;

3. The use and disposition of the revenues of the Authority derived from the ownership or operation of Authority facilities and additions, betterments and extensions thereof, including the investment thereof and the creation and maintenance of reserve funds and funds for working capital and all renewals and replacements to Authority facilities;

4. The amount, if any, of additional revenue bonds payable from such revenues which may be issued and the terms and conditions on which such additional revenue bonds may be issued;

5. Fixing, maintaining, collection and deposit of fees, tolls, rents, rates and other charges for all the services sold, furnished or supplied by the Authority facilities;

6. The operation, maintenance, repair, management, accounting and auditing of the Authority;

7. Limitations upon the right of the Authority to dispose of Authority facilities or any part thereof without providing for the payment of the outstanding revenue bonds;

8. The appointment of trustees, depositaries and paying agents within or without the Commonwealth to receive, hold, disburse, invest or reinvest the proceeds derived from the sale of revenue bonds and all or any part of the revenues derived by the Authority from the operation, ownership and management of the Authority facilities; and

9. Such other covenants and agreements as may be determined necessary in the discretion of the Authority to advantageously market the revenue bonds of the Authority. (2009, c. 801)

§ 9. Revenue bonds eligible for investment.

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital, in their control or belonging to them. Such bonds are also hereby made securities that may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (2009, c. 801)

§ 10. Authority obligations to be negotiable instruments; enforcement of bonds.

Notwithstanding the provisions of this act, or any provisions of the laws of the Commonwealth, and any recitals in any bonds, interim receipts or any other obligations issued under the provisions of this act, all such bonds, interim receipts or other obligations shall be deemed to be negotiable instruments under the laws of this Commonwealth. The provisions of this act, and of any resolution or resolutions or indentures providing for the issuance and security of any revenue bonds, interim receipts or other obligations issued as herein set forth, shall constitute a contract with the holder or holders of any such revenue bonds, interim receipts or other obligations, and the agreements and covenants of the Authority under this act and under any such resolution, resolutions or indentures shall be enforceable by any holder or holders of revenue bonds, interim receipts or other obligations issued under the provisions of this act and any representative of such holder or holders, and any trustee appointed under the bond resolution and authorized so to do may, by suit, action, injunction, mandamus or other proceeding issued by a court of competent jurisdiction, enforce any and all rights of such holders under the laws of the Commonwealth or granted by this act and in any such bond resolution or indenture, and may compel performance of all duties required to be performed by this act and by such bond resolutions or indenture by the Authority or by any officer or agent thereof, including the fixing, charging and collecting of fees, tolls, rents, rates and other charges for the use of the Authority facilities. (2009, c. 801)

§ 11. Exemption from taxation.

All property, real and personal, and all rights and interests therein and the income of the Authority, the revenue bonds and the interest thereon, and the transfer thereof and any profit made on the sale

thereof, shall at all times be free from taxation or assessment by the Commonwealth and by any municipality, county or other political subdivision thereof. (2009, c. 801)

§ 12. General powers of participating localities.

The participating localities are hereby authorized and empowered to enter into and perform contracts or agreements with the Authority providing for furnishing to the Authority one or more of the following cooperative undertakings or any combination thereof:

1. The preparation, acquisition, loan or exchange of survey, engineering, borings, construction and other technical reports, studies, plans and data;

2. The providing of engineering, planning and other professional and technical services, labor or other things of value;

3. The construction, in whole or in part, of public highways, bridges, tunnels, viaducts, interchanges, connecting roads, grade crossings and other highway facilities;

4. The providing of funds in lump sums or installments to assist in paying the cost of any Authority facility or the operation and maintenance thereof;

5. The acquisition and transfer to the Authority of land, including easements, rights-of-way or other property, useful in the construction, operation or maintenance of any Authority facility;

6. The making of payments or contributions to the Authority for the use of or in compensation for the services rendered by any Authority facility in lieu of the payment of tolls or other charges therefor, and such payments and contributions shall be deemed revenues of the Project to the same extent as the tolls, rentals, fees and other charges collected in the operation of the Project;

7. When requested by the Authority, to vacate or change the location of any public highway, street or other public way or place, or any portion thereof, public utility, sewer, pipe, main, conduit, cable, wire, tower, pole and other equipment or appliance owned or controlled by or under the jurisdiction of a participating locality, in the manner required or authorized by law conferring such power on the locality, and to construct the same in such new location as shall be designated by the governing body of the locality, and the cost of vacating or changing the location or reconstruction thereof and any damages resulting therefrom required to be paid by the locality shall be reimbursed by the Authority as a part of the cost of the Project in connection with which such expenditures have been made; and

8. The connection of any Project of the Authority with the streets, highways, roads and other public ways in a participating locality. (2009, c. 801)

§ 13. Powers of a participating locality with respect to revenue bonds issued by the Authority.

A. That the participating localities are hereby authorized and empowered to enter into and perform from time to time contracts and agreements with the Authority to aid the Authority to pay the principal

of and interest on revenue bonds or revenue refunding bonds issued by the Authority if, when, and as the revenues of the Authority may not be sufficient to pay such principal or interest when due. No such contract or agreement shall be deemed to be lending or granting credit to or in aid of any person, association, company or corporation; nor shall any such contract or agreement be deemed to be a pledge of the faith and credit or of the taxing power of the locality for the payment of such principal or interest except as may be otherwise provided in such contracts or agreements. Any holder of bonds, notes, certificates or other evidences of borrowing issued by the Authority under the provisions of this act or of any coupons appertaining thereto, and the representatives of such holders and the trustee under any bond resolution or indenture, may either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights of the Authority under or by virtue of any such contract or agreement.

B. That funds to perform any such contract or agreement may be provided from time to time by the participating locality by appropriations of general or specific tax revenue, or by appropriations of accumulated funds allocated for public improvements generally, or allocated to the purposes of such contract or agreement, or by appropriations of the proceeds from the sale of bonds, which may be issued from time to time as hereinafter provided.

C. A participating locality may issue bonds for the purpose of providing funds to perform any contract or agreement entered into with the Authority pursuant to the provisions of this act. Such bonds shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the governing body of the locality, and may be redeemable before maturity, at the option of the governing body of the locality, at such price or prices and under such terms and conditions as may be prescribed by such governing body prior to the issuance of the bonds. The locality may provide for the issuance of refunding bonds for the purpose of refunding any outstanding bonds which shall have been issued pursuant to the provisions of this subsection, including the payment of any redemption premium thereon, and any interest accrued or to accrue to the date of redemption of such bonds.

D. The authority of a participating locality to contract and to issue bonds pursuant to this act is additional to any existing authority to contract and issue bonds under the laws of the Commonwealth.

E. The governing body of a participating locality may exercise any of the powers granted by this act by ordinance or resolution, as may be proper and all proceedings of the governing body authorizing the execution of contracts hereunder and providing for the issuance of bonds pursuant to the provisions of this act shall not be subject to the provisions of the Code of Virginia permitting a referendum on actions taken by the board of supervisors except as required by the Constitution, but all such proceedings shall take effect immediately upon the adoption thereof. (2009, c. 801)

§ 14. Powers of the Department of Transportation.

The Department of Transportation is authorized and empowered:

1. To enter into and perform contracts or agreements with the Authority to furnish it with surveys, engineering, borings, plans and specifications and other technical services, reports, studies and data, the cost of which shall be reimbursed by the Authority as a part of the cost of the Project in connection with which such contracts or agreements were entered into;

2. Subject to appropriation, to allocate to and for the construction, operation or maintenance, of any highways constructed by the Authority and to pay to the Authority such funds as may be or become available to the Department for such purposes;

3. To permit the connection of any highways constructed or acquired by the Authority with highways under the control and jurisdiction of the Department; and

4. To employ independent consulting engineers having a nationwide and favorable repute in estimating traffic over any such highways to determine whether the construction of such highways will result in substantial reduction in the volume of traffic over other highways or toll roads and to use funds under the control of the Department for that purpose. (2009, c. 801)

§ 15. Acquisition of property.

A. The Authority is hereby authorized and empowered to acquire solely from funds provided under the provisions of this act such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, as it may deem necessary for the construction and operation of Authority facilities, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

B. A participating locality and, with the approval of the Governor, public agencies and commissions of the Commonwealth, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as the governing body of a participating locality, or the proper authorities of such agencies or commissions of the Commonwealth may deem reasonable and fair and without the necessity of any advertisement, order of court or other action or formality, other than the regular and formal action of the governing body or authorities concerned, any real property which may be necessary for the effectuation of the authorized purposes of the Authority, including public highways and any other real property already devoted to public use.

C. Participating localities are hereby authorized and empowered to acquire by the exercise of the power of eminent domain granted to or conferred upon it by law, and in accordance with the procedure prescribed therefor, any real property that may be necessary for the effectuation of the authorized purposes of the Authority and to lease, lend, grant or convey such property to the Authority upon such terms and conditions as the governing body may deem reasonable and fair.

D. In any eminent domain proceedings by the Authority, or any locality under this act, the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the Authority, or any locality, as the case may be, and to the owners of the property to be condemned, and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority or a locality to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security or any act or obligation of the Authority or the locality shall impose any liability upon the Commonwealth.

E. If the owner, lessee or occupier of any property to be condemned or otherwise acquired pursuant to this act shall refuse to remove his property therefrom or give up possession thereof, the Authority or a locality, as the case may be, may proceed to obtain possession in any manner provided by law.

F. When the Authority or a locality under this act proposes to construct a highway across the tracks of any railroad, the exercise of the general power of eminent domain over the property of a railroad granted by this act shall be limited with respect to the property, right-of-way, facilities, works or appurtenances upon which the tracks at such proposed crossing are located, to the acquisition only of an easement therein, which crossing shall be constructed either sufficiently above or below the grade of any such railroad track or tracks so that neither the crossing then under construction nor any part thereof, including any bridge abutments, columns, supporting structures and appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation or maintenance of the trains, tracks, works or appurtenances of the railroad nor interfere with or endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the exercise of the power of eminent domain for such an easement, plans and specifications of that portion of the Project to be constructed across the railroad tracks showing compliance with such requirements and showing sufficient and safe plans and specifications for such overhead or underground structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within 60 days to approve the plans and specifications so submitted, the matter shall be submitted by the Authority or the locality, as the case may be, to the State Corporation Commission, whose decision, arrived at after due consideration in accordance with its usual procedure, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below such tracks. The overhead or underground structures and appurtenances shall be constructed in accordance with such plans and specifications and in accordance with such elevations or distances above or below such tracks so approved by the railroad or the State Corporation Commission, as the case may be. A copy of the plans and specifications approved by the railroad or the State Corporation Commission shall be filed as an exhibit upon the institution of any proceedings brought in the exercise of the power of eminent domain.

G. The Commonwealth hereby consents, subject to the approval of the Governor, to the use by the Authority of any other lands or property owned by the Commonwealth, including lands lying under

water, which are deemed by the Authority to be necessary for the construction or operation of any Project being constructed by the Authority. (2009, c. 801)

§ 16. Transfer to a participating locality.

In the event a participating locality shall have rendered financial assistance or contributed in any manner to the cost of construction of a limited access highway or highways by the Authority and the Authority has issued bonds for the construction of such limited access highway or highways, then when all such bonds, including any refunding bonds, and the interest thereon have been paid or a sufficient amount of cash or United States government securities have been deposited and dedicated to the payment of all such bonds and interest to the maturity or redemption date thereof in trust for the benefit of the holders of such bonds, all property, real and personal, acquired in connection with such limited access highway or highways shall be transferred by the Authority to the locality and the governing body of the locality shall have the power to fix and revise from time to time and charge and collect tolls for transit over such limited access highway. (2009, c. 801)

§ 17. Withdrawal from Authority; dissolution of Authority.

A. Any member locality may withdraw from the Authority, provided that member repays its share of any Authority indebtedness outstanding at the time of withdrawal.

B. Upon dissolution of the Authority, all Authority facilities, including highways and limited access highways, shall revert to the participating localities. (2009, c. 801)

§ 18. Miscellaneous.

A. Any money set aside for the payment of the principal of or interest on any bonds issued by the Authority not claimed within two years from the day the principal of such bonds is due by maturity or by call for redemption shall be paid into the treasury of the Commonwealth. No interest shall accrue on such principal or interest from the day the same is due as aforesaid. The Comptroller of the Commonwealth shall keep an account of all money thus paid into the treasury, and it shall be paid to the individual, copartnership, association or corporation entitled thereto upon satisfactory proof that such individual, copartnership, association or corporation is so entitled to such money. If the claim so presented is rejected by the Comptroller, the claimant may proceed against the Comptroller for recovery in the Circuit Court of the City of Richmond. An appeal from the judgment of the circuit court shall lie to the Supreme Court as in actions at law, and all laws and rules relating to practice and procedure in actions at law shall apply to proceedings authorized hereunder. No such proceedings shall be filed after 10 years from the day the principal of or interest on such bonds is due as aforesaid; provided, if the individual having such claim is an infant or insane person or is imprisoned at such due date, such proceedings may be filed within five years after the removal of such disability, notwithstanding the fact that such 10-year period shall have expired.

B. The Authority shall contract with the Department of State Police for the policing of any or all Authority facilities, and may similarly contract with any locality within the Region; the Department of State Police and any locality are hereby authorized to enter into contracts with the Authority for such purpose. State Police officers providing police services pursuant to such contracts shall be under the exclusive control and direction of the Superintendent of State Police. Local Police officers providing police services pursuant to such contracts shall be under the exclusive control and direction of the appropriate locality. The Authority and the Department of State Police shall agree upon reasonable terms and conditions pursuant to which the activities contemplated in this section may take place. The Authority shall reimburse the locality or the Commonwealth, as the case may be, in such amounts and at such time or times as shall be mutually agreed upon, for providing police service. Such officers shall be responsible for the preservation of the public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property, and enforcement of the laws of the Commonwealth and all rules and regulations of the Authority made in accordance herewith, and such officers shall have all the rights and duties of police officers as provided by the general laws of the Commonwealth. The violation of any such rule or regulation shall be punishable as follows: if such a violation would have been a violation of law if committed on any public road, street or highway in the locality, it shall be punishable in the same manner as if it had been committed on such public road, street or highway; otherwise it shall be punishable as a Class 4 misdemeanor. All other police officers of the Commonwealth and of the locality shall have the same powers and jurisdiction within the areas of operations agreed upon by the parties that they have beyond such limits and shall have access to all such areas at any and all times without interference for the purpose of exercising such powers and jurisdiction. For the purpose of enforcing such laws, rules and regulations the court or courts having jurisdiction for the trial of criminal offenses committed in the locality shall have jurisdiction to try any person charged with the violation of any such laws, rules and regulations within such boundaries. A copy of the rules and regulations of the Authority, attested by the Secretary or Secretary-Treasurer of the Authority, may be admitted as evidence in lieu of the original. Any such copy purporting to be sealed and signed by such Secretary or Secretary-Treasurer may be admitted as evidence without any proof of the seal or signature, or of the official character of the person whose name is signed to it.

C. All actions at law and suits in equity and other proceedings, actions and suits against the Authority, or any other person, firm or corporation, growing out of the construction, maintenance, repair, operation and use of any Authority facility, or growing out of any other circumstances, events or causes in connection therewith, unless otherwise provided herein, shall be brought and conducted in the court or courts having jurisdiction of such actions, suits and proceedings in the appropriate locality. All such actions, suits and proceedings on behalf of the Authority shall be brought and conducted in the Circuit Court of the appropriate locality, except as herein otherwise provided, and exclusive jurisdiction is hereby conferred on such court for the purpose. Eminent domain proceedings

instituted and conducted by the Authority shall be brought and conducted in the court or courts having jurisdiction of such proceedings.

D. On or before the 30th day of September in each year, the Authority shall prepare a report of its activities for the period of 12 months ending the preceding July 1 of such year and shall file a copy thereof with each locality within the Region. Each such report shall set forth an operating and financial statement covering the Authority's operations during the period of 12 months covered by such report. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants to be selected by the Authority and the cost thereof shall be treated as a part of the cost of construction and operation of the Project.

E. The records, books and accounts of the Authority shall be subject to examination and inspection by duly authorized representatives of the governing body of any locality within the Region and any bondholder or bondholders at any reasonable time, provided the business of the Authority is not unduly interrupted or interfered with thereby.

F. Any member, agent or employee of the Authority who contracts with the Authority or is interested, either directly or indirectly, in any contract with the Authority or in the sale of any property, either real or personal, to the Authority shall be guilty of a Class 1 misdemeanor. Exclusive jurisdiction for the trial of such misdemeanors is hereby conferred upon the Circuit Court of the County of Spotsylvania; provided, that the term "contract," as used herein, shall not be held to include the depositing of funds in, or the borrowing of funds from or the serving as agent or trustee by, any bank in which any member, agent or employee of the Authority may be a director, officer or employee or have a security interest; nor shall such term include contracts or agreements with the purchase of services from, or other transactions in the ordinary course of business with, public service corporations. (2009, c. 801)

§ 19. Approval by Commonwealth Transportation Board.

The Authority may not construct a limited access toll highway without the approval of the Commonwealth Transportation Board. (2009, c. 801)

§ 20. Construction; inconsistent laws.

This act shall be liberally construed to effectuate the purposes hereof, and the foregoing sections of this act shall be deemed to provide an additional and alternative method of doing the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred upon a participating locality by other provisions of law; provided, however, the issuance of revenue bonds or revenue refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds, and except as otherwise expressly provided in this act, none of the powers granted to the Authority under the provisions of this act shall be subject to the supervision or regulation or require the approval or consent of a participating locality or any

commission, board, bureau, official or agency thereof or of the Commonwealth, except as otherwise provided in this act. (2009, c. 801)

§ 21. Constitutional construction.
The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act. (2009, c. 801)

§ 22. Inconsistent laws inapplicable.
All other general or special laws inconsistent with any provision of this act are hereby declared to be inapplicable to the provisions of this act and to any Project constructed by the Authority pursuant to this act. (2009, c. 801)

Hampton Roads Sanitation District Commission

History
1934 Acts of Assembly, c. 244, as Hampton Roads Sewage Disposal Commission; repealed 1938, c. 334; 1940, c. 407.
1936 Acts of Assembly, c. 353; repealed 1938, c. 334; 1940, c. 407.
1938 Acts of Assembly, c. 334, as Hampton Roads Sanitation Commission; repealed 1940, c. 407.
1940 Acts of Assembly, c. 407; amended 1946, c. 353 (§ 4-b [added]) and 1956, c. 471 (§ 4); repealed 1960, c. 66.

Current
1960 Acts of Assembly, c. 66.

Amendments
1962, c. 584 (§ 11)
1964, c. 520 (§ 45)
1974, c. 112 (§2)
1976, c. 637 (§ 2)
1977, c. 271 (§ 20 [repealed])
1987, c. 30 (§ 2)
1989, c. 350 (§ 2)
1990, c. 153 (§ 10)
1998, c. 210 (§§ 1, 2)
2004, c. 120 (§§ 1 through 6, 10, 11, 13, 22, 32, 45, 48, 49)
2008, c. 574 (§§ 8, 29, 35, 45)
2012, c. 724 (§§ 4, 8, 9, 10, 12, 13, 21)
2017, c. 218 (§§ 1, 2)

Editor's note: Chapter 724 of the Acts of Assembly of 2012 cites § 40 among amended sections, but Senate amendments to the introduced bill removed all changes to § 40, which was not dropped from the bill before enactment.

§ 1. The creation of the Hampton Roads Sanitation District is hereby ratified, validated and confirmed, and said District shall embrace all the territory within the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Counties of Gloucester, Isle of Wight, James City, King and Queen, King William, Mathews, Middlesex and York; the County of Surry, excluding the Town of Claremont; and the Town of Urbanna. Territory may be added to the District as hereinafter provided in this act.

For the purpose of this section, the territory of a county included within the District shall include all the territory lying within the boundaries of any town in the county unless otherwise specified.

Said District shall constitute a political subdivision of Commonwealth established as a governmental instrumentality to provide for the public health and welfare. (1960, c. 66; 1998, c. 210; 2004, c. 120; 2017, c. 218)

Editor's note to § 1: For Portsmouth, see 1948, c. 10; 1987, c. 57.

§ 2. The functions, affairs and property of the Hampton Roads Sanitation District shall be managed and controlled by a commission, known as the "Hampton Roads Sanitation District Commission," consisting of eight members appointed by the Governor. The Commission and the term of each such member shall continue until his successor shall be duly appointed and qualified. The successor of each such member shall be appointed for a term of four years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Commission shall be eligible for reappointment without limitation as to the number of terms that may be served. Members of the Commission may be suspended or removed by the Governor at his pleasure.

At the time of their appointment, one of the members of the Commission, and each of his successors, shall be residents of the territory in the District within the City of Norfolk; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Virginia Beach; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Newport News; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Hampton; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Chesapeake; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Suffolk or Isle of Wight County or Surry County; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Williamsburg or James City County or York County or the City of Poquoson or Gloucester County or King William County or Mathews County or

Middlesex County or the Town of Urbanna or King and Queen County; and one of the members, and each of his successors, shall be residents of the territory in the District within the City of Portsmouth. Any member who shall cease to reside within the territory from which he was appointed shall thereupon be disqualified from holding office as a member of the Commission and the vacancy thus created shall be filled by appointment by the Governor for the balance of the unexpired term. (1960, c. 66; 1974, c. 112; 1976, c. 637; 1987, c. 30; 1989, c. 350; 1998, c. 210; 2004, c. 120; 2017, c. 218)

§ 3. The Commission shall annually elect one of its members as chairman and another as vice chairman. The Commission shall appoint a secretary, who may or may not be a member of the Commission, and a treasurer, who shall not be a member of the Commission. The compensation of the secretary and of the treasurer shall be fixed by the Commission. The secretary and the treasurer shall serve at the pleasure of the Commission.

The secretary shall keep a record of the proceedings of the Commission and shall be custodian of all books, documents and papers filed with the Commission and of the minute book or journal of the Commission and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Commission and to give certificates under the official seal of the Commission to the effect that such copies are true copies, and all persons dealing with the Commission may rely upon such certificates.

Four members of the Commission shall constitute a quorum and the affirmative vote of four members shall be necessary for any action taken by the Commission. No vacancy in the membership of the Commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the Commission. (1960, c. 66; 2004, c. 120)

§ 4. Each member of the Commission shall, before entering upon the discharge of his duties, take and subscribe the oath of office required by Article II, § 7, Constitution of Virginia (1971). Each such Commissioner shall be covered by a public official's liability policy in the amount of at least $1,000,000. The premium of such insurance policies shall be paid by the Commission. (1960, c. 66; 2004, c. 120; 2012, c. 724)

§ 5. The members of the Commission shall receive no salary, but shall be paid their necessary traveling and other expenses incurred in attendance upon meetings of the Commission or while otherwise engaged in the discharge of their duties and the same sum per diem for each day or portion thereof in which they are engaged in the performance of such duties as is paid the members of the Commonwealth Transportation Board. (1960, c. 66; 2004, c. 120)

§ 6. Regular meetings of the Commission shall be held at least once every month at such time and place as the Commission shall from time to time prescribe. Special meetings of the Commission shall be held upon such notice as required by the Virginia Freedom of Information Act. (1960, c. 66; 2004, c. 120)

§ 7. All bonds heretofore issued by the Commission which are now outstanding are hereby ratified, validated and confirmed, and all acts and proceedings heretofore taken in connection with the authorization and issuance of said bonds are hereby ratified, validated and confirmed and said bonds shall constitute valid obligations of the District. (1960, c. 66)

§ 8. As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "District" means the Hampton Roads Sanitation District hereinabove mentioned.

(b) The word "Commission" means the Hampton Roads Sanitation District Commission hereinabove mentioned, or if said Commission shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or upon whom the powers given by this act to said Commission shall be conferred by law.

(c) The word "sewage" means the water-carried wastes created in and carried, or to be carried, away from residences hotels schools hospitals, industrial establishments, commercial establishments or any other private or public building, together with such Industrial wastes as may be present.

(d) The term "industrial wastes" means liquid or other wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource.

(e) The term "sewage disposal system" means and shall include any plant, system, facility or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, including industrial wastes, or any integral part thereof, and, without limiting the generality of the foregoing definition, shall embrace treatment plants, pumping stations, intercepting sewers, force mains, gravity mains, laterals, reclaimed water distribution lines, and all necessary appurtenances and equipment, and shall include all lands, property, rights, rights of way, easements and franchises relating to any such system and deemed necessary or convenient for the operation thereof.

(f) The term "sewer improvements" shall embrace sewer mains and laterals for the reception of sewage from premises connected therewith and carrying such sewage to a sewage disposal system.

(g) The term "sewerage system" shall embrace sewage disposal systems, sewer improvements and all other real and personal property operated by the Commission for the purposes of this act.

(h) The word "cost" as applied to a sewage disposal system or to extensions or additions thereto or to sewer improvements shall include the cost of construction, the cost of all labor , materials, machinery and equipment, the cost of all lands, property, rights, rights of way, easements and franchises acquired, financing charges, interest prior to and during construction and, if deemed

advisable by the Commission, for one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, provisions for working capital and a reserve for interest, and all other expenses necessary or incident to determining the feasibility or practicability of such construction, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized.

(i) The word "owner" shall include all individuals, copartnerships, limited liability companies, associations and corporations and also counties, cities, towns and other political subdivisions and all public agencies and instrumentalities.

(j) The word "bonds" or the words "revenue bonds" shall embrace revenue bonds, notes and other obligations of the District issued under the provisions of this act.

(k) The word "pollution" means the condition of water resulting directly or indirectly from any of the following acts:

(1) contaminating such water;

(2) rendering such water unclean or impure;

(3) rendering such water injurious to public health, or unfit for public use;

(4) rendering such water harmful for cattle, stock or other animals;

(5) rendering such water deleterious to, or unfit for, fish or shellfish, or fish or shellfish propagation, or aquatic animals, or plant life in such water;

(6) rendering such water unfit for commercial use; or

(7) rendering such water harmful to fish or shellfish used for human consumption. (1960, c. 66; 2008, c. 574; 2012, c. 724)

§ 9. Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any county, city, town or political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any county, city, town or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the Commonwealth or any county, city, town or political subdivision thereof to levy or to pledge any form of taxation whatever therefor. The text of such revenue bonds shall contain a statement substantially to the foregoing effect.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the provisions of this act and no liability or obligation shall be incurred by the

Commission hereunder beyond the extent to which moneys shall have been provided under the provisions of this act. (1960, c. 66; 2012, c. 724)

§ 10. The Commission is hereby authorized and empowered:

(a) to adopt bylaws and to make rules and regulations for the management of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to sue and to be sued;

(d) to construct, and to improve, extend, enlarge, reconstruct, maintain, equip, repair and operate a sewage disposal system or systems, enter within or without or partly within and partly without the corporate limits of the District, and to construct sewer improvements within the corporate limits of the District;

(e) to issue revenue bonds, notes or other obligations of the District for any of its authorized purposes, payable solely from the special funds provided under the authority of this act and pledged for their payment, all as provided in this act;

(f) to fix and collect rates, fees and other charges for the services and facilities furnished by any such sewage disposal system or sewer improvements, and to fix and collect charges for making connections with any such system or improvements;

(g) to acquire in the name of the District, either by purchase, lease, grant, or the exercise of the right of eminent domain, such lands, structures, property, rights, rights of way, easements, franchises and other interests in or relating to lands, including lands under water and riparian rights, and to acquire such personal property, as it may deem necessary in connection with the construction, improvement, extension, enlargement or operation of any sewage disposal system or sewer improvements, and to hold and dispose of all real and personal property under its control;

(h) to employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, managers, and such other officers, employees and agents as may be necessary in its judgment, and to fix their compensation;

(i) to exercise jurisdiction, control and supervision over any sewage disposal system or systems or sewer improvements operated or maintained by the Commission and to make and enforce such rules and regulations for the maintenance and operation of any such sewage disposal system or systems or sewer improvements as may, in the judgment of the Commission, be necessary or desirable for the efficient operation of any such system or improvements and for accomplishing the purposes of this act;

(j) to enter on any lands, water or premises located within or without the District to make surveys, borings, soundings or examinations for the purposes of this act;

(k) to construct and operate trunk, intercepting or outlet sewers, sewer mains, laterals, conduits or pipelines in, along or under any streets, alleys, highways or other public places within or without the District; in so constructing its facilities, it shall see that the public use of such streets, alleys, highways, and other public places is not unnecessarily interrupted or interfered with and that such streets, alleys, highways and other public places are restored to their former usefulness and condition within a reasonable time; to this end the Commission shall cooperate with the Commonwealth Transportation Board and the appropriate officers of the respective counties, cities and towns having an interest in such matters;

(l) to restrain, enjoin or otherwise prevent any county, city, town or political subdivision and any person or corporation, public or private, from discharging into any waters within the District, any sewage, industrial wastes or other refuse which would contribute or tend to contribute to the pollution of such waters, and to restrain, enjoin or otherwise prevent the violation of any provision of this act or of any resolution, rule or regulation adopted pursuant to the powers granted by this act;

(m) to use and connect with any sewage disposal system or sewer improvement within the District and, if deemed necessary by the Commission to close off and seal any outlets and outfalls therefrom;

(n) subject to such provisions and restrictions as may be set forth in the resolution authorizing any revenue bonds or in the trust agreement hereinafter mentioned securing the same, to enter into contracts with the United States of America or any agency or instrumentality thereof, or with any county, city, town or political subdivision or any sanitary district, private corporation, copartnership, association or individual providing for or relating to the treatment and disposal of sewage;

(o) to receive and accept from the United States of America or any agency or instrumentality thereof grants for or in aid of the planning, construction or financing of any sewage disposal system or sewer improvements, and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(p) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(q) to do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contracts with any persons;

(r) to execute any and all instruments and do and perform any and all acts or things necessary , convenient or desirable for the purposes of the Commission or to carry out the powers expressly given in this act; and

(s) to seek civil penalties or civil charges against owners who have been charged with violation of or found to be in violation of the pretreatment standards incorporated in the permit or other requirements of the District's approved industrial waste control program. The penalties which the District may seek, and the procedures to be followed by the District, shall be the same as those set forth for the State Water Control Board, as set forth in § 62.1-44.32 of the Code of Virginia.

1. For purposes of this subsection, the term "owner" shall include the definition contained in subsection (i) of § 8 and, in addition, any corporate officer designated in the permit issued by the District, if any.

2. With the consent of any owner who has violated a provision of this subsection, or is charged by the District with having violated the provision of this subsection, the District may provide, in an order issued by it against such owner, for the payment of civil charges for such violations in specific sums not to exceed those set forth in § 62.1-44.32 of the Code of Virginia for each violation. Each day of violation shall constitute a separate offense. Such civil charges shall be instead of any appropriate civil or criminal penalty imposed under the provisions of this subsection. (1960, c. 66; 1990, c. 153; 2004, c. 120; 2012, c. 724)

§ 11. (a) The Commission is hereby authorized and empowered to acquire by purchase, lease, grant or conveyance such lands, structures, property, rights, rights of way, easements, franchises and other interests in or relating to lands, including lands lying under water and riparian rights, as it may deem necessary or convenient for the construction and operation of any sewage disposal system or sewer improvements, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and commissions of the Commonwealth with the approval of the Governor and all counties, cities, towns and political subdivisions, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the District at the request of the Commission upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court or other action or formality, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Commission, including public highways and other real property already devoted to public use.

(b) The Commission is also hereby authorized and empowered to acquire by condemnation or eminent domain such lands, structures, property rights, rights-of-way, easements, franchises and other interests in or relating to lands, including lands lying under water and riparian rights, deemed necessary or convenient for the construction and operation of any sewage disposal system or sewer

improvements. The powers of condemnation or eminent domain conferred on the Commission by this act shall be exercised by the Commission pursuant to the provisions of Title 25.1, Chapter 1 through 4, inclusive, of the Code of Virginia, 1950, as now enacted or as hereafter amended or reenacted; provided, however, that the Commission may proceed pursuant to the provisions of Article 7 (§ 33.1-89 et seq.) of Chapter 1 of Title 33.1 of the Code of Virginia, 1950, as enacted or as hereafter amended or reenacted, for the procurement of rights of way for sewer lines and sites for pumping stations.

(c) Title to any property acquired by the Commission shall be taken in the name of the District.

(d) The Commonwealth with the approval of the Governor hereby consents to the use of any lands or property owned by the Commonwealth including lands lying under water, which are deemed by the Commission to be necessary for the construction or operation of any sewage disposal system or sewer improvements. (1960, c. 66; 1962, c. 584; 2004, c. 120)

§ 12. The Commission is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the District for any one or more of the following purposes:

(a) refunding any bonds heretofore issued by the Commission and any revenue bonds, notes and other obligations issued under the provisions of this act and then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption thereof; provided, however, that no bonds issued after the effective date of this act shall be refunded at a net interest cost exceeding that of such bonds to be refunded unless, prior to the issuance of such refunding bonds, the Commission shall have determined that the issuance of such refunding bonds will be in the best interests of the District,

(b) paying the cost of a sewage disposal system or systems,

(c) paying the cost of extensions and additions thereto, and

(d) paying the cost of sewer improvements. (1960, c. 66; 2012, c. 724)

§ 13. The principal of and the interest on revenue bonds issued under the provisions of this act shall be payable solely from the funds therein provided for such payment. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the Commission, shall bear interest at such time or times and at such rate or rates as may be determined by the Commission, and may be made redeemable before maturity, at the option of the Commission, at such price or prices and under such terms and conditions as may be fixed by the Commission prior to the issuance of the bonds. The Commission shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any

officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any bond may bear the facsimile signature of, or may be signed by, such person or persons as at the actual time of the execution of such bond shall be the proper officer or officers to sign such bond although at the date of such bond such person or persons may not have been such officer or officers. The bonds may be issued in coupon or in registered form, or both, as the Commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Commission may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the District. (1960, c. 66; 2004, c. 120; 2012, c. 724)

§ 14. The proceeds of the bonds shall be disbursed in such manner and under such restrictions, if any, as the Commission may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Such resolution or trust agreement may also contain such limitations upon the issuance of additional revenue bonds, and such provisions for accelerating the maturities of the bonds in the event of a default and for amending or supplementing such resolution or trust agreement, as the Commission may deem proper. (1960, c. 66)

§ 15. Prior to the preparation of definitive bonds, the Commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Commission may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. (1960, c. 66)

§ 16. Except as hereinafter provided in this act, bonds may be issued under the provisions of this act without obtaining the consent or approval of any department, division, commission, board, bureau or agency of the Commonwealth or of any district or other political subdivision of the Commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this act. (1960, c. 66)

§ 17. It shall not be necessary to secure the approval by a majority vote of the qualified voters of the District voting in an election on the question of the issuance of any of such revenue bonds, and none of the limitations, restrictions or conditions which are contained in any other law on the amount of bonds or the manner of issuing bonds shall be applicable to revenue bonds issued under the provisions of this act. (1960, c. 66)

§ 18. Neither the members of the Commission nor any person executing any bonds or temporary bonds shall be liable personally on the bonds or temporary bonds or be subject to any personal liability or accountability by reason of the issuance thereof. (1960, c. 66)

§ 19. In addition to all other powers granted to the Commission by this act, the Commission is hereby authorized and empowered to provide for the issuance at one time or from time to time of notes or other obligations of the District, payable solely from revenues or other funds of the District, for any of its authorized purposes. All the provisions of this act which relate to bonds or revenue bonds shall apply to such notes or other obligations in so far as such provisions may be appropriate. (1960, c. 66)

§ 20. The issuance of bonds, secured by a trust agreement under the provisions of this act shall be subject to the approval of the State Corporation Commission. If the State Corporation Commission shall not enter an order approving or disapproving the issuance of such bonds within sixty days after the Commission shall have filed the resolution authorizing the issuance of such bonds or the trust agreement hereinafter mentioned securing the same with the State Corporation Commission, the issuance of the bonds shall be deemed to have been approved by the State Corporation Commission for the purpose of this paragraph. If the State Corporation Commission shall enter an order within such sixty day period disapproving the issuance of such bonds, the Commission may at any time thereafter file a new or revised resolution or trust agreement for the purpose of securing the approval of the State Corporation Commission of the new or revised bonds of the District. (1960, c. 66)

§ 21. In the discretion of the Commission the revenue bonds of any issue may be secured by a trust agreement by and between the Commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Any such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received, but shall not convey or mortgage any sewage disposal system or sewer improvements or any part thereof. Any such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Commission in relation to the acquisition of property and the construction, improvement, extension, enlargement, reconstruction, maintenance, equipment, repair, operation and insurance of the properties of the District, and the custody, safeguarding and application of all moneys. Any such trust agreement may provide for or permit the issuance of additional bonds from time to time for the further extension of the sewerage system. If the Commission issues bonds that may be tendered for purchase by the holders thereof, any such trust agreement may provide that, for all purposes of the laws of the Commonwealth, the indebtedness of the District evidenced by such bonds shall not be deemed extinguished upon the purchase thereof by the District unless such bonds are delivered by the District to the trustee under such trust agreement with written instructions to cancel such bonds. It shall be lawful for any bank or trust company incorporated under the laws of the

Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Commission. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Commission may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement or resolution may be treated as a part of the cost of operation.

No such trust agreement or resolution need be filed or recorded except in the records of the Commission. (1960, c. 66; 2012, c. 724)

§ 22. The Commission may, in the resolution providing for the issuance of revenue bonds or in the trust agreement securing the same, covenant to fix the rates, fees and other charges for the use of, and for the services and facilities furnished or to be furnished by, the sewage disposal system or systems and the sewer improvements, if any, for which such bonds are to be issued, to be paid by the owner, tenant or occupant of each lot or parcel of land which may be connected with or may use any such sewage disposal system or sewer improvements. The Commission may revise such rates, fees and charges from time to time. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (a) to pay the cost of maintaining, repairing and operating such sewage disposal system or systems and such sewer improvements, if any, including reserves for such purpose and for renewals and replacements and necessary extensions and additions to the sewerage system, (b) to pay the principal of and the interest on such revenue bonds as the same shall become due and to provide reserves therefor, and (c) to provide a margin of safety for making such payments. The Commission shall charge and collect the rates, fees and charges so fixed or revised, and, except as hereinafter provided in this act, such rates, fees and charges shall not be subject to supervision or regulation by any department, division, commission, board, bureau or agency of the Commonwealth or of any district or other political subdivision of the Commonwealth.

Such rates, fees and charges shall be just and equitable and may be based or computed either upon the quantity of water used or upon the number and size of sewer connections or upon the number and kind of plumbing fixtures in use in the premises connected with the sewerage system or upon the number or average number of persons residing or working in or otherwise connected with such premises or upon the type or character of such premises or upon any other factor affecting the use of the facilities furnished or upon any combination of the foregoing factors. Charges for services to premises, including services to manufacturing and industrial plants, obtaining all or a part of their water supply from sources other than a public water system may be determined by gauging or metering at the expense of the owner, tenant or occupant of such premises or in any other manner as directed and approved by the Commission. Premises not discharging the entire volume of water into

the sanitary sewers shall be allowed a reduction in the charges provided the customer installs facilities, in a manner satisfactory to the Commission, for measuring the volume either discharged or not discharged into the sanitary sewers.

The Commission shall fix and determine the time or times when and the place or places where such rates, fees and charges shall be due and payable and may require that such rates, fees and charges shall be paid in advance for periods of not more than six months. A copy of the schedules of all rates, fees and charges in effect shall at all times be kept on file at the principal office of the Commission, and such schedules shall at all reasonable times be open to public inspection.

In cases where the character of the sewage from any manufacturing or industrial plant, building or premises is such that it imposes an unreasonable burden upon any sewage disposal system, an additional charge may be made therefor, or the Commission may, if it deems it advisable, compel such manufacturing or industrial plant, building or premises to treat such sewage in such manner as shall be specified by the Commission before discharging such sewage, into the sewerage system or prohibit the discharge, directly or indirectly, of such sewage into the sewerage system. (1960, c. 66; 2004, c. 120)

§ 23. Before any revision of the present schedule of rates, fees and charges shall become effective the Commission shall publish a copy thereof for four consecutive weeks in a newspaper of general circulation within the District. If, on or before the last publication, the governing body of any city or county constituting a part of the District or five hundred or more qualified voters residing within the District shall file a petition with the State Corporation Commission complaining of the proposed revision, the State Corporation Commission may by order suspend the placing in effect of such revision for a period not exceeding sixty days from the filing of any such petition during which time it shall investigate whether such revision is just and equitable and in accordance with the provisions of this act. If the State Corporation Commission shall not enter an order suspending, approving or disapproving such revision within sixty days from the filing of any such petition, such revision shall be deemed to be in effect. The Commission or the party or parties filing a petition may appeal to the Supreme Court of Appeals from any such order as may be entered by the State Corporation Commission in the manner provided by law. (1960, c. 66)

§ 24. The owner, tenant, or occupant of each lot or parcel of land within the District which abuts upon a street or other public way containing a sanitary sewer served or which may be served by a sewage disposal system of the District and upon which lot or parcel a building shall have been constructed for residential, commercial or industrial use, shall, if so required by such reasonable rules and regulations as shall be promulgated by the Commission, connect such building with such sanitary sewer, and shall cease to use any other method for the disposal of sewage, sewage waste or other polluting matter. All such connections shall be made in accordance with rules and regulations which shall be adopted from time to time by the Commission, which rules and regulations may provide for a

charge for making any such connection in such reasonable amount as the Commission may fix and establish. (1960, c. 66)

§ 25. In the event that the rates, fees or charges charged by the Commission for the services and facilities of any sewage disposal system or sewer improvements by or in connection with any real estate or other property served shall not be paid as and when due, the owner, tenant or occupant, as the case may be, of such property shall, until such rates, fees and charges shall be paid, cease to dispose of sewage or industrial wastes originating from or on such property by discharge thereof directly or indirectly into the sewerage system, and if such owner, tenant or occupant shall not cease such disposal within two months thereafter, it shall be the duty of each county, city, town or other public corporation, board or body, private corporation or person supplying water to or selling water for use on, such property, within five days after receipt of notice of such facts from the Commission to cease supplying water to, and selling water for use on, such property. If such county, city, town or other public corporation, board or body, private corporation or person shall not within such time cease supplying water to, and selling water for use on, such property, the Commission may shut off the supply of water to such property and may disconnect such property from such sewage disposal system or sewer improvements, and for such purposes may enter on any lands, waters and premises of such county, city, town or other public corporation, board or body, private corporation or person.

If any rates, fees or charges for the services and facilities furnished by any sewage disposal system or sewer improvements of the District shall not be paid within thirty days after the same shall become due and payable, the Commission may at the expiration of such thirty day period proceed to recover the amount of any such delinquent rates, fees or charges by any action, suit or proceeding permitted by law or in equity. (1960, c. 66)

§ 26. The Commission shall keep and preserve a complete register, or registers, open to public inspection, of all rates, fees and charges which have been charged by the Commission to the owners, tenants or occupants of any real estate for the use and services of any sewage disposal system or sewer improvements and have become due and payable and have not been paid. Such register or registers shall be kept in such place or places as the Commission shall determine. (1960, c. 66)

§ 27. The Commission and any county, city, town or other political subdivision in whole or in part embraced within the District or any privately or publicly owned water company are authorized to enter into a contract or contracts providing for the collection by such county, city, town or political subdivision or privately or publicly owned water company and payment over to the Commission of the rates, fees and charges charged by the Commission against the owners, tenants or occupants of real estate within such county, city, town or political subdivision or served by such privately or publicly owned water company, or providing for the payment to the Commission by such county, city, town or political subdivision or privately or publicly owned water company of a sum or sums of money in lieu

of all or part of the rates, fees and other charges which would otherwise be charged by the Commission to the owners, tenants or occupants of real estate within such county, city, town or political subdivision or served by such privately or publicly owned water company. Such county, city, town or political subdivision or privately or publicly owned water company is vested with powers to do everything necessary or proper to carry out and perform every such contract, including the same powers with respect to rates, fees and other charges as are conferred by this act upon the Commission. The Commission is authorized to reduce ratably in accordance with such contract the rates, fees and other charges which would otherwise be charged by the Commission to the owners, tenants or occupants of real estate within such county, city, town or political subdivision or served by such privately or publicly owned water company, but nothing in this section or any such contract shall be construed to prevent the Commission from charging to and collecting from such owners, tenants or occupants of such real estate, in the same manner as provided for such rates, fees and other charges, any deficiency in any payment agreed to be made by such county, city, town or political subdivision or privately or publicly owned water company. (1960, c. 66)

§ 28. All revenues derived by the Commission from the sewage disposal system or systems or sewer improvements financed or refinanced by the bonds of any issue or issues, except such part thereof as may be required to pay the cost of maintaining, repairing and operating such system or systems or sewer improvements and to provide such reserves therefor as may be provided in the resolution providing for the issuance or such revenue bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement and deposited to the credit of the following special funds:

(a) a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided, including the accumulation of a reserve for such purposes; such pledge shall be valid and binding from the time when the pledge is made, the revenues so pledged and thereafter received by the Commission shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Commission or the District, irrespective of whether such parties have notice thereof; and

(b) a fund for anticipated renewals, replacements, extensions, additions and extraordinary repairs of the sewerage system. The use and disposition of moneys to the credit of any such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of such revenue bonds or in the trust agreement securing the same, and, except as may otherwise be provided in such resolution or trust agreement, such sinking fund shall be a fund for the benefit of such bonds without distinction or priority of one over another. (1960, c. 66)

§ 29. All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act, and none of such moneys shall be required to be paid into the State treasury or into the treasury or to any officer of any county, city, town or other political subdivision. The Commission may provide for the payment of the proceeds of the sale of the bonds and the revenues to be received to a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this act, subject to such regulations as this act and the Commission may provide. All such moneys shall be secured or shall be invested and reinvested, all as may be provided by the Commission.

With respect to contracts concerning interest rates, currency, cash flow and other basis, the District may enter into any contract that the Commission determines to be necessary or appropriate to place any obligation or investment of the District, as represented by bonds or the investment of their proceeds, in whole or in part, on the interest rate, cash flow or other basis desired by the Commission. Such contracts may include, without limitation, contracts commonly known as interest rate swap agreements, rate locks, forward purchase agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. Such contracts or arrangements may be entered into by the District in connection with, or incidental to, entering into or maintaining any (i) agreement that secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commission, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency. (1960, c. 66; 2008, c. 574)

§ 30. Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or by the resolution providing for the issuance of such bonds, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust agreement or such resolution and may enforce and compel the performance of all duties required by this act or by such trust agreement or resolution to be performed by the Commission or by any officer, agent or employee thereof, including the fixing, charging and collecting of rates, fees and charges for the services and facilities furnished by any sewage disposal system or systems and any sewer improvements.

Such resolution or trust agreement may also provide for the appointment of a receiver in the event of a default, who may enter upon and take possession of any facilities or property operated by the Commission, any of the revenues from the operation of which are pledged for the security of such

bonds, and operate and maintain the same and fix, charge, collect and receive all rates, fees and other charges and other revenues thereafter arising from such operation in the same manner as the Commission itself might do, and shall deposit all moneys collected in a separate account and apply the same in accordance with the duties and contracts of the Commission in such manner as the court appointing such receiver shall direct. (1960, c. 66)

§ 31. The exercise of the powers granted by this act shall be in all respects for the benefits of the inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the sewage system by the Commission will constitute the performance of essential governmental functions, the Commission shall not be required to pay any taxes or assessments upon the sewerage system or any property acquired or used by the Commission under the provisions of this act or upon the income therefrom and the revenue bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any county, city, town or other political subdivision thereof. (1960, c. 66)

§ 32. The Commission shall have no power to mortgage, pledge, encumber or otherwise dispose of any part of the sewerage system of the District, except such part or parts thereof as may be no longer necessary or useful for the purposes of the Commission; however, the Commission may enter into lease purchase and installment purchase agreements for equipment and fixtures and grant security interests therein. The provisions of this section shall be deemed to constitute a contract with the holders of bonds of the District. The sewerage system of the District shall be exempt from any and all liability which may be incurred by, or imposed upon, the Commission or any county, city, town or political subdivision. (1960, c. 66; 2004, c. 120)

§ 33. Any bonds issued pursuant to the authority of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and all political subdivisions thereto, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries, savings banks and savings institutions, including savings and loan associations, in the Commonwealth, may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1960, c. 66)

§ 34. The Commission shall keep and preserve complete and accurate accounts and records of all moneys received and disbursed by it and of all of its business and operations and of all property and funds owned or managed by it or under its control, and shall prepare and transmit to the Governor and to the governing body of each county, city and town which is in whole or in part embraced within the District, annually and at such other times as the Governor shall require, complete and accurate reports

as to the state and content of such accounts and records, together with such information wit respect thereto as the Governor may require. (1960, c. 66)

§ 35. Any substantial change in the method used by the Commission for treating and disposing of sewage and industrial wastes so as to prevent the pollution of any waters within the District, shall, before being finally adopted or used by the Commission, be approved by the Virginia Department of Environmental Quality as effective and satisfactory for the purpose intended. (1960, c. 66; 2008, c. 574)

§ 36. Each county, city, town or other political subdivisions in whole or in part embraced within the District and each privately or publicly owned water company shall, at the request of the Commission, make available to the Commission or the officers, agents or employees thereof, any or all maps, plans, specifications, records, books, accounts or other data or things deemed necessary by the Commission in the exercise of its powers and duties under this act. (1960, c. 66)

§ 37. Any county or city which shall have previously withdrawn from the District shall, if requested by the Commission, provide by its sewerage system for the treatment and disposal of sewage and industrial wastes arising in or discharged from the District and shall agree with the Commission to treat and dispose of such sewage and industrial wastes so delivered at the cost of such treatment and disposal; provided, however, the Commission shall pay to such county or city the cost of installing any additional sewerage facilities necessitated thereby within such county or city. If the parties do not agree upon such cost, such cost shall be determined upon petition to the State Corporation Commission which is hereby authorized and directed to make such determination. (1960, c. 66)

§ 38. Each county, city, town or other political subdivision shall promptly pay to the Commission all rates, fees and charges which the Commission may charge to it as owner, tenant or occupant of real estate. The Commission and any county, city, town or political subdivision in whole or in part outside of the District are authorized to enter into contracts providing for or relating to the treatment and disposal of sewage or industrial wastes originating in such county, city, town or political subdivision, by means of any sewage disposal system or such other facilities as the Commission may determine to provide for such purpose, and such county, city, town or political subdivision is authorized to do everything necessary or proper to carry out and perform every such contract. (1960, c. 66)

§ 39. The powers conferred by this act on counties, cities, towns and political subdivisions are in addition and supplemental to the powers conferred by any other law and may be exercised by resolution of the governing bodies thereof without regard to the terms, conditions, requirements, restrictions or other provisions contained in any other law, general or special, or in any charter, except that where rates, fees and charges are fixed by a city or town, that power shall be exercised by ordinance. (1960, c. 66)

§ 40. No county, city, town or other political subdivision or person or corporation, public or private, shall discharge, or suffer to be discharged, directly or indirectly into any waters within the District any sewage, industrial wastes or other refuse which may or will cause or contribute to pollution of any such waters. No county, city, town or other political subdivision or person or corporation, public or private, shall discharge, or suffer to be discharged, directly or indirectly, into any sewage disposal system or any other facilities of or provided by the Commission, any matter or thing which is or may be injurious or deleterious to such sewage disposal system or other facilities. No county, city, town or other political subdivision or person or corporation, public or private, shall plan, construct or place in service any new sewer improvement in the District which will or may thereafter be served by the Commission's sewerage system and which will or may thereafter, in the opinion of the Commission, cause overloading of the sewerage system or the entrance into the sewerage system of excessive ground or surface water or other matter or thing which is injurious or deleterious to the sewerage system. In order to carry out the provisions of this paragraph every county, city, town or other political subdivision or person or corporation, public or private, if requested by the Commission to do so, shall furnish to the Commission plans and specifications for such sewer improvements and shall provide access for Commission inspection of all new sewer construction work as it proceeds and of all construction records and materials used. In addition to other powers granted the Commission, it shall have the right to refuse service to any new sewer extension or improvement constructed or operated in violation of this paragraph. (1960, c. 66)

§ 41. Any county, city, town or other political subdivision or person or corporation, public or private, may be restrained, enjoined or otherwise prevented from violating or continuing the violation of any provision of this act by injunction, mandamus or any other appropriate remedy at law or in equity, by any court of competent jurisdiction, upon action, bill, suit or other proceeding instituted by the Commission or by any attorney for the Commonwealth. (1960, c. 66)

§ 42. No violation of any provision of this act shall be deemed to occur by reason of the discharge of sewage from any boat or vessel while afloat or on a marine railway or in dry dock. (1960, c. 66)

§ 43. Any person violating any provision of this act shall be guilty of a misdemeanor and upon conviction shall be punished accordingly. (1960, c. 66)

§ 44. No member, officer, agent or employee of the Commission shall contract with the Commission or be interested, either directly or indirectly, in any contract with the Commission, or in the sale of any property, either real or personal, to the Commission. This section shall not prevent any member, officer, agent or employee of the Commission from granting to the Commission, for a nominal consideration, any right of way, easement or lease. (1960, c. 66)

§ 45. All construction contracts, except in cases of emergency, that the Commission may let for construction or materials in connection with such construction shall be let after public advertising and

in accordance with the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia), the Virginia Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq. of the Code of Virginia), as well as all subsequent amendments and additions to Virginia public procurement law. The Commission is authorized, in its discretion, to do any and all such work by force account. (1960, c. 66; 1964, c. 520; 2004, c. 120; 2008, c. 574)

§ 46. No pecuniary liability of any kind shall be imposed upon any county, city, town or other political subdivision constituting any part of the District because of any act, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance, by or on the part of the Commission or any member of the Commission, or any of its officers, agents and employees, except as otherwise provided in this act with reference to contracts and agreements between the Commission and any county city town or other political subdivision. (1960, c. 66)

§ 47. The Commission is authorized to appoint all agents and employees of the Commission, dismiss them, fix their salaries or remuneration, assign their positions and titles, define their respective powers and duties, and require them or any of them to give bond payable to the District in such penalty as shall be fixed by the Commission conditioned upon the faithful discharge of their duties. (1960, c. 66)

§ 48. The circuit court of the county or the corporation or circuit court of the city in which any territory proposed to be added to the District is located, upon receipt of a petition of the Commission or a petition of the governing body of the territory proposed to be added to the District or a petition signed by not less than 25 percent of the qualified voters residing within the limits of the territory proposed to be added to the District, or a petition signed by the owners of not less than 25 percent by area of the real property within the territory proposed to be added to the District, shall enter an order fixing the date and hour and place for a public hearing on the question of the addition of territory to the District, which order shall set forth a copy of the petition, excluding signatures, and shall describe the territory proposed to be added to the District.

A copy of such order shall be published once a week for three consecutive weeks in a newspaper of general circulation within the territory proposed to be added to the District to be designated by such court and posted in such public places within such territory as shall be designated by such court. The first of such publications and such posting shall occur not less than 30 days prior to the date fixed for such hearing.

At the time and place stated in such order, or to which an adjournment may be taken by the court, the court shall receive and hear any objections of interested persons to the addition of such territory to the District or to any defect in the petition and the court may then or thereafter grant such petition with such modifications, if any, as it may deem advisable and which do not enlarge the territory proposed to be added to the District. All such objections shall be made in writing, in person or by attorney, and

filed with the court at or before the time or adjourned time of such hearing. Any such objections not so made shall be considered as waived.

If upon such hearing the court shall be of the opinion that any area proposed to be added to the District will not be benefited by the District, then said area shall not be included in the District. The order altering the boundaries of and enlarging the District shall prescribe the territory to be added to the District and fix the boundaries thereof.

From an order enlarging the District under the provisions of this section an appeal shall lie to the Supreme Court of Virginia in the manner provided by law. (1960, c. 66; 2004, c. 120)

§ 49. Nothing in this act shall be construed to affect, impair, repeal or supersede in any way the powers of the State Water Control Board under the provisions of Chapter 3.1, Title 62.1, Code of Virginia, 1950, as amended. (1960, c. 66; 2004, c. 120)

§ 50. This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1960, c. 66)

§ 51. If any one or more sections, clauses, sentences or parts of this act shall be adjudged invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions held invalid, and the inapplicability or invalidity of any section, clause, sentence or part of this act in one or more instances or circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance. (1960, c. 66)

Hampton Roads Sports Facility Authority

§ 15.2-5901.Creation of Authority

There is hereby established a body corporate and politic known as the Hampton Roads Sports Facility Authority. The Authority is a political subdivision of the Commonwealth.

1996, c. 1021, § 15.1-1689; 1997, c. 587.

§ 15.2-5902.Members of Authority; chairman; terms

A. The Authority shall consist of fifteen members appointed by the Governor and subject to confirmation by the General Assembly. The Governor shall consider recommendations from each locality in Planning District 23 before making such appointments. The members of the Authority annually shall elect a chairman and a vice-chairman from their membership; the vice-chairman shall perform the duties of the chairman in his absence.

B. The term of a member of the Authority is four years. However, upon the initial appointment of the members of the Authority, the terms of the members shall be staggered as follows: the initial term of five of the members shall be four years; the initial term of five members shall be three years; and the initial term of the remaining five members shall be two years. The Governor shall designate the initial term to be served by each appointee.

At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. The members of the Authority shall receive no compensation for their services, but a member may be reimbursed by the Authority for reasonable expenses actually incurred in the performance of the duties of that office.

1996, c. 1021, § 15.1-1690; 1997, c. 587.

§ 15.2-5903.Quorum; actions of Authority; meetings

Eight members of the Authority shall constitute a quorum for the purpose of conducting business. Actions of the Authority shall receive the affirmative vote of a majority of the quorum to be effective. No vacancy on the Authority shall impair the right of a quorum to exercise all rights and perform all the duties of the Authority. The Authority shall determine the times and places of its regular meetings. Special meetings of the Authority shall be held when requested by two or more members of the Authority. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. A reasonable effort shall be made to provide each member with notice of any special meeting. Only matters specified in the notice shall be considered at such special meeting unless all the members of the Authority are present.

1996, c. 1021, § 15.1-1691; 1997, c. 587.

§ 15.2-5904.Executive Director appointment; duties

A. The Authority shall appoint an Executive Director, who is the chief administrative officer and secretary of the Authority and serves at the pleasure of the Authority. The Executive Director shall be paid from funds received by the Authority. No state funds shall be used to pay the salary or the expenses of this office.

B. In addition to any other duties set forth in this chapter, the Executive Director shall:

1. Direct and supervise the administrative affairs and activities of the Authority in accordance with its rules, regulations, and policies;

2. Attend all meetings and keep minutes of all proceedings;

3. Approve all accounts for salaries, per diem payments, and allowable expenses of the Authority and its employees and consultants and approve all expenses incidental to the operation of the Authority;

4. Report and make recommendations to the Authority on the merits and status of any proposed facility; and

5. Perform any other duty that the Authority requires for carrying out the provisions of this chapter.

1996, c. 1021, § 15.1-1692; 1997, c. 587.

§ 15.2-5905.Powers

In addition to the powers set forth elsewhere in this chapter, the Authority may:

1. Adopt and alter an official seal;

2. Sue and be sued in its own name;

3. Adopt bylaws, rules and regulations to carry out the provisions of this chapter;

4. Maintain an office at such place as the Authority may designate;

5. Employ, either as regular employees or independent contractors, consultants, engineers, architects, accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers and other professional personnel, personnel, and agents as may be necessary in the judgment of the Authority, and fix their compensation;

6. Determine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary to accomplish the purposes of the Authority;

7. Acquire, hold, lease, use, encumber, transfer, or dispose of real and personal property;

8. Enter into contracts of any kind, and execute all instruments necessary or convenient with respect to its carrying out the powers in this chapter to accomplish the purposes of the Authority;

9. Regulate the use and operation of facilities developed under the provisions of this chapter;

10. Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the use of facilities or for services rendered in connection with the facilities;

11. Borrow money from any source for any valid purpose, including working capital for its operations, reserve funds, or interest, and to mortgage, pledge, or otherwise encumber the property or funds of the Authority and to contract with or engage the services of any person in connection with any financing, including financial institutions, issuers of letters of credit, or insurers;

12. Issue bonds under this chapter;

13. Receive and accept from any source, private or public, contributions, gifts, or grants of money or property; and

14. Do all things necessary or convenient to carry out the powers granted by this chapter.

1996, c. 1021, § 15.1-1693; 1997, c. 587.

§ 15.2-5906.Public hearings; notice; reports

A. At least sixty days prior to selecting a facility site, the Authority shall hold a public hearing within thirty miles of the site proposed to be acquired for the purpose of soliciting public comment.

B. Except as otherwise provided herein, at least sixty days prior to the public hearing required by this section, the Authority shall notify the local governing body in which the facility is proposed to be located and advertise the notice in a newspaper of general circulation in that locality. The notice shall include: (i) a description of the site proposed to be acquired, (ii) the intended use of the site, and (iii) the date, time, and location of the public hearing. After receipt of the notice required by this section, the local governing body in which a facility is proposed to be located may require that this period be extended for up to sixty additional days or for such other time period as agreed upon by the local governing body and the Authority.

C. At least thirty days before acquiring or entering into a lease involving a facility site and before entering into a construction contract involving a new facility or facility site, the Authority shall submit a detailed written report and findings of the Authority that justify the proposed acquisition, lease, or contract to the General Assembly. The report and findings shall include a detailed plan of the method of funding and the economic necessity of the proposed acquisition, lease, or contract.

D. The time periods in subsections A, B, and C of this section may not run concurrently.

1996, c. 1021, § 15.1-1694; 1997, c. 587.

§ 15.2-5907.Acquisition of property

A. The Authority may acquire in its own name, by gift or purchase, any real or personal property, or interests in property, necessary or convenient to construct or operate any facility.

B. In any jurisdiction where planning, zoning, and development regulations may apply, the Authority shall comply with and is subject to those regulations to the same extent as a private commercial or industrial enterprise.

1996, c. 1021, § 15.1-1695; 1997, c. 587.

§ 15.2-5908.Bond issues

A. The Authority may at any time and from time to time issue bonds for any valid purpose, including the establishment of reserves and the payment of interest. In this chapter the term "bonds" includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation.

B. The bonds of any issue shall be payable solely from the property or receipts of the Authority, including, but not limited to:

1. Taxes, fees, charges, or other revenues payable to the Authority;

2. Payments by financial institutions, insurance companies, or others pursuant to letters or lines of credit, policies of insurance, or purchase agreements;

3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement; and

4. Proceeds of refunding bonds.

C. Bonds shall be authorized by resolution of the Authority and may be secured by a trust agreement by and between the Authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The bonds shall:

1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding forty years from their respective dates of issue;

2. Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;

3. Be payable at a time or times, in the denominations and form, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;

4. Be payable in lawful money of the United States at a designated place;

5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides;

6. Be executed by the manual or facsimile signatures of the officers of the Authority designated by the Authority which signatures shall be valid at delivery even for one who has ceased to hold office; and

7. Be sold in the manner and upon the terms determined by the Authority including private (negotiated) sale.

D. Any resolution or trust agreement may contain provisions which shall be a part of the contract with the holders of the bonds as to:

1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the Authority or proceeds or benefits of any contract and conveying or otherwise securing any property rights;

2. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts and sinking funds, and the regulation, investment, and disposition thereof;

3. Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds may be applied and restrictions to investments of revenues or bond proceeds in government obligations for which principal and interest are unconditionally guaranteed by the United States of America;

4. Limitations on the issuance of additional bonds and the terms upon which additional bonds may be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;

5. The refunding or refinancing of outstanding bonds;

6. The procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;

7. Defining the acts or omissions which shall constitute a default in the duties of the Authority to bondholders and providing the rights or remedies of such holders in the event of a default which may include provisions restricting individual right of action by bondholders;

8. Providing for guarantees, pledges of property, letters of credit, or other security, or insurance for the benefit of bondholders; and

9. Any other matter relating to the bonds which the Authority determines appropriate.

E. No member of the Authority nor any person executing the bonds on behalf of the Authority shall be liable personally for the bonds or subject to any personal liability by reason of the issuance of the bonds.

F. The Authority may enter into agreements with agents, banks, insurers, any political subdivision of the Commonwealth or others for the purpose of enhancing the marketability of, or as security for, its bonds.

G. A pledge by the Authority of revenues as security for an issue of bonds shall be valid and binding from the time the pledge is made.

The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract or otherwise against the Authority, irrespective of whether the person has notice.

No resolution, trust agreement or financing statement, continuation statement, or other instrument adopted or entered into by the Authority need be filed or recorded in any public record other than the records of the Authority in order to perfect the lien against third persons, regardless of any contrary provision of public general or public local law.

H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of bonds issued under this chapter or a trustee acting under a trust agreement entered into under this chapter, may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of Virginia or by any applicable resolution or trust agreement.

I. The Authority may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of the bonds. Refunding bonds may be issued for the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, for alleviating impending or actual default and may be issued in one or more series in an amount in excess of that of the bonds to be refunded.

J. The franchise holder shall agree that the franchise will not be relocated until any bonds issued hereunder are defeased.

K. In the event a facility is planned, no bonds shall be issued hereunder until the Authority has executed a long-term lease with a person or persons who hold a sports franchise from the National Basketball Association or the National Hockey League.

1996, c. 1021, § 15.1-1696; 1997, c. 587; 2002, cc. 651, 689.

§ 15.2-5909.Investments in bonds

Any financial institution, investment company, insurance company or association, and any personal representative, guardian, trustee, or other fiduciary, may legally invest any moneys belonging to them or within their control in any bonds issued by the Authority.

1996, c. 1021, § 15.1-1697; 1997, c. 587.

§ 15.2-5910.Bonds are tax exempt

The Authority shall not be required to pay any taxes or assessments of any kind whatsoever and its bonds, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of

taxation by this Commonwealth or by any of its political subdivisions, municipal corporations, or public agencies of any kind.

1996, c. 1021, § 15.1-1698; 1997, c. 587.

§ 15.2-5911.Sports Facility Authority Financing Fund; use

A. There is hereby created a Hampton Roads Sports Facility Authority Financing Fund ("Fund"). The Authority shall use the Fund as a nonlapsing revolving fund for carrying out the provisions of this chapter.

B. All of the following receipts of the Authority shall be placed in the Fund: (i) proceeds from the sale of bonds, (ii) revenues collected or received from any source under the provisions of this chapter, and (iii) any other revenues under the jurisdiction of the Authority.

C. The Authority shall pay all expenses and make all expenditures from the Fund. To the extent deemed appropriate by the Authority, the receipts of the Fund shall be pledged to and charged with the payment of debt service on Authority bonds and all reasonable charges and expenses related to Authority borrowing and the management of Authority obligation.

1996, c. 1021, § 15.1-1699; 1997, c. 587.

§ 15.2-5912.Additional duties

In addition to the duties set forth elsewhere in this chapter, the Authority shall:

1. Keep records as are consistent with sound business practices and accounting records using generally accepted accounting practices;

2. Cause an audit by an independent certified public accountant to be made of accounts and transactions at the conclusion of each fiscal year;

3. Be subject to audit and examination at any reasonable time of its accounts and transactions by the Auditor of Public Accounts; and

4. Submit a detailed report of any activities and change in financial standing to the Governor and to the General Assembly.

1996, c. 1021, § 15.1-1700; 1997, c. 587; 2005, c. 633.

§ 15.2-5913.Creation of local advisory boards

Prior to constructing any facility, the Authority shall create a local advisory board for that facility. Each local advisory board shall be composed of twelve members. Six members shall be appointed by the local governing body in which the proposed facility is to be located. Notwithstanding the provisions of § 15.2-1534, the governing body may appoint one or more of its members to serve on the local advisory board. Six members shall be appointed by the Authority, and each of those six members shall reside in the county or city in which the facility is proposed to be located. All advisory board

members shall be appointed for a term of four years. All advisory board members shall serve without pay, but a member may be reimbursed by the Authority for reasonable expenses actually incurred in the performance of advisory functions. Each advisory board shall elect a chairman and a secretary and such other officers as it deems necessary. The Authority shall give each local advisory board reasonable opportunity to provide appropriate comments and recommendations on the design and the operation of the facility in its locality.

1996, c. 1021, § 15.1-1701; 1997, c. 587.

§ 15.2-5914.Entitlement to sales tax revenues derived from a stadium

A. If the Authority has issued bonds to finance or refinance a stadium, the Authority shall be entitled to all sales tax revenues that are generated by transactions taking place upon the premises of the stadium. Such entitlement shall continue for the lifetime of such bonds, but that entitlement shall not exceed thirty years. All sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the Authority on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues generated by transactions taking place upon the premises of the stadium. The State Comptroller shall make such remittances to the Authority, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.).

B. If the Authority has issued bonds to finance or refinance a stadium, the local governing body of the locality in which the stadium is located may direct, by ordinance or resolution, that all local sales and use tax revenues generated by transactions taking place upon the premises of the stadium from taxes levied pursuant to §§ 58.1-605 and 58.1-606 shall be remitted by the State Comptroller to the Authority for the repayment of bonds. Such remittances shall be for the same period and under the same conditions as remittances to the Authority paid in accordance with subsection A, mutatis mutandis.

1996, c. 1021, § 15.1-1702; 1997, c. 587.

§ 15.2-5915.Tax revenues of the Commonwealth or any other political subdivision not pledged

Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the Commonwealth, or any of its revenues, or the faith and credit of any other political subdivision of the Commonwealth, or any of its revenues, for the payment of any bonds. Any appropriation made pursuant to this chapter shall be made only from sales tax revenues generated from transactions taking place upon the premises of the stadium for which bonds may have been issued to pay the cost, in whole or in part.

1996, c. 1021, § 15.1-1703; 1997, c. 587.

§ 15.2-5916.Cooperation between the Authority and other political subdivisions

The Authority may enter into agreements with any other political subdivision of the Commonwealth for joint or cooperative action in accordance with § 15.2-1300.

1996, c. 1021, § 15.1-1704; 1997, c. 587.

§ 15.2-5917.Expired

Expired.

Hampton Roads Transportation Accountability Commission

§ 33.2-2600.Hampton Roads Transportation Fund

There is hereby created in the state treasury a special nonreverting fund for Planning District 23 to be known as the Hampton Roads Transportation Fund, referred to in this chapter as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to § 58.1-638 and Chapter 22.1 (§ 58.1-2291 et seq.) of Title 58.1 shall be paid into the state treasury and credited 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 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The moneys deposited in the Fund shall be used solely for (i) new construction projects on new or existing highways, bridges, and tunnels in the localities comprising Planning District 23 as approved by the Hampton Roads Transportation Accountability Commission and (ii) administrative and operating expenses as specified in subsection B of § 33.2-2605. The Commission shall give priority to those projects that are expected to provide the greatest impact on reducing congestion for the greatest number of citizens residing within Planning District 23 and shall ensure that the moneys shall be used for such construction projects.

The amounts dedicated to the Fund shall be deposited monthly by the Comptroller into the Fund and thereafter distributed to the Commission as soon as practicable for use in accordance with this chapter. If the Commission determines that such moneys distributed to it exceed the amount required to meet the current needs and demands to fund transportation projects pursuant to this chapter, the Commission may invest such excess moneys to the same extent and in the same manner as provided in subsection A of § 33.2-1525 for excess funds in the Transportation Trust Fund.

The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of federal, state, or local revenues otherwise available to participating localities. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

2013, c. 766, § 33.1-23.5:4; 2014, cc. 545, 678, 805; 2016, cc. 603, 608.

§ 33.2-2600.1.Hampton Roads Regional Transit Program and Fund

A. The General Assembly declares it to be in the public interest that developing and continuing operations of reliable regional public transportation is important for a balanced and effective multimodal transportation system in the Hampton Roads region and is essential to the region's economic growth, vitality, and competitiveness. The General Assembly further declares that a special transportation program, to be known as the Hampton Roads Regional Transit Program (the Program), should provide for the costs of developing, maintaining, and improving a core regional network of

transit routes and related infrastructure, rolling stock, and support facilities that have the greatest positive impacts on economic development potential, employment opportunities, mobility, environmental sustainability, and quality of life. The goal of the Program is to provide a modern, safe, and efficient core network of transit services across the Hampton Roads region. The Program shall be incorporated into strategic plans developed pursuant to § 33.2-286 and adopted by the governing board of each transit entity and shall form the basis for the regional transit planning process coordinated by the federally designated Metropolitan Planning Organization.

B. There is hereby created in the state treasury a special nonreverting fund for Planning District 23 to be known as the Hampton Roads Regional Transit Fund, referred to in this chapter as "the Regional Transit Fund." The Regional Transit Fund shall be established on the books of the Comptroller. All revenues dedicated to the Regional Transit Fund pursuant to §§ 58.1-802.5, 58.1-816, and 58.1-1743 shall be paid into the state treasury and credited to the Regional Transit Fund. Interest earned on moneys in the Regional Transit Fund shall remain in the Regional Transit Fund and be credited to it. Any moneys remaining in the Regional Transit Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Regional Transit Fund.

C. The Regional Transit Fund shall be managed by the Commission, and disbursements from the Regional Transit Fund shall be approved by the Commission consistent with the regional transit planning process developed pursuant to subsection D of § 33.2-286. The moneys deposited in the Regional Transit Fund shall be used solely for (i) the development, maintenance, improvement, and operation of a core and connected regional network of transit routes and related infrastructure, rolling stock, and support facilities, to include the operation of a regional system of interjurisdictional, high-frequency bus service, in a transportation district in Hampton Roads created pursuant to § 33.2-1903 as included in the strategic plans and regional transit planning process developed pursuant to § 33.2-286 and (ii) administrative and operating expenses of the Commission as specified in subsection B of § 33.2-2605. In the allocation of funds, priority shall be given, when possible, to investments in the most sustainable and cost-effective operations, rolling stock, and facilities to reduce or eliminate reliance upon diesel fuels. Funds from the Regional Transit Fund shall not be used to support the expansion of light rail beyond the boundaries of a locality where light rail is operated on January 1, 2020. The amounts dedicated to the Regional Transit Fund shall be deposited monthly by the Comptroller into the Regional Transit Fund and thereafter distributed to the Commission as soon as practicable for use in accordance with this chapter. If the Commission determines that such moneys distributed to it exceed the amount required to meet the current needs and demands to fund transit projects pursuant to this chapter, the Commission may invest such excess moneys to the same extent and in the same manner as provided in subsection A of § 33.2-1525 for excess funds in the Transportation Trust Fund.

D. The amounts deposited into the Regional Transit Fund and the distribution and expenditure of such amounts shall not (i) be used to calculate or reduce the share of federal, state, or local revenues otherwise available to participating localities; (ii) allow a local government that is a member of the transportation district to reduce its local funding for public transportation purposes to an amount less than what was appropriated on July 1, 2019, for such purposes; or (iii) diminish or supplant allocations and appropriations from other sources or diminish allocations to which a transportation district, transit system, or locality would be entitled under any other provisions of law but shall supplement such funds to accelerate and augment transportation improvements in the Hampton Roads region. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined. Any amounts paid from the Regional Transit Fund shall be considered local funds when used to make a required match for state or federal transportation grant funds.

2020, cc. 1241, 1281.

§ 33.2-2601.Commission created

The Hampton Roads Transportation Accountability Commission, referred to in this chapter as "the Commission," is hereby created as a body politic and as a political subdivision of the Commonwealth. The Commission shall embrace each county and city located in Planning District 23, which is established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2.

2014, cc. 545, 678.

§ 33.2-2602.Composition of Commission

The Commission shall consist of 23 members as follows:

1. The chief elected officer of the governing body of each of the 10 cities embraced by the Commission;

2. A current elected official of each of the four counties embraced by the Commission, provided that such official (i) serves on the governing body of the county and (ii) has been appointed by resolution of such governing body to serve as the county's member on the Commission;

3. Three members of the House of Delegates who reside in different counties or cities embraced by the Commission, appointed by the Speaker of the House, and two members of the Senate who reside in different counties or cities embraced by the Commission, appointed by the Senate Committee on Rules; and

4. The following four persons serving as nonvoting ex officio members of the Commission: a member of the Commonwealth Transportation Board who resides in a locality embraced by the Commission and is appointed by the Governor; the Director of the Department of Rail and Public Transportation, or

his designee; the Commissioner of Highways, or his designee; and the Executive Director of the Virginia Port Authority, or his designee.

All members of the Commission shall serve terms coincident with their terms of office. Vacancies shall be filled in the same manner as the original appointment. If a member of the Commission who represents a locality as provided in subdivision 1 or 2 is unable to attend a meeting of the Commission, he may designate another current elected official of such governing body to attend a meeting of the Commission. Such designation shall be for the purposes of one meeting and shall be submitted in writing or electronically to the Chairman of the Commission at least 48 hours prior to the affected meeting.

The Commission shall elect a chairman and vice-chairman from among its voting membership.

The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the financial accounts of the Commission, and the cost of such audit shall be borne by the Commission.

2014, cc. 545, 678; 2016, cc. 603, 608.

§ 33.2-2603.Staff

The Commission may employ a chief executive officer and such staff as it shall determine to be necessary to carry out its duties and responsibilities under this chapter. No such person shall contemporaneously serve as a member of the Commission. The Department of Transportation and the Department of Rail and Public Transportation shall make their employees available to assist the Commission, upon request.

2014, cc. 545, 678.

§ 33.2-2604.Decisions of Commission

A majority of the Commission, which majority shall include at least a majority of the total of chief elected officers and elected officials who represent the counties and cities embraced by the Commission, or their designees pursuant to § 33.2-2602, shall constitute a quorum. Decisions of the Commission shall require a quorum and shall be in accordance with voting procedures established by the Commission. In all cases, decisions of the Commission shall require the affirmative vote of two-thirds of the members of the Commission, or their designees, present and voting, and two-thirds of the total of chief elected officers and elected officials who represent the counties and cities embraced by Planning District 23, or their designees, who are present and voting and whose counties and cities include at least two-thirds of the population embraced by the Commission; however, no motion to fund a specific facility or service shall fail because of this population criterion if such facility or service is not located or to be located or provided or to be provided within the county or city whose chief elected officer's or elected official's, or its respective designee's, sole negative vote caused the facility or service to fail to meet the population criterion. The population of counties and cities embraced by the Commission shall be the population as determined by the most recently preceding decennial census,

except that on July 1 of the fifth year following such census, the population of each county and city shall be adjusted, based on population estimates made by the Weldon Cooper Center for Public Service of the University of Virginia.

2014, cc. 545, 678; 2015, c. 232; 2016, cc. 603, 608.

§ 33.2-2605.Annual budget and allocation of expenses

A. The Commission shall adopt an annual budget and develop a funding plan and shall provide for such adoption in its bylaws. The funding plan shall provide for the expenditure of funds over a four- to six-year period and shall align with the Statewide Transportation Plan established pursuant to § 33.2-353 as much as possible. The Commission shall solicit public comment on its budget and funding plan by posting a summary of such budget and funding plan on its website and holding a public hearing. Such public hearing shall be advertised on the Commission's website and in a newspaper of general circulation in Planning District 23.

B. The administrative and operating expenses of the Commission shall be provided in an annual budget adopted by the Commission. To the extent that funds for such expenses are not provided from other sources, the expenses shall be paid from the Fund and the Regional Transit Fund on an approximately pro rata basis of the programs supported by the Fund and the Regional Transit Fund. Such budget shall be limited solely to the administrative and operating expenses of the Commission and shall not include any funds for construction or acquisition of transportation facilities or the performance of any transportation service.

C. Members may be reimbursed for all reasonable and necessary expenses provided in §§ 2.2-2813 and 2.2-2825, if approved by the Commission. Funding for the costs of compensation and expenses of the members shall be provided by the Commission.

2014, cc. 545, 678; 2016, cc. 603, 608; 2020, cc. 1241, 1281.

§ 33.2-2606.Authority to issue bonds

The Commission may issue bonds and other evidences of debt as may be authorized by this section or other law. The provisions of Article 5 (§ 33.2-1920 et seq.) of Chapter 19 shall apply, mutatis mutandis, to the issuance of such bonds or other debt. The Commission may issue bonds or other debt in such amounts as it deems appropriate. The bonds may be supported by any funds available, except that funds from tolls collected pursuant to § 33.2-2607 shall be used only as provided in that section.

2014, cc. 545, 678.

§ 33.2-2607.Powers of the Commission

Notwithstanding any contrary provision of this title and in accordance with all applicable federal statutes and requirements, the Commission shall control and operate and may impose and collect

tolls in amounts established by the Commission for the use of any new or improved highway, bridge, or tunnel, to increase capacity on such facility or to address congestion within Planning District 23, constructed by the Commission (i) with federal, state, or local funds, (ii) solely with revenues of the Commission, or (iii) with revenues under the control of the Commission. The amount of any such toll may be varied from facility to facility, by lane, by congestion levels, by day of the week, by time of day, by type or size of vehicle, by number of axles, or by any similar combination thereof or any other factor the Commission may deem proper, and a reduced rate may be established for commuters as defined by the Commission. All such tolls shall be used for programs and projects that are reasonably related to or benefit the users of the new or improved highway, bridge, or tunnel, including, but not limited to, for the debt service and other costs of bonds whose proceeds are used for construction or improvement of such highway, bridge, or tunnel.

Any tolls imposed by the Commission shall be collected by an electronic toll system that, to the extent possible, shall not impede the traffic flow of the facility or prohibit a toll facility from retaining means of nonautomated toll collection in some lanes of the facility. For all facilities tolled by the Commission, there shall be signs erected prior to the point of toll collection that clearly state how the majority of the toll revenue is being spent by the Commission to benefit the users of the facility.

2014, cc. 545, 678.

§ 33.2-2608.Additional powers of the Commission

A. The Commission shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at its pleasure;

3. To procure insurance, participate in insurance plans, and provide self-insurance; however, the purchase of insurance, participation in an insurance plan, or the creation of a self-insurance plan by the Commission shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Commission or its officers, directors, employees, or agents are otherwise entitled;

4. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Commission's affairs;

5. To apply for and accept money, materials, contributions, grants, or other financial assistance from the United States and agencies or instrumentalities thereof; the Commonwealth; and any political subdivision, agency, or instrumentality of the Commonwealth; and from any legitimate private source;

6. To acquire real and personal property or any interest therein by purchase, lease, gift, or otherwise for purposes consistent with this chapter and to hold, encumber, sell, or otherwise dispose of such land or interest for purposes consistent with this chapter;

7. To acquire by purchase, lease, contract, or otherwise, highways, bridges, or tunnels and to construct the same by purchase, lease, contract, or otherwise;

8. In consultation with the Commonwealth Transportation Board and with each city or county in which the facility or any part thereof is or is to be located, to repair, expand, enlarge, construct, reconstruct, or renovate any or all highways, bridges, and tunnels within Planning District 23 and to acquire any real or personal property needed for any such purpose;

9. To enter into agreements or leases with public or private entities for the operation and maintenance of bridges, tunnels, transit and rail facilities, and highways;

10. To make and execute contracts, deeds, mortgages, leases, and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;

11. To the extent funds are made or become available to the Commission to do so, to employ employees, agents, advisors, and consultants, including without limitation attorneys, financial advisers, engineers, and other technical advisers and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation; and

12. To the extent not inconsistent with the other provisions of this chapter, and without limiting or restricting the powers otherwise given the Commission, to exercise all of the powers given to transportation district commissions by § 33.2-1919.

B. The Commission shall comply with the provisions governing localities contained in § 15.2-2108.23.

2014, cc. 545, 678.

§ 33.2-2609.Commission a responsible public entity under Public-Private Transportation Act of 1995

The Commission is a responsible public entity as defined in § 33.2-1800 and shall be regulated in accordance with the terms of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) and regulations and guidelines adopted pursuant thereto.

2014, cc. 545, 678.

§ 33.2-2610.Continuing responsibilities of the Commonwealth Transportation Board and the Department of Transportation

Except as otherwise explicitly provided in this chapter, until such time as the Commission and the Department of Transportation, or the Commission and the Commonwealth Transportation Board,

agree otherwise in writing, the Commonwealth Transportation Board shall allocate funding to and the Department of Transportation shall perform or cause to be performed all maintenance and operation of the bridges, tunnels, and roadways and shall perform such other required services and activities with respect to such bridges, tunnels, and roadways as were being performed on July 1, 2014.

2014, cc. 545, 678.

§ 33.2-2611.Use of revenues by the Commission

Notwithstanding any other provision of this chapter, all moneys received by the Commission shall be used by the Commission solely for the benefit of those counties and cities that are embraced by the Commission, and such moneys shall be used by the Commission in a manner that is consistent with the purposes stated in this chapter.

2014, cc. 545, 678.

§ 33.2-2612.Additional tolling authority of the Commission

A. For the purposes of this section, "the facility" means the vicinity of the interchange of Interstate 64 and Jefferson Avenue to the interchange of Interstate 64, Interstate 264, and Interstate 664.

B. The Commission shall, subject to the conditions provided in this section, have the authority to impose and collect tolls on high-occupancy toll lanes on Interstate 64 in the facility. The tolls authorized by this section may only be imposed on a portion of the facility that has been designated as high-occupancy toll lanes by the Board pursuant to § 33.2-502, and the amount of the tolls shall be varied by congestion level. All such tolls may be used for programs and projects that are reasonably related to or that benefit users of the facility and, without limiting the foregoing, may be used to pay the debt service on and related reserves and financing costs for, and pledged to support, bonds and other evidences of indebtedness the proceeds of which are or were used for construction or improvement of the facility.

C. Prior to the imposition of tolls pursuant to this section, the Commission shall enter into an agreement with the Board and the Department that (i) sets the standards for the operations of the facility, including the collection of tolls; (ii) addresses the use and application of toll revenues and toll-backed debt proceeds and the reimbursement of any funds expended by the Board or the Department to convert any portion of the facility from high-occupancy vehicle lanes to high-occupancy toll lanes, as these terms are defined in § 33.2-500; and (iii) contains such other provisions deemed appropriate and necessary to ensure the safe and efficient operations of the general purpose and high-occupancy toll lanes on any portion of the facility where the Commission intends to exercise the authority provided in subsection B.

2020, c. 703.

Harrisonburg Parking Authority

Created
1958 Acts of Assembly, c. 517.

Amendments
1968, c. 544 (§§ 3, 7, 9, 13-a [added], 14, 18 [added])

§ 1. Short title.
This Act shall be known and may be cited as the "Harrisonburg Parking Authority Act". (1958, c. 517)

§ 2. Declaration of public necessity.
It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the city of Harrisonburg in the Commonwealth is necessary to the health, safety and general welfare of the public, whether residing in the municipality or traveling to, through or from such municipality in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of the municipality; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the present time a public nuisance; that such parking prevents the free circulation of traffic in, through and from the municipality, and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions for sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided; and that the enactment of the provisions of this Act is hereby declared to be a public necessity. (1958, c. 517)

§ 3. Definitions.
As used in this Act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Authority created under the provisions of this Act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this Act to the Authority shall be given by law.

(a-1) The word "bonds" or the words "revenue bonds" shall mean revenue bonds, revenue refunding bonds or notes of the Authority issued under the provisions of this act.

(b) The word "cost" as applied to Parking Facilities or to extensions or additions thereto shall include the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and interests acquired by the Authority for such construction or reconstruction or the operation thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during construction, and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal services, cost

of plans and specifications, surveys and estimates of cost and of revenues, administrative expense and such other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof and the placing of the Parking Facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this Act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(c) The words "governing body" shall mean the board, commission, council or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.

(d) The word "municipality" shall mean the city of Harrisonburg in the Commonwealth of Virginia.

(e) The words "Parking Facilities" shall mean and shall include lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to public use for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and busses, waiting rooms, lockers, and offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the construction or operation thereof; provided, however, the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles. (1958, c. 517; 1968, c. 544)

§ 4. Creation of the Authority.

(a) The governing body of the municipality may by resolution signify its determination to organize an Authority under the provisions of this Act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereon. Such municipality shall not be required to make any other publication of such resolution under the provisions of any other law.

(b) Such resolution shall include articles of incorporation which shall set forth:

(1) the name of the Authority;

(2) a statement that such Authority is organized under this Act;

(3) the name of the organizing municipality; and

(4) the names and addresses of the first members of the authority appointed by the organizing municipality.

(c) Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the Commonwealth of Virginia. (1958, c. 517)

§ 5. Membership of the Authority.

The Authority organized under the provisions of this Act shall consist of five members selected by the governing body of the organizing municipality who shall serve for terms expiring one, two, three, four, and five years, respectively, from the date of appointment, the term of each such member to be designated by said governing body. The successor of each member of the Authority shall be appointed for a term of five years but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Authority before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Authority.

The Authority shall select one of its members as Chairman and another as Vice-Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice-Chairman, Secretary and Treasurer shall be as provided in the by-laws of the Authority.

A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of all of the members of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all of the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. (1958, c. 517)

§ 6. General grant of powers.

The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such Authority is hereby authorized and empowered:

(a) to adopt by-laws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to maintain an office at such place or places as it may designate;

(d) to sue and be sued in its own name, plead and be impleaded;

(e) to construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of the organizing municipality;

(f) to issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;

(g) to issue revenue refunding bonds of the Authority as hereinafter provided;

(h) to fix and revise from time to time and to charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time relations in respect of the use, operation and occupancy of such parking facilities or part thereof;

(i) to accept from any authorized agency of the Federal Government loans or grants for the planning, construction or acquisition of any parking facilities and to enter into agreements with such agency respecting any such loans or grants, and to receive and accept aid and contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants or contributions may be made;

(j) to acquire in the name of the Authority by gift, purchase or the exercise of the right of eminent domain in accordance with the laws of the Commonwealth of Virginia which are applicable to the exercise of such powers by cities or towns, any lands or rights in lands and interest therein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facilities; provided, however, that no property of any corporation itself having the power of eminent domain may be condemned hereunder; and provided, further, that the Authority shall not condemn any lands or personal property or right or interest therein, unless authorized so to do by resolution of the governing body of the city;

(k) to lease all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this Act; provided, however, that no enterprise involving the sale or dispensing of any product or commodity used in or for the servicing of motor vehicles shall be conducted on any space thereon;

(l) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this Act;

(m) to do all acts and things necessary or convenient to carry out the powers granted by this Act; and

(n) nothing in this Act shall be construed as authorizing the Authority or any lessee to furnish or dispense at, or in connection with, any parking lot or area authorized by this Act, any product or service other than parking of vehicles. (1958, c. 517)

§ 7. Revenue bonds.

The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving, extending or enlarging any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates not exceeding six per centum (6%) per annum, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Act or any recitals in any bonds issued under the provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and Interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per centum (6%) per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in

the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this Act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this Act.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth or of any municipality or other political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any municipality or other political subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds. (1958, c. 517; 1968, c. 544)

§ 8. Revenues.

The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by any parking facilities or parts thereof owned or operated by the Authority. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all ties (a) to pay the cost of maintaining, repairing and operating the parking facilities or parts thereof owned or operated by the Authority, including reserves for such purposes, and (b) to pay the principal of and the interest on all bonds issued by the Authority under the provisions of this Act as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the Authority may enter into contracts relating to use of the services and facilities of the parking facilities on such terms as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms. (1958, c. 517)

§ 9. Trust agreement.

In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received. In connection with the issuance of such bonds or in order to secure the payment thereof, the Authority shall have power under such agreement to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, to vest in the trustee thereunder the right to foreclose such mortgage and to provide the terms and conditions upon which such trustee or the holders of bonds or any proportion thereof may exercise the right of foreclosure. Such trust agreement or resolution providing for the issuance of such bonds and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this Act otherwise provided, the Authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any parking facilities or part thereof to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this Act shall be valid and binding from the time when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. (1958, c. 517; 1968, c. 544)

§ 10. Trust funds.

All moneys received pursuant to the authority of this Act shall be deemed to be trust funds, to be held and applied solely as provided in this Act. Any officer to whom, or bank, trust company or fiscal agent

to which, such moneys shall be paid shall act as trustee of .such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this Act and the resolution authorizing the issuance of bonds or trust agreement securing such bonds may provide. (1958, c. 517)

§ 11. Remedies.

Any holder of revenue bonds issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this Act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of rates, rentals, fees and charges for the use of or for the services and facilities furnished by any Parking Facilities. (1958, c. 517)

§ 12. Exemption from taxation.

As adequate off-street Parking Facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this Act to effect such purposes constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this Act constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this Act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this Act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the Commonwealth. (1958, c. 517)

§ 13. Revenue refunding bonds.

The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (a) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions or enlargements of any parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the foregoing provisions of this Act in so far as the same may be applicable. (1958, c. 517)

§ 13-a. Competing parking facilities.

So long as any bonds issued under the provisions of this act are outstanding, the municipality shall not construct, operate or maintain any parking facilities competing with parking facilities of the Authority. (1968, c. 544)

§ 14. Contributions.

The municipality is hereby authorized to make contributions or advances to an Authority which it organizes under the provisions of this Act, from any available moneys for any purpose of the Authority, including payment of principal and interest on its bonds. The municipality is hereby further authorized to enter into agreement with the Authority obligating the municipality to pay the Authority any part or all of the receipts for the operation of on-street parking meters and making such covenants as may be deemed necessary or desirable to assure the successful and profitable operation of the on-street parking meters for so long as any bonds of the Authority remain outstanding. (1958, c. 517; 1968, c. 544)

§ 15. Actions taken by Authority.

Any action taken by the Authority under the provisions of this Act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately and need not be published or posted. (1958, c. 517)

§ 16. Additional method.

This Act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds. (1958, c. 517)

§ 17. Provisions of act severable.

The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (1958, c. 517)

§ 18. Constructions.

This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof. (1968, c. 544)

Herndon Parking Authority

Created

1991 Acts of Assembly, c. 142.

§ 1. Short title.

This act shall be known and may be cited as the "Herndon Parking Authority Act." (1991, c. 142)

§ 2. Declaration of public necessity.

It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the Town of Herndon in the Commonwealth is necessary to the health, safety and general welfare of the public, whether residing in the municipality or traveling to, through, or from such municipality in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of the municipality; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the present time a public nuisance; that such parking prevents the free circulation of traffic in, through, and from the municipality, and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions for sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided; and that the enactment of the provisions of this act is hereby declared to be a public necessity. (1991, c. 142)

§ 3. Definitions.

As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

"Authority" means the Authority created under the provisions of this act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the Authority shall be given by law.

"Bonds" or "revenue bonds" means revenue bonds, revenue refunding bonds or notes of the Authority issued under the provisions of this act.

"Cost," as applied to parking facilities or to extensions or additions thereto, includes the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and interests acquired by the Authority for such construction or reconstruction or the operations thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during construction, and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal services, cost of plans and specifications, surveys and estimates of cost and of revenues, administrative expense and such other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof and the placing of the parking facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the

provisions of this act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

"Governing body" means the council or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.

"Municipality" means the Town of Herndon in the Commonwealth of Virginia.

"Parking facilities" means and includes lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to public use either free or for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and busses, waiting rooms, lockers, and offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the construction or operation thereof; however, the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles. (1991, c. 142)

§ 4. Creation of the Authority.

A. The governing body of the municipality may by resolution signify its determination to organize an Authority under the provisions of this act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than ten days prior to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereon. Such municipality shall not be required to make any other publication of such resolution under the provisions of any other law.

Such resolution shall include articles of incorporation which shall set forth:

1. The name of the Authority;

2. A statement that such Authority is organized under this act;

3. The name of the organizing municipality; and

4. The names and addresses of the first members of the Authority appointed by the organizing municipality.

C. Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the Commonwealth of Virginia. (1991, c. 142)

§ 5. Membership of the Authority.

The Authority organized under the provisions of this act shall be operated by a Board of Directors which shall consist of five members selected by the governing body of the organizing municipality

who shall serve for terms expiring one, two, three, four, and five years, respectively, from the date of appointment, the term of each such member to be designated by the governing body. The successor of each member of the Authority shall be appointed for a term of five years; any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Board before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Board.

The Board shall select from its membership one of its members as Chairman and another as Vice Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice Chairman, Secretary and Treasurer shall be as provided in the bylaws of the Authority.

A majority of the members of the Board shall constitute a quorum and the affirmative vote of a majority of all of the members of the Board shall be necessary for any action taken by the Authority. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all of the duties of the Authority. The members of the Board shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties.

The Town Manager of the organizing municipality or his designee shall serve as an ex officio, nonvoting member of the Authority. (1991, c. 142)

§ 6. General grant of powers.

The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and such Authority is hereby authorized and empowered to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;
2. Adopt an official seal and alter the same at pleasure;
3. Maintain an office at such place or places as it may designate;
4. Sue and be sued in its own name, plead and be impleaded;
5. Construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of the organizing municipality;

6. Issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;

7. Issue revenue refunding bonds of the Authority as hereinafter provided;

8. Fix and revise from time to time and charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time regulation in respect of the use, operation and occupancy of such parking facilities or part thereof;

9. Acquire in the name of the Authority by gift, or purchase, any lands or rights in lands and interest herein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facility;

10. Lease all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this act; however, no enterprise involving the sale or dispensing of any product or commodity used in or for the servicing of motor vehicles shall be conducted on any space thereon;

11. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; however, all such expenses shall be payable solely from funds made available under the provisions of this act;

12. Do all acts and things necessary or convenient to carry out the powers granted by this act;

13. Make and enter into all contracts without competition with respect to any item of cost of parking facilities, including parking structures; and

14. Sell, exchange, donate, and convey any or all of its facilities or properties whenever its members shall find any such action to be in furtherance of the purposes for which the Authority was organized. (1991, c. 142)

§ 7. Revenue bonds.

The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving, extending, enlarging, maintaining, repairing or operating any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates not exceeding the maximum rate allowed by

law, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In any case any officer whose signature or a facsimile of whose signature shall appear on any bonds shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interest of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than the maximum rate allowed by law to be paid by public bodies, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision,

and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth or of any municipality or other political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any municipality or other political subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds. (1991, c. 142)

§ 8. Revenues.

The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by any parking facilities or parts thereof owned or operated by the Authority. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all times to (i) pay the cost of maintaining, repairing and operating the parking facilities or parts thereof owned or operated by the Authority, including reserves for such purposes, and (ii) pay the principal of and the interest on all bonds issued by the Authority under the provisions of this act as the same shall become due and payable and to provide reserves therefor.

Notwithstanding any of the foregoing provisions of this section, the Authority may enter into contracts relating to use of the services and facilities of the parking facilities on such terms as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms. (1991, c. 142)

§ 9. Trust agreement.

In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received. In connection with the issuance of such bonds or in order to secure the payment thereof, the Authority shall have power under such agreement to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, to vest in the trustee thereunder the right to foreclose such mortgage and to provide the terms and conditions upon which such trustee or the holders of bonds or any proportion thereof may exercise the right of foreclosure. Such trust agreement or resolution providing for the issuance for such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance

of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this act otherwise provided, the Authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any parking facilities or part thereof to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this act shall be valid and binding from the time when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledges without any physical delivery thereof, or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. (1991, c. 142)

§ 10. Trust funds.

All moneys received pursuant to the authority of this act shall be deemed to be trust funds, to be held and applied solely as provided in this act. Any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purpose hereof, subject to such regulations as this act and the resolution authorizing the issuance of bonds or trust agreement securing such bonds may provide. (1991, c. 142)

§ 11. Remedies.

Any holder of revenue bonds issued under the provisions of this act, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting

of rates, rentals, fees and charges for the use of or for the services and facilities furnished by any parking facilities. (1991, c. 142)

§ 12. Exemption from taxation.

As adequate off-street parking facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this act to effect such purposes constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the Commonwealth. (1991, c. 142)

§ 13. Revenue refunding bonds.

The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (i) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (ii) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions or enlargements of any parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the foregoing provisions of this act insofar as the same may be applicable. (1991, c. 142)

§ 14. Competing parking facilities.

So long as any bonds issued under the provisions of this act are outstanding, the municipality shall not construct, operate or maintain any parking facilities competing with parking facilities of the Authority. (1991, c. 142)

§ 15. Contributions.

The municipality is hereby authorized to make contributions or advances to an Authority which it organizes under the provisions of this act from any available moneys for any purpose of the Authority, including payment of principal and interest on its bonds. The municipality is hereby further authorized to enter into agreements with the Authority obligating the municipality to pay the Authority any part or all of the receipts from the operation of on-street parking meters and making such covenants as may

be deemed necessary or desirable to ensure the successful and profitable operation of the on-street parking meters for so long as any bonds of the Authority remain outstanding. (1991, c. 142)

§ 16. Actions taken by Authority.

Any action taken by the Authority under the provisions of this act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately and need not be published or posted. (1991, c. 142)

§ 17. Additional method.

This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; however, the issuance of revenue bonds or revenue refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds. (1991, c. 142)

§ 18. Severability.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (1991, c. 142)

§ 19. Construction.

This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof. (1991, c. 142)

Hospital Authorities

§ 15.2-5300.Finding and declaration of necessity

It is declared that conditions resulting from the concentration of population of various cities of the Commonwealth require the construction, maintenance and operation of adequate hospital facilities for the care of the public health, for the control and treatment of epidemics, for the care of the indigent and for the public welfare. In various cities of the Commonwealth, adequate hospital facilities are not available to the inhabitants, and, consequently, many persons, including persons of low income, are forced to do without adequate medical and hospital care and accommodations. These conditions cause an increase in and the spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the Commonwealth and impair economic values. The aforesaid conditions also exist in certain areas surrounding such cities, and these conditions cannot be remedied by the ordinary operations of private enterprises. The providing of adequate hospital and medical care are public uses and purposes for which public money may be spent and private property acquired. It is in the public interest that adequate hospital and medical facilities and care be provided in such concentrated centers of population in order to care for and protect the health and public welfare. The provisions hereinafter enacted are declared as a matter of legislative determination necessary in the public interest.

Code 1950, § 32-213; 1979, c. 719, § 15.1-1533; 1997, c. 587.

§ 15.2-5301.Definitions

As used or referred to in this chapter unless a different meaning clearly appears from the context:

"Authority" or "hospital authority" means a body corporate organized in accordance with the provisions of this chapter for the purposes, with the powers and subject to the restrictions hereinafter set forth.

"Bonds" means any bonds, interim certificates, notes, debentures, or other obligations of the authority issued pursuant to this chapter.

"City," means both cities and counties, and city-specific terms such as "mayor" shall be deemed to also include the equivalent county term.

"Commissioner" means one of the members of an authority appointed in accordance with the provisions of this chapter.

"Contract" means any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

"Cost," as applied to a hospital project, means all or any part of the cost of acquisition, construction, alteration, enlargement, reconstruction and remodeling of a hospital project, including all lands, structures, real or personal property, interest in land and air rights, the cost of demolishing or removing

any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to, during and for a period of time not to exceed two years after completion, provisions for working capital, the cost of architectural engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the hospital project and such other expenses as may be necessary or incidental to the acquisition and construction of such project, the financing of such acquisition and construction and the placing of the project in operation.

"Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

"Government" means the Commonwealth and the federal government and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

"Hospital project" or "project" means any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing adequate hospital facilities and medical care for concentrated centers of population, and also includes any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, franchises, machinery, equipment, furnishings, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention or palliation of any human illness, injury, disorder, or disability; together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto; or equipment alone, including, without limitation, parking facilities, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles, and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

"Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a hospital project or any assignee or assignees of such lessor's interest or any part thereof, and the United States of America when it is a party to any contract with the authority.

"Real property" includes lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgments, mortgage or otherwise.

"Trust indenture" includes instruments pledging the revenues of real or personal properties but not conveying such properties or conferring a right to foreclose and cause a sale thereof.

Code 1950, § 32-214; 1973, c. 462, § 15.1-1534; 1979, c. 719; 1997, c. 587; 2006, c. 658; 2014, c. 502.

§ 15.2-5302.Creation of hospital authorities

In each city there shall be a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in this chapter, to be known as the "hospital authority" of the city.

Code 1950, § 32-215; 1979, c. 719, § 15.1-1535; 1997, c. 587.

§ 15.2-5303.Not to function until council declares need

No authority shall transact any business or exercise its powers until or unless the council of the city by resolution declares at any time hereafter that there is need for an authority to function in the city.

Code 1950, § 32-216; 1979, c. 719, § 15.1-1536; 1997, c. 587.

§ 15.2-5304.How need determined

The determination as to whether there is a need for an authority to function may be made by the governing body on its own motion or upon the filing of a petition, signed by 100 registered voters of the city, asserting that there is need for an authority to function in the city and requesting that the governing body so declare.

Code 1950, § 32-217; 1979, c. 719, § 15.1-1537; 1997, c. 587.

§ 15.2-5305.What constitutes need

The council may adopt a resolution declaring that there is need for a hospital authority in the city if it finds (i) that there are inadequate hospital facilities and medical accommodations from the operations of private enterprises in the city and the surrounding area, or (ii) that the public health and welfare, including the health and welfare of persons of low income in the city and the surrounding area, require the construction, maintenance or operation of public hospital facilities for such inhabitants.

Code 1950, § 32-218; 1979, c. 719, § 15.1-1538; 1997, c. 587.

§ 15.2-5306.Effect and sufficiency of resolution declaring need

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution of the governing body declaring the need for the authority. Such resolution shall be deemed sufficient if it

declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the conditions enumerated in § 15.2-5305 exist in the city. A copy of such resolution duly certified by the clerk shall be admissible in evidence in any suit, action or proceeding.

Code 1950, § 32-219; 1979, c. 719, § 15.1-1539; 1997, c. 587.

§ 15.2-5307.Appointment, qualifications, tenure and compensation of commissioners

An authority shall consist of not more than 15 commissioners appointed by the mayor, and he shall designate the first chairman. No more than three commissioners shall be practicing physicians. No officer or employee of the city, with the exception of the director of a local health department, shall be eligible for appointment; however, no director of a local health department shall serve as chairman of the authority. No local health director who serves as a hospital authority commissioner shall serve as a member of the regional health planning agency board simultaneously. No practicing physician shall be appointed to such authority in the City of Hopewell.

One-third of the commissioners who are first appointed shall be designated by the mayor to serve for terms of two years, one-third to serve for terms of four years, and one-third to serve for terms of six years, respectively, from the date of their appointment. Thereafter, the term of office shall be six years. No person shall be appointed to succeed himself following four successive terms in office; no term of less than six years shall be deemed a term in office for the purposes of this sentence.

A commissioner shall hold office until the earlier of the effective date of his resignation or the date on which his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. In the event of a vacancy in the office of commissioner by expiration of term of office or otherwise, the remaining commissioners shall submit to the mayor nominations for appointments. The mayor may successively require additional nominations and shall have power to appoint any person so nominated. All such vacancies shall be filled from such nominations. A majority of the commissioners currently in office shall constitute a quorum. The mayor may file with the city clerk a certificate of the appointment or reappointment of any commissioner, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services, but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties.

Code 1950, § 32-220; 1960, c. 305; 1968, c. 783, § 15.1-1540; 1977, c. 158; 1979, c. 719; 1986, c. 240; 1997, c. 587; 2005, c. 630; 2006, c. 658; 2007, c. 813.

§ 15.2-5308.Officers and agents

When the office of the first chairman of the authority becomes vacant, the authority shall select a chairman from among its commissioners. An authority shall select from among its members a vice-chairman, and it may employ a secretary, technical experts, and such other officers, agents and

employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. An authority may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it deems proper.

Code 1950, § 32-221; 1979, c. 719, § 15.1-1541; 1997, c. 587.

§ 15.2-5309.Effect of inclusion of existing hospital

If the authority and the trustees, directors or managers of any nonprofit or charitable hospital in a city should agree upon and consummate a transaction whereby the nonprofit or charitable hospital should thereafter be included within the hospital project or projects of the authority, the number of commissioners of such authority shall be increased to not exceeding fifteen. The additional commissioners shall be appointed by the mayor from nominations of the commissioners then in office, and the terms of the additional commissioners shall be arranged by the mayor in making such appointments as follows:

The terms of one-third of the commissioners shall expire in two years or less, one-third in four years or less, and one-third in six years or less, concurrently with the expiration of the terms of the commissioners then in office.

Code 1950, § 32-222; 1960, c. 305; 1979, c. 719, § 15.1-1542; 1997, c. 587.

§ 15.2-5310.Authority and commissioners must comply with law and contracts

The authority and its commissioners shall be under a statutory duty to comply or to cause compliance strictly with all provisions of this chapter and the laws of the Commonwealth and, in addition thereto, with each and every term, provision and covenant in any contract of the authority on its part to be kept or performed.

Code 1950, § 32-223; 1979, c. 719, § 15.1-1543; 1997, c. 587.

§ 15.2-5311.Removal of commissioner on charges of mayor

The mayor may remove a commissioner for inefficiency or neglect of duty or misconduct in office, but only after the commissioner has been given a copy of the charges against him, which may be made by the mayor, at least ten days prior to the hearing thereon and has had an opportunity to be heard in person or by counsel.

Code 1950, § 32-225; 1979, c. 719, § 15.1-1544; 1997, c. 587.

§ 15.2-5312.Removal of commissioner on charges of obligee

Any obligee of the authority may file with the mayor written charges that the authority is willfully violating any law of the Commonwealth or any term, provision or covenant in any contract to which the authority is a party. The mayor shall give each of the commissioners a copy of such charges at least ten days prior to the hearing thereon and an opportunity to be heard in person or by counsel and shall

within fifteen days after receipt of such charges remove any commissioners of the authority who shall have been found to have acquiesced in any such willful violation.

Code 1950, § 32-226; 1979, c. 719, § 15.1-1545; 1997, c. 587.

§ 15.2-5313.Service on commissioner by mail

If, after due and diligent search, a commissioner to whom charges are required to be delivered hereunder cannot be found within the city where the authority is located, such charges shall be deemed served upon the commissioner if mailed to him at his last known address as it appears upon the records of the authority.

Code 1950, § 32-227; 1979, c. 719, § 15.1-1546; 1997, c. 587.

§ 15.2-5314.When commissioner deemed to have acquiesced in violation

A commissioner shall be deemed to have acquiesced in a willful violation by the authority of a law of this Commonwealth or of any term, provision or covenant contained in a contract to which the authority is a party if, before a hearing is held on charges against him, he has not filed a written statement with the authority of his objections to, or lack of participation in, such violation.

Code 1950, § 32-228; 1979, c. 719, § 15.1-1547; 1997, c. 587.

§ 15.2-5315.Record of removal proceedings

In the event of the removal of any commissioner, the mayor shall file in the office of the city clerk a record of the proceedings together with the charges made against the commissioner and the findings thereon.

Code 1950, § 32-229; 1979, c. 719, § 15.1-1548; 1997, c. 587.

§ 15.2-5316.Removed commissioner may appeal

Any commissioner thus removed may, within ten days after the mayor's action, appeal to the circuit court of the city, and the decision of such court shall be final.

Code 1950, § 32-230; 1979, c. 719, § 15.1-1549; 1997, c. 587.

§ 15.2-5317.Planning and zoning laws

All hospital projects of an authority shall be subject to the planning and zoning laws, ordinances and regulations applicable to the locality in which the hospital project is situated.

Code 1950, § 32-231; 1979, c. 719, § 15.1-1550; 1997, c. 587.

§ 15.2-5318.Reports

The authority shall at least once a year file with the mayor of the city an audit report by a certified public accountant of its activities for the preceding year, and shall make any recommendations with reference to any additional legislation or other action that may be necessary in order to carry out the purposes of this chapter.

Code 1950, § 32-232; 1979, c. 719, § 15.1-1551; 1997, c. 587.

§ 15.2-5319.Appropriations by city

The governing body of any city in which the authority is located may make appropriations for the improvement, maintenance or operation of any public hospital or hospital project constructed, maintained, or operated by or to be constructed, maintained or operated by an authority.

Code 1950, § 32-233; 1979, c. 719, § 15.1-1552; 1997, c. 587.

§ 15.2-5320.Conveyance, lease or transfers of property by city to authority

In order to provide for the construction, reconstruction, improvement, repair or management of any hospital or hospital project or in order to accomplish any of the purposes of this chapter, any city may, with or without consideration or for a nominal consideration, lease, sell, convey or otherwise transfer to an authority, within such city, any real, personal or mixed property including, but not limited to, any existing hospital or hospital project as a going concern or otherwise, and including the assignment and transfer of any part of or all money, choses in action and other assets used or held for the use of such hospital or hospital project. In connection with any such transaction the authority involved may accept such lease, transfer, assignment and conveyance and bind itself to the performance and observance of any agreements and conditions attached thereto.

Code 1950, § 32-234; 1979, c. 719, § 15.1-1553; 1997, c. 587.

§ 15.2-5321.Chapter controlling

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling. Nothing in this chapter shall prevent any city from establishing, equipping, and operating a hospital or hospitals or improving or extending existing hospitals and hospital facilities under the provisions of its charter or any general law other than this chapter.

Code 1950, § 32-235; 1979, c. 719, § 15.1-1554; 1997, c. 587.

Hospital or Health Center Commissions

§ 15.2-5200.Creation of commission

In each locality, and in each group of two or more of such political subdivisions whose governing bodies declare by resolution that the locality needs a hospital or health center, a hospital or health center commission shall be created as a public body corporate, with such public and corporate powers as are set forth in this chapter. Such commission shall not transact any business or exercise its powers until the governing body of the subdivision, or the governing bodies of the subdivisions, declares the need for the hospital or health center commission to function therein.

Code 1950, § 32-276; 1950, p. 243; 1979, c. 719, § 15.1-1514; 1997, c. 587.

§ 15.2-5201.Definitions

As used in this chapter:

"Bond" includes any interest-bearing obligation, including promissory notes.

"Hospital or health center" means any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing hospital and medical care, including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

Code 1950, § 32-276.1; 1975, c. 295, § 15.1-1515; 1979, c. 719; 1997, c. 587; 2000, c. 468; 2006, c. 658.

§ 15.2-5202.When governing bodies may declare need for commission

Governing bodies may adopt resolutions declaring the need for hospital or health center commissions in political subdivisions, if they find that the public health and welfare, including the health and welfare

of persons of low income in such subdivisions and surrounding areas require the acquisition, construction, financing, or operation of a hospital or health center.

Code 1950, § 32-277; 1979, c. 719, § 15.1-1516; 1997, c. 587; 2006, c. 658.

§ 15.2-5203.Effect of adoption of resolution

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the hospital or health center commission, such commission shall be conclusively deemed to have become created as a body politic and corporate, and to have become established and authorized to transact business and exercise its powers, upon proof of the adoption of a resolution by the governing body of each locality for which the commission is created declaring the need for such commission, and, if more than one political subdivision is involved, that it unites with the other political subdivisions in declaring such needs. A copy of the resolution, certified by the clerk of the locality by which it is adopted, shall be admissible in evidence in any suit, action or proceeding.

Code 1950, § 32-278; 1950, p. 243; 1979, c. 719, § 15.1-1517; 1997, c. 587.

§ 15.2-5204.Members of commission; quorum; compensation; expenses; removal and vacancies

A. A hospital or health center commission shall consist of the following number of members based upon the number of political subdivisions participating: for one political subdivision, five members; for two, six members; for three, six members; for four, eight members; and for more than four, one member for each of the participating subdivisions. The respective members shall be appointed by the governing bodies of the subdivisions they represent, may be members of such governing bodies, may be residents of such subdivisions, and shall be appointed for such terms as the appointing body designates. A member shall hold office until the earlier of the effective date of his resignation or the date on which his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. The powers of the commission conferred by this chapter shall be vested in and exercised by the members in office. A majority of the members then in office shall constitute a quorum. The commission shall elect its own chairman and shall adopt rules and regulations for its own procedure and government. The commission members may receive up to $50 for attendance at each commission meeting, not to exceed $1,200 per year, and shall be paid their actual expenses incurred in the performance of their duties. Any commission member may be removed at any time by the governing body appointing him, and vacancies on the commission shall be filled for the unexpired terms.

B. In Chesterfield County, the number of commission members shall be seven and their terms may be staggered as the appointing body designates. Such members shall not be removable at any time by the County's governing body except for malfeasance or at the end of the member's term.

Code 1950, § 32-279; 1978, c. 83, § 15.1-1518; 1979, c. 719; 1980, c. 86; 1993, c. 266; 1997, c. 587; 2006, c. 658; 2007, cc. 472, 813; 2014, c. 735.

§ 15.2-5205.Powers of commission

Any hospital or health center commission established hereunder shall have all powers necessary or convenient to carry out the general purposes of this chapter, including the power to:

1. Sue and be sued; to adopt a seal and alter the same at pleasure; to have perpetual succession; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

2. Employ such technical experts and such other officers, agents and employees as it may require, to fix their qualifications, duties and compensation and to remove such employees at pleasure.

3. Acquire within the territorial limits of the political subdivisions for which it is formed, by purchase, lease, gift or otherwise, whatever lands, buildings and structures as may be reasonably necessary for the purpose of establishing, constructing, enlarging, maintaining and operating one or more hospitals or health centers.

4. Sell, lease, exchange, transfer, or assign any of its real or personal property, or any portion thereof or interest therein, to any person, firm, or corporation, whenever the commission finds such action to be in furtherance of the purposes for which the commission was created.

5. Acquire, establish, construct, enlarge, improve, maintain, equip and operate any hospital or health center, and any other facilities and services for the care and treatment of sick persons.

6. Make and enforce rules and regulations for the management and conduct of its business and affairs and for the use, maintenance and operation of its facilities and properties.

7. Accept gifts and grants, including real or personal property, from the Commonwealth or any political subdivision thereof and from the United States and any of its agencies; and to accept donations of money, personal property or real estate, and take title thereto from any person.

8. Make rules and regulations governing the admission, care and treatment of patients in such hospital or health center, to classify patients as to charges to be paid by them, if any, and to determine the nature and extent of the service to be rendered patients.

9. Comply with the provisions of the laws of the United States and the Commonwealth, and any rules and regulations made thereunder, for the expenditures of federal or state money in connection with hospitals or health centers and to accept, receive and receipt for federal and state money granted the commission, or granted any of the political subdivisions for which it is formed, for hospital or health center purposes.

10. Borrow money upon its bonds, notes, debentures, or other evidences of indebtedness issued for the purpose only of acquiring, constructing, improving, furnishing or equipping buildings or structures for use as a hospital or health center, and to secure the same by pledges of its revenues and property as hereafter provided. This power shall include the power to refinance all or any portion of such debt,

to renegotiate the terms of all or any portion of such debt, and to retire all or any portion of such debt prior to its maturity date.

11. Execute all instruments necessary or convenient in connection with the borrowing of money and issuing bonds as herein authorized.

12. Enter into leases and agreements with persons for the construction or operation or both of a hospital or health center by such persons on land of the commission.

13. Contract for the management and operation of any hospital or health center subject to the control of the commission; however, the commission may charge such rates for service as will enable it to make reasonable compensation for such management and operation.

14. Assist in or provide for the creation of domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities and to purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares of or other interests in, or obligations of, any domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any domestic or foreign stock or nonstock corporation, limited liability company, partnership, limited partnership, association, foundation or other supporting organization, joint venture or other entity organized for any purpose or any individual. The investments of any entity wholly owned or controlled by a hospital or health center commission that is an "institution," as such term is defined in § 64.2-1100 shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

15. Participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities for providing medical care or related services or other activities that the hospital or health center commission may undertake to the extent that such undertakings assist the hospital or health center commission in carrying out the purposes and intent of this chapter.

16. Provide domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the hospital or health center commission with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this chapter.

17. Make loans and provide other assistance to domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities.

18. Transact its business, locate its offices and control, directly or through domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities, facilities that will assist or aid the hospital or health center commission in carrying out the purposes and intent of this chapter.

19. Procure such insurance, participate in such insurance plans, or provide such self-insurance, or any combination thereof, as it deems necessary or convenient to carry out the purposes and provisions of this chapter. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the hospital or health center commission shall not be deemed a waiver or relinquishment of any sovereign immunity to which the hospital or health center commission or its members, officers, directors, employees, or agents are otherwise entitled.

20. Exercise all other powers granted to nonstock corporations pursuant to § 13.1-826.

Code 1950, § 32-280; 1975, c. 295, § 15.1-1519; 1979, c. 719; 1994, c. 759; 1996, c. 464; 1997, c. 587; 2006, c. 658; 2008, c. 184.

§ 15.2-5206.Appropriations to commission

Any political subdivision for which the commission is created is authorized to make appropriations to the commission from available funds, or from funds provided for the purpose by bond issues, for the acquisition of land or improvements to land, and/or the construction, improvement, maintenance and operation of any hospital or health center operated or controlled or proposed to be operated or controlled by the commission. The political subdivision may also transfer to the commission, with or without consideration, real or personal property for any or all of such purposes.

Code 1950, § 32-281; 1975, c. 295, § 15.1-1520; 1979, c. 719; 1997, c. 587.

§ 15.2-5207.Issuance of bonds by political subdivisions and validation thereof

Any political subdivision for which the commission is created may issue its general obligation bonds in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) in furtherance of the establishment, construction and enlargement of a hospital or health center. All such bonds issued prior to June 1, 1975, for such purposes by any political subdivision are hereby ratified, validated and confirmed, and all proceedings taken prior to such date to authorize the issuance of bonds for such purposes by any political subdivision are hereby ratified, validated and confirmed, and all such bonds may be issued pursuant to the Public Finance Act.

Code 1950, § 32-281.1; 1975, c. 295, § 15.1-1521; 1979, c. 719; 1997, c. 587.

§ 15.2-5208.Issuance and sale of bonds

Any bonds issued by a hospital or health center commission may be issued in one or more series, shall bear such date or dates, mature at such time or times, bear interest at such rate or rates payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, with or without premium, as the commission by resolution may prescribe. Such bonds may be sold at public or private sale for such price or prices as the commission determines.

Code 1950, § 32-282; 1979, c. 719, § 15.1-1522; 1997, c. 587.

§ 15.2-5209.Provisions to secure payment of bonds

Any commission resolution authorizing the issuance of any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds, (i) pledging any or all revenues of the hospital or health center to secure the payment of the interest on such bonds and to create a sinking fund to retire the principal thereof at maturity; (ii) providing for the granting of a lien on, or the creation of a security interest in, any property, real or personal, of the commission as security for the payment of the principal of, and interest on, such bonds and the due and punctual performance of any agreements made in connection therewith; (iii) providing for such schedule of fees and charges as will produce funds sufficient to pay operating costs and debt service until such bonds are retired; and (iv) prescribing the rights, obligations, powers and duties of the commission, the trustee under any trust indenture under which the bonds are issued, and the bondholders, in connection with or pertaining to such bonds.

Code 1950, § 32-283; 1979, c. 719, § 15.1-1523; 1994, c. 759; 1997, c. 587.

§ 15.2-5210.Bonds made legal investments

Any bonds issued pursuant to the authority of this chapter are hereby made securities in which all public officers and bodies of this Commonwealth and all political subdivisions thereof, all insurance companies and associations, and all savings banks and savings institutions, including savings and loan associations, in the Commonwealth may properly and legally invest funds in their control.

Code 1950, § 32-284; 1979, c. 719, § 15.1-1524; 1997, c. 587.

§ 15.2-5211.Bonds payable from revenues of hospital or health centers

Any bonds issued under this chapter shall be payable only from the revenues and receipts of the hospital or health center for the acquisition, establishment or construction of which the bonds were issued and from any property the commission has made subject to a lien to secure such bonds. The bonds and other obligations of the commission shall not be a debt of any locality or of the Commonwealth, and neither the commission members nor any person executing the bonds or other obligations shall be liable personally thereon by reason of the issuance thereof.

Code 1950, § 32-285; 1950, p. 244; 1979, c. 719, § 15.1-1525; 1994, c. 759; 1997, c. 587.

§ 15.2-5212.Property of commission exempt from foreclosure or execution sale and judgment lien

No interest of the commission in any property, real or personal, shall be subject to sale by foreclosure of a mortgage, trust indenture, or any other instrument, either through judicial proceedings or the exercise of a power of sale contained in the instrument. All commission property shall be exempt from levy and sale by virtue of an execution, and no execution or judicial process shall issue against the commission. No judgment against the commission shall be a charge or lien upon its property, real or personal.

Nothing contained in this section shall prohibit the owner of a leasehold interest granted by the commission from granting a lien or other security interest in his leasehold which would be subject to sale or foreclosure as provided in any instrument creating the lien or other security interest. Nothing contained in this section shall prohibit the commission from granting a lien on, or creating a security interest in, commission property, real or personal, to secure any bonds issued under this chapter, any of which property will be subject to sale or foreclosure as provided in the instrument granting such lien or creating such security interest.

Code 1950, § 32-286; 1975, c. 295, § 15.1-1526; 1979, c. 719; 1994, c. 759; 1997, c. 587.

§ 15.2-5213.Receiver

The commission may, by its trust indenture given to secure bond issues or other obligations, provide for the appointment of a receiver of the hospital or health center or that part thereof acquired or constructed from funds received from a sale of bonds secured by the pledge of its revenues. If a receiver is appointed, he may enter, take possession of, operate and maintain such hospital or health center or part thereof; collect and receive all fees, rents, revenues or other charges arising therefrom in the same manner as the commission might do; keep such moneys in a separate account or accounts; and apply the moneys in accordance with the obligations of the commission as the court directs.

Code 1950, § 32-287; 1979, c. 719, § 15.1-1527; 1997, c. 587.

§ 15.2-5214.Eminent domain

The commission shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it deems necessary to carry out the purposes of this chapter after it adopts a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The commission may exercise the power of eminent domain pursuant to the provisions of any applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain by any locality.

Property already devoted to a public use may be acquired; however, no property belonging to any locality, government, religious corporation, unincorporated church or charitable corporation may be acquired without its consent.

Code 1950, § 32-288; 1950, p. 244; 1979, c. 719, § 15.1-1528; 1997, c. 587; 2005, c. 928; 2006, c. 673.

§ 15.2-5215.Records and reports

The commission shall keep and preserve complete records of its operations and transactions, which records shall be open to inspection by the participating subdivisions at all times. It shall make reports to such subdivisions annually and at such other times as they may require.

Code 1950, § 32-289; 1979, c. 719, § 15.1-1529; 1997, c. 587.

§ 15.2-5216.When court may enter order declaring need for commission no longer exists

Whenever it appears to commission members that the need, as stated in § 15.2-5202, for such commission no longer exists, the members may, after ten days' notice to the governing body of the locality establishing a commission pursuant to §§ 15.2-5200 and 15.2-5202, file a petition with the circuit court for such political subdivision or for any of such political subdivisions. Upon the production of satisfactory evidence in support of the petition, the court may, in its discretion, enter an order declaring that the need for such commission in the locality or combination thereof no longer exists and approving a plan for completing the business of the commission, the payment or assumption of its obligations, and the transfer of its assets.

Code 1950, § 32-290.1; 1970, c. 150, § 15.1-1530; 1979, c. 719; 1997, c. 587.

§ 15.2-5217.Finality of order; effect

If the court enters an order as provided in § 15.2-5216 that the need for the commission no longer exists, such order shall be final and, except for completing its affairs in accordance with the plan approved by the court, its authorities, powers and duties to transact business or to function shall cease to exist as of the date set forth in the court order.

Code 1950, § 32-290.2; 1970, c. 150, § 15.1-1531; 1979, c. 719; 1997, c. 587.

§ 15.2-5218.Appeal from order; supersedeas

Any party aggrieved by such order may apply for an appeal to the Supreme Court of Virginia and a supersedeas may be granted in the same manner as is now or hereafter shall be provided by law and the rules of court applicable to civil cases.

Code 1950, § 32-290.3; 1970, c. 150, § 15.1-1532; 1979, c. 719; 1997, c. 587.

§ 15.2-5219.Chapter supplemental; application of other laws; consent of local governing bodies or other agencies not required

The provisions of this chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized herein and shall be regarded as supplemental and additional to powers conferred by other laws; the issuance of revenue bonds and revenue refunding bonds under the provisions of this chapter need not comply with the requirements of any other laws

applicable to the issuance of bonds. Except as otherwise expressly provided in this chapter, none of the powers granted to the authority under the provisions of this chapter shall be subject to the supervision or regulation or require the approval or consent of any locality or any commission, board, bureau, or agency of any of the foregoing.

2006, c. 658.

Hotel Roanoke Conference Center Commission

Created
1991 Acts of Assembly, c. 440.

Amendments
1994, c. 628 (§ 21)
1997, c. 75 (§ 21)

§ 1. Short title
This act shall be known and may be cited as the "Hotel Roanoke Conference Center Commission Act." (1991, c. 440)

§ 2. Creation; public purposes
If the governing bodies of the City of Roanoke and Virginia Polytechnic Institute and State University shall by resolution declare that there is a need for a commission to be created for the purpose of establishing and operating a publicly owned conference center in the City of Roanoke adjacent to a renovated Hotel Roanoke and that they should unite in its formation, then a commission to be known as the "Hotel Roanoke Conference Center Commission" shall thereupon exist and shall exercise its powers and functions as prescribed herein.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the "Hotel Roanoke Conference Center Commission," such commission shall be conclusively deemed to have been created as a body corporate, and to have been established and authorized to transact and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such City and University declaring that there is a need for such Commission and that they should unite in its formation. A copy of such resolution duly certified by the clerk of the city and the secretary of the board of visitors of the university by which it is adopted shall be admissible as evidence in any suit, action or proceedings. Any political subdivision of the Commonwealth is authorized to join such Commission pursuant to the terms and conditions of this Act. It is hereby found and declared that the ownership and operation by the Commission of a modern publicly owned conference center and related facilities and the exercise of powers conferred by this Act are proper and essential government functions and public purposes for which public moneys may be spent as herein provided. It is also declared that contract obligations of a city or town to provide

payments over a period of more than one year to the Commission shall be excluded from existing indebtedness of such city or town for purposes of calculating debt limit pursuant to Section 10 (a) of Article VII of the Constitution of Virginia. It is further declared that the Commission is a regional entity of government by or on behalf of which debt may be contracted pursuant to Section 10 (b) of Article VII of the Constitution of Virginia. (1991, c. 440)

§ 3. Definitions.

As used in this Act the following words and terms have the following meanings, unless a different meaning clearly appears from the context:

"Act" means this Hotel Roanoke Conference Center Commission Act.

"Bonds" means any bonds, notes, debentures, certificates, or other evidence of financial indebtedness issued by the Commission pursuant to the Act.

"City" means the City of Roanoke, Virginia.

"Commission" means the Hotel Roanoke Conference Center Commission created by this Act.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means a conference center constructed adjacent to a renovated Hotel Roanoke, including all fixtures, furniture and equipment.

"Participating party" means the City of Roanoke, any other political subdivision which may join or have joined the Commission pursuant to §§ 4 and 5 of this Act and Virginia Polytechnic Institute and State University.

"Political subdivisions" means a county, municipality or other public body of this Commonwealth.

"University" means Virginia Polytechnic Institute and State University. (1991, c. 440)

§ 4. Participating parties.

Prior to becoming a participating party, each party shall enter into a contract with the Commission and other participating parties setting forth the financial contribution to be made by such party to the Commission and other terms and conditions applicable to such party's membership on the Commission.

No pecuniary liability of any kind shall be imposed upon any participating party because of any act, omission, agreement, contract, tort, malfeasance, misfeasance or nonfeasance by or on the part of the Commission or any commissioner thereof, or its agents, servants or employees, except as otherwise provided in this Act with respect to contracts and agreements between the Commission and any other party. (1991, c. 440)

§ 5. Appointment and tenure of commissioners.

The powers of the Commission shall be vested in the commissioners thereof in office from time to time. The governing body of each participating party shall appoint the commissioners, who may be members of the governing body, as follows: three from the City of Roanoke, and three from Virginia Polytechnic Institute and State University.

The Commission may be expanded to include additional political subdivisions entering into a contract with the Commission and its participating parties pursuant to § 4 of this Act. The number of commissioners to be appointed by any new participating party shall be determined by agreement between the Commission, the City, the University and any new participating parties.

Initially, the governing body of the City shall appoint one commissioner for a four-year term, one commissioner for a three-year term and one commissioner for a two-year term. Initially, the governing body of the University shall appoint one commissioner for a four-year term, one commissioner for a three-year term and one commissioner for a two-year term. After the initial terms, each commissioner shall be appointed for a four-year term or until his successor is appointed and qualified. Commissioners appointed by additional participating parties shall also be appointed for four-year terms. The governing body of each participating party shall be empowered to remove at any time, without cause, any commissioner appointed by it and appoint a successor commissioner to fill the unexpired portion of the removed commissioner's term.

Each commissioner may be reimbursed by the Commission for the amount of actual expenses incurred by him in the performance of his duties. (1991, c. 440)

§ 6. Organization.

A majority of the commissioners in office shall constitute a quorum. No vacancy in the membership of the Commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the Commission.

The Commission shall hold regular meetings at such times and places as may be established by its bylaws. Special meetings of the Commission may be called by any commissioner or any executive director of the Commission upon at least twelve hours' written notice to each commissioner served personally or left at his usual place of business or residence.

The commissioners shall annually elect a chairman and a vice-chairman from their membership, a secretary and a treasurer or a secretary-treasurer from their membership or not as they deem appropriate, and such other officers as they may deem appropriate. The commissioners may appoint an executive director, who shall not be a commissioner, who shall exercise such powers and duties as may be delegated to him by the commissioners, including powers and duties involving the exercise of discretion.

The commissioners may make and from time to time amend and repeal bylaws, not inconsistent with this Act, governing the manner in which the Commission's business may be transacted and in which

the power granted to it may be enjoyed. The commissioners may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees. (1991, c. 440)

§ 7. Powers.

The Commission is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purposes of this Act, including, for purpose of illustration, the following:

1. To sue and be sued in its own name;

2. To have perpetual succession;

3. To adopt a corporate seal and alter the same at its pleasure;

4. To maintain offices at such places as it may designate;

5. To establish, construct, enlarge, improve, maintain, equip, operate and regulate the facility and other property incidental thereto, including any additional property or facilities deemed by the Commission to promote the business, usage or economic viability of the

Conference Center;

6. To grant to others the privilege to operate for profit concessions, leases and franchises, including but not limited to the furnishing of food and banquet services, management services, and other services necessary to the operation of the facility and such concessions, leases and franchises shall be exclusive or limited when deemed, by the Commission, necessary to further the purposes of the Commission;

7. To determine fees, rates, and charges for the use of its facilities;

8. To apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, this Commonwealth and political subdivisions, agencies and instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the Commission's facilities or for the payment of principal of any indebtedness of the Commission, interest thereon or other cost incident thereto, and to this end the Commission shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

9. To appoint, employ or engage such officers, employees, architects, engineers,

attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

10. To establish personnel rules;

11. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

12. To sell, lease, mortgage, pledge, subject to a deed of trust, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein, if such disposition is in the public interest and in furtherance of the purposes of this Act or if such property is not necessary for the purposes of the Commission;

13. To make, assume and enter into all contracts, leases, and arrangements necessary or incidental to the exercise for its powers, including contracts for management or operation of all or any part of its facilities;

14. To borrow money, as hereinafter provided and, provided such borrowing shall mature within one year, to borrow money for the purpose of meeting casual deficits in its revenues;

15. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

16. To pay pensions and establish pension plans, pension trusts, and other compensation plans for any of its employees;

17. To purchase and maintain insurance or to provide indemnification on behalf of any person who is or was a commissioner, officer, employee or agent of the Commission against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such; and

18. To do all things necessary or convenient to the purposes of this Act. (1991, c. 440)

§ 8. Appointment of special conservators of the peace.

The Commission may apply to the Circuit Court for the City of Roanoke, under procedures specified by § 19.2-13 of the Code of Virginia for the appointment of one or more special conservators of the peace, whose powers, functions, duties, responsibilities and authorities shall be geographically limited to real property of the Commission. (1991, c. 440)

§ 9. Reports.

The Commission shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating party and shall be open to public inspection. (1991, c. 440)

§ 10. Procurement.

All contracts of the Commission for the procurement of construction, goods or services in excess of $15,000 shall be subject to the Virginia Public Procurement Act, § 11-35 et seq. of the Code of Virginia. (1991, c. 440)

§ 11. Deposit and investment of funds.

All moneys received pursuant to this Act by the Commission, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this Act. All moneys of the Commission shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act.

Funds of the Commission not needed for immediate use or disbursement may, subject to the provisions of any contract between the Commission and the holders of its bonds, be invested in securities which are considered lawful investments for fiduciaries. (1991, c. 440)

§ 12. Authority to issue bonds.

The Commission shall have power and is hereby authorized to issue bonds from time to time in its discretion for any of its purposes, including the payment of all or any part of the cost of any of its facilities and the refunding of any bonds previously issued by it.

Bonds may be issued under this Act notwithstanding any debt or other limitation prescribed in any statute without obtaining the consent of any city, town, or county government or any commission, board, bureau, or agency of the Commonwealth or of any of the foregoing, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this Act.

The Commission may issue such types of bonds as it may determine, including without limiting the generality of the foregoing, bonds payable as to principal and interest: (i) from its revenues generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision or any other political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, as such participating political subdivision, or other entities may be authorized to make under general law or by pledge of any income or revenues of the Commission, or where such mortgage has been approved by the participating party, a mortgage of any facilities of the Commission.

Bonds of the Commission shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates as may be determined by the Commission, and may be made redeemable before maturity at the option of the Commission at such price or prices and under such terms and conditions as may be fixed by the Commission prior to the issuance of the bonds. The Commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Act or any recitals in any bonds issued under the provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the conversion and reconversion into coupon bonds of any bonds registered as to both principal and interest and vice versa. The Commission may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Commission.

Prior to preparation of definitive bonds, the Commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. (1991, c. 440)

§ 13. Resolution or trust indenture to secure bonds.

In connection with the issuance of bonds and in order to secure the payment of such bonds, the Commission shall have power:

1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents, or revenues;

2. To covenant to impose and maintain such schedule of fees, rents and charges as will produce funds sufficient to pay operating costs and debt service;

3. To covenant against pledging all or any part of its fees, rents, and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and powers in the fees, rents and revenues which are subject to a pledge;

5. To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or facilities of the Commission or any part thereof or with respect to limitations on its right to undertake additional projects;

6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

7. To covenant as to what other, or additional, debt may be incurred by it;

8. To provide for the terms, forms, registration, exchange, execution, and authentication of bonds;

9. To provide for the replacement of lost, destroyed, or mutilated bonds;

10. To covenant as to the use of any or all of its property, real or personal, subject to the continued use of such property for the Commission's purposes;

11. To create or to authorize the creation of special funds in which there may be segregated: (i) the proceeds of any loan or grant; (ii) all of the fees, rents and revenues of any facility or facilities or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as reserve for such payments; and (v) any moneys held for any other reserve or contingencies; and to convenant as to the use and disposal of the moneys held in such funds;

12. To redeem its bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which consent may be given;

15. To covenant as to the maintenance of its facilities; the insurance to be carried thereon and the use and disposition of insurance moneys;

16. To vest in a bondholder the right, in the event of the failure of the Commission to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the Commission with such interest, security and priority as may be provided in any trust indenture, lease or contract of the Commission with reference thereto;

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

18. To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition or obligation;

19. To covenant to surrender possession of all or any part of any facility or facilities acquired or constructed from bond proceeds, the revenues from which have been pledged upon the happening of any event of default, as defined in the contract, and to vest in a bondholder the right without judicial proceeding to take possession and to use, operate, manage, and control such facility or any part thereof, and to collect and receive all fees, rents, and revenues arising therefrom in the same manner as the Commission itself might do and to dispose of the moneys collected in accordance with the agreement of the Commission with such obligee, subject to the continued use of such facilities for the Commission's purposes;

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as any purchaser of the bonds of the Commission may reasonably require; and

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the Commission tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the Commission power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of the Commonwealth or this Act. (1991, c. 440)

§ 14. Fees, rents and charges.

The Commission is hereby authorized to and shall fix, revise, charge, and collect fees, rents and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be

subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating party. The fees, rents, and other charges received by the Commission, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall, to the extent necessary, be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Commission shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Commission irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Commission. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. (1991, c. 440)

§ 15. Credit of Commonwealth and participating parties not pledged.

The bonds of the Commission shall not be a debt of the Commonwealth or any participating parties thereof, other than the Commission, and neither the Commonwealth nor any participating parties thereof, other than the Commission, shall be liable thereon, nor shall such bonds be payable out of any funds or properties other than those of the Commission. All bonds of the Commission shall contain on the face thereof a statement to such effect. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. (1991, c. 440)

§ 16. Commissioners and persons executing bonds not liable thereon.

Neither the commissioners nor any person executing the bonds shall be liable personally on the Commission's bonds by reason of the issuance thereof. (1991, c. 440)

§ 17. Remedies of bondholders.

Any holder of bonds issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this Act or under such trust indenture agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this Act or by such trust indenture or agreement or resolution to be performed by the Commission or by any officer or agent thereof, including the fixing, charging and collection of fees,

rents and other charges. Any resolution authorizing the issuance of the Commission's bonds or trust indenture or agreement securing the same may limit or abrogate the individual right of action by the holders of such bonds or coupons appertaining thereto. (1991, c. 440)

§ 18. Taxation.

The exercise of the powers granted by this Act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience and prosperity, and as the operation and maintenance of any project which the Commission is authorized to undertake will constitute the performance of an essential governmental function; the Commission shall not be required to pay taxes on its real estate, tangible personal property and machinery and tools. Bonds issued under the provisions of this Act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any party thereof. Persons, firms, partnerships, associations, corporations and organizations leasing property of the Commission or doing business on property of the Commission shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to any leasehold tax on real property and taxes on tangible personal property and machinery and tools, taxes for admission, taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling and taxes upon consumers of gas, electricity, telephone, water, sewer and other public utility services. (1991, c. 440)

§ 19. Bonds as legal investments.

Bonds issued by the Commission under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its parties, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or party of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1991, c. 440)

§ 20. Appropriation by participating party or political subdivision.

Any participating party, or other political subdivision of the Commonwealth, except the University, is authorized to provide services, to donate real or personal property and to make appropriations to the Commission, for the acquisition, construction, maintenance, and operation of the Commission's facilities. Any such party is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act or in any applicable municipal charter for the

purpose of providing funds to be appropriated to the Commission and such political subdivisions may enter into contracts obligating such bond proceeds to the Commission. Nothing in this section shall prohibit the University from entering into a services contract with the Commission by which the University receives services from or provides services to the Commission.

The Commission may agree to assume, or reimburse a participating party for, any indebtedness incurred by such participating party with respect to facilities conveyed by it to the Commission. With the consent of the governing body of the participating party, any such agreement may be made subordinate to the Commission's indebtedness to others. (1991, c. 440)

§ 21. Fiscal year; Commission budget.

A. The fiscal year of the Commission shall begin on July 1 and end on June 30.

B. The Commission shall annually, prior to April 1 of each year, prepare and submit to the participating parties (i) a proposed operating budget showing its estimated revenues and expenses on an accrual basis for the forthcoming fiscal year, and if such estimated expenses exceed such estimated revenues, the portion of the deficit proposed to be borne by each participating party, and (ii) a proposed capital budget showing its estimated expenditures for such fiscal year for assets costing more than $20,000 (or such higher amount as the Commission and the participating parties may determine) and having an estimated useful life of twenty years or more and the source of funds for such expenditures, including any amount requested from the participating parties. Depreciation shall be excluded from the Commission's operating budget with respect to assets purchased by the Commission with funds appropriated to it for such purpose by a participating party and, for this determination, it shall be assumed that any appropriation so made is for the purchase of assets set forth in the applicable Commission budget to the extent such purchase price is included in the approved budget. Assets purchased by the Commission with bond proceeds shall be depreciated over the useful life of such assets purchased with bond proceeds.

C. If the governing body of a participating party shall approve the Commission's proposed operating budget, it shall provide to the Commission such participating party's portion of such deficit. If during any fiscal year the Commission shall receive revenues in excess of those estimated by the Commission in its approved budget for such year, the budgeted deficit for such fiscal year shall automatically be reduced and, except as herein provided, the contribution of each participating party shall be proportionately reduced. Notwithstanding the foregoing, with the consent of the governing bodies of the participating parties, all or a portion of such contributions may be maintained so as to enable the Commission to expend such excess revenues for its proper purposes.

D. If the governing body of a participating party shall approve the Commission's proposed capital budget, it shall provide to the Commission such participating party's portion of the expenditures set forth therein. Any such contribution shall automatically be reduced by the participating party's

proportionate share of any grant funds received by the Commission for the purchase of assets included in the Commission's approved capital budget in excess of the grant funds shown in such capital budget as a source of funds for such expenditure, unless prohibited by the basic provider of the grant funds.

E. The Commission may expend any and all moneys within its control without obtaining the approval of the participating parties, but, except as otherwise provided in this Act with respect to contracts and agreements between the Commission and any participating party, the Commission shall not commit any participating party in an amount in excess of that appropriated to the Commission by the governing body of such party.

F. If at any time during any fiscal year it shall appear that the cash disbursements of the Commission will exceed its cash receipts for such fiscal year, including amounts appropriated to it by the participating parties, the Commission may request supplemental appropriations from the participating parties and any other party.

G. No moneys appropriated to the University by the Commonwealth, except moneys generated by the continuing education programs offered by the University, shall be contributed to the Commission by the University. The University is authorized to expend nongeneral funds from continuing education programs in support of its share of the operating costs of the Hotel Roanoke Conference Center. The University shall report to the chairmen of the House Appropriations and Senate Finance Committees by August 15 of each fiscal year all planned and actual transfers to the Hotel Roanoke Conference Center. (1991, c. 440; 1994, c. 628; 1997, c. 75)

§ 22. Allocation of deficit; denial of voting privileges.

A. Any deficit budgeted by the Commission in any fiscal year, i.e., any excess of its estimated expenses over its estimated revenues, and the cost of any budgeted capital expenditures in excess of the amount shown as available therefor, as shown on the Commission's operating and capital budgets approved by the participating parties, shall be allocated between the City and the University equally. In the event that the Commission is expanded to included additional participating parties pursuant to § 4 of this Act, the deficit shall be allocated among the participating parties in the proportions to be determined by agreement between the Commission, the City and any new participating parties. In the event the appropriation of any participating parties is insufficient to pay its portion of the deficit incurred in any fiscal year, the allocation of any deficit for any succeeding fiscal year shall take into account the cumulative deficiency attributable to such participating party; however, no participating party shall be required to pay the Commission in any fiscal year any amount in excess of that appropriated to the Commission by the governing body of such participating party.

B. Any participating party not contributing its proportionate share of any deficit as determined by the Commission pursuant to § 22 of this Act, either of the Commission's operating budget or capital

budget in accordance with a schedule established by the Commission, shall automatically be denied voting privileges. The denial of voting privileges shall terminate upon the delivery of its proportionate share by such party. (1991, c. 440)

§ 23. Dissolution of Commission.

Whenever it shall appear to the Commission that the need for the Commission no longer exists, it may petition the Circuit Court for the City of Roanoke for the dissolution of the Commission. If the court shall determine that the need for the Commission as set forth in this Act no longer exists and that all debts and pecuniary obligations of the Commission have been fully paid or provided for, it may enter an order dissolving the Commission.

Upon dissolution, the court shall order any real property contributed to the Commission by a participating party returned to such participating party. The remaining assets of the Commission shall be distributed to the participating parties in proportion to their respective contributions theretofore made to the Commission. Each participating party and all holders of the Commission's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia. (1991, c. 440)

§ 24. Liberal construction.

Neither this Act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the Commission might otherwise have under any laws of this Commonwealth, and this Act is cumulative to any such powers. This Act does and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds, notes or other obligations. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is expressly provided in this Act. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this Act. (1991, c. 440)

§ 25. Application of local ordinances, service charges and taxes upon leaseholds.

Nothing herein contained shall be construed to exempt the Commission's property from any applicable zoning, subdivision, erosion and sediment control and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Commission's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom. (1991, c. 440)

§ 26. Existing contracts, leases, franchises, etc., not impaired.

No provisions of this Act shall relieve, impair or affect any right, duty, liability or obligation arising out of any contract, concession, lease or franchise now in existence except to the extent that such contract, concession, lease or franchise may permit. Notwithstanding the foregoing provisions of this section, the Commission may renegotiate, renew, extend the term of or otherwise modify at any time any contract, concession, lease or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease or franchise consents to said renegotiation, renewal, extension or modification. (1991, c. 440)

Housing Development Authority, Virginia

§ 36-55.24.Short title

This chapter shall be known and may be cited as the "Virginia Housing Development Authority Act."

1972, c. 830.

§ 36-55.25.Finding and declaration of necessity

It is hereby declared: (i) that there exists within the Commonwealth a serious shortage of sanitary and safe residential housing at prices or rentals which persons and families of low and moderate income can afford; that this shortage has contributed to and will contribute to the creation and persistence of substandard living conditions and is inimical to the health, welfare and prosperity of the residents of the Commonwealth; (ii) that it is imperative that the supply of residential housing for such persons and families and for persons and families displaced by public actions or natural disaster be increased; (iii) that private enterprise and investment have been unable, without assistance, to produce the needed construction or rehabilitation of sanitary and safe residential housing at prices or rentals which persons and families of low and moderate income can afford and to provide sufficient long-term mortgage financing for residential housing for occupancy by such persons and families; (iv) that a concentration of persons and families of low and moderate income even in standard structures does not eliminate undesirable social conditions; (v) that the governing body of a city or county may in its discretion determine that it is necessary to the preservation of the financial viability of such city or county and the health, welfare and prosperity of its residents that the population of such city or county be maintained as economically mixed by providing housing for persons and families of other than low and moderate income in order to broaden the tax bases of such areas; (vi) that in providing sanitary and safe residential housing at prices or rentals which persons and families of low and moderate income can afford it may at times be necessary or desirable to provide housing for persons and families of other than low and moderate income; (vii) that it is critical to the success, prosperity and viability of areas being revitalized that financing be made available for nonhousing buildings that are incidental to residential housing for low and moderate income persons and families and other persons and families in order to provide products and services to those living in residential housing or that are necessary or appropriate for the revitalization of such areas or for the industrial, commercial or other economic development of such areas; (viii) that the financing of residential housing for low and moderate income persons and families and other persons and families may be appropriate to promote the industrial, commercial or other economic development of certain areas in a city or the county by inducing manufacturing, industrial, commercial, governmental, educational, entertainment, community development, healthcare or nonprofit enterprises or undertakings to locate or remain in such area; and (ix) that private enterprise and investment be encouraged both to sponsor land development and build and rehabilitate residential housing for such persons and families of low and moderate income and to build housing which will prevent the recurrence of slum conditions by housing persons of varied

economic means in the same projects or area, and that private financing be supplemented by financing as provided in this chapter in order to help prevent the creation and recurrence of substandard living conditions and to assist in their permanent elimination throughout Virginia.

It is further declared that in order to provide a fully adequate supply of sanitary and safe dwelling accommodations at rents, prices, or other costs which such persons or families can afford and to stabilize or recover an appropriate economic mix in certain areas of the Commonwealth the legislature finds that it is necessary to create and establish a state housing development authority for the purpose of encouraging the investment of private capital and stimulating the construction and rehabilitation of residential housing to meet the needs of such persons and families or to stabilize such areas through the use of public financing, to provide construction and mortgage loans and to make provision for the purchase of mortgage loans and otherwise.

It is hereby further declared to be necessary and in the public interest that such state housing development authority provide for predevelopment costs, temporary financing, land development expenses and residential housing construction or rehabilitation by private sponsors for sale or rental to persons and families of low and moderate income and others; further, to provide mortgage financing for the purposes of supplying sanitary and safe dwelling accommodations at rents, prices or other costs which such persons or families can afford or of stabilizing urban areas, including without limitation, long-term federally insured mortgages; further, in revitalization areas designated in or pursuant to § 36-55.30:2, to provide financing for nonhousing buildings that are incidental to residential housing financed or to be financed in such areas pursuant to this chapter for low and moderate income persons and families and for other persons and families or that are necessary or appropriate for the revitalization of such areas or the industrial, commercial or other economic development of such areas; further, to increase the construction and rehabilitation of low and moderate income housing through the purchase from mortgage lenders authorized to make loans in the Commonwealth of mortgage loans for residential housing for persons and families of low and moderate income in the Commonwealth; further, to acquire, develop and own multifamily residential housing for occupancy by persons and families of low and moderate income; further, to provide technical, consultative and project assistance services to private sponsors; further, to assist in coordinating federal, state, regional and local public and private efforts and resources; to guarantee to the extent provided herein the repayment of certain loans secured by residential mortgages; further, to promote wise usage of land and other resources in order to preserve the quality of life we value so highly in Virginia; and further, to act as the loan servicer for a housing lender.

It is hereby further declared that all of the foregoing are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned, or granted, and that such activities serve a public purpose in improving or otherwise benefiting the people of the Commonwealth; that the

necessity of enacting the provisions hereinafter set forth is in the public interest and is hereby so declared as a matter of express legislative determination.

1972, c. 830; 1975, c. 536; 1978, c. 508; 1979, c. 374; 1987, c. 254; 2004, c. 187; 2011, c. 690.

§ 36-55.26. Definitions

As used in this chapter, unless the context requires a different meaning :

"Bonds," "notes," "bond anticipation notes," and "other obligations" mean any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness issued by HDA pursuant to this chapter.

"City" means any city or town in the Commonwealth.

"County" means any county in the Commonwealth.

"Earned surplus" shall have the same meaning as in generally accepted accounting standards.

"Economically mixed project" means residential housing or housing development, which may consist of one or more buildings located on contiguous or noncontiguous parcels that the HDA determines to finance as a single economically mixed project, to be occupied by persons and families of low and moderate income and by other persons and families as the HDA shall determine.

"Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

"Federal mortgage" means a mortgage loan for land development for residential housing or residential housing made by the United States or an instrumentality thereof or for which there is a commitment by the United States of America or an instrumentality thereof to make such a mortgage loan.

"Federally insured mortgage" means a mortgage loan for land development for residential housing or residential housing insured or guaranteed by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to insure such a mortgage.

"HDA" means the Virginia Housing Development Authority created and established pursuant to § 36-55.27.

"Housing development costs" means the sum total of all costs incurred in the development of a housing development, which are approved by the HDA as reasonable and necessary, which costs shall include, but are not necessarily limited to: fair value of land owned by the sponsor, or cost of land acquisition and any buildings thereon, including payments for options, deposits, or contracts to purchase properties on the proposed housing site or payments for the purchase of such properties; cost of site preparation, demolition and development; architecture, engineering, legal, accounting, HDA, and other fees paid or payable in connection with the planning, execution and financing of the

housing development; cost of necessary studies, surveys, plans and permits; insurance, interest; financing, tax and assessment costs and other operating and carrying costs during construction; cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery and apparatus related to the real property; cost of land improvements, including without limitation, landscaping and off-site improvements, whether or not such costs have been paid in cash or in a form other than cash; necessary expenses in connection with initial occupancy of the housing development; a reasonable profit and risk fee in addition to job overhead to the general contractor and, if applicable, a limited profit housing sponsor; an allowance established by HDA for working capital and contingency reserves, and reserves for any anticipated operating deficits during the first two years of occupancy; in the case of an economically mixed project within a revitalization area designated in or pursuant to § 36-55.30:2, the costs of any nonhousing buildings that are financed in conjunction with such project and that are incidental to such project or are determined by such governing body to be necessary or appropriate for the revitalization of such area or for the industrial, commercial or other economic development of such area; the cost of such other items, including tenant relocation, if such tenant relocation costs are not otherwise being provided for, as HDA shall determine to be reasonable and necessary for the development of the housing development, less any and all net rents and other net revenues received from the operation of the real and personal property on the development site during construction.

"Housing development" or "housing project" means any work or undertaking, whether new construction or rehabilitation, which is designed and financed pursuant to the provisions of this chapter for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for persons and families of low or moderate income in need of housing and, in the case of an economically mixed project, other persons and families; such undertaking may include any buildings, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and such offices, and other nonhousing facilities incidental or related to such development or project such as administrative, community, health, nursing care, medical, educational and recreational facilities as HDA determines to be necessary, convenient, or desirable. For the purposes of this chapter, medical and related facilities for the residence and care of the aged shall be deemed to be dwelling accommodations.

"Housing lender" means any bank or trust company, mortgage banker approved by the Federal National Mortgage Association, savings bank, national banking association, savings and loan association or building and loan association, mortgage broker, mortgage company, mortgage lender, life insurance company, credit union, agency or authority of the Commonwealth or any other state, or locality authorized to finance housing loans on properties located in or outside of the Commonwealth to persons and families of any income.

"Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, public bodies, trusts, firms, associations, or other legal entities or any combination thereof, corporations, cooperatives and condominiums, approved by HDA as qualified either to own, construct, acquire, rehabilitate, operate, manage or maintain a housing development whether nonprofit or organized for limited profit subject to the regulatory powers of HDA and other terms and conditions set forth in this chapter.

"Land development" means the process of acquiring land for residential housing construction, and of making, installing, or constructing nonresidential housing improvements, including, without limitation, waterlines and water supply installations, sewer lines and sewage disposal and treatment installations, steam, gas and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, other related pollution control facilities, and other installations or works, whether on or off the site, which HDA deems necessary or desirable to prepare such land primarily for residential housing construction within the Commonwealth.

"Loan servicer" means any person who, on behalf of a housing lender, collects or receives payments, including payments of principal, interest, escrow amounts, and other amounts due, on obligations due and owing to the housing lender pursuant to a residential mortgage loan or who, when the borrower is in default or in foreseeable likelihood of default, works on behalf of the housing lender with the borrower to modify or refinance, either temporarily or permanently, the obligations in order to avoid foreclosure or otherwise to finalize collection through the foreclosure process.

"Mortgage" means a mortgage deed, deed of trust, or other security instrument which shall constitute a lien in the Commonwealth on improvements and real property in fee simple, on a leasehold under a lease having a remaining term, which at the time such mortgage is acquired does not expire for at least that number of years beyond the maturity date of the interest-bearing obligation secured by such mortgage as is equal to the number of years remaining until the maturity date of such obligation or on personal property, contract rights or other assets.

"Mortgage lender" means any bank or trust company, mortgage banker approved by the Federal National Mortgage Association, savings bank, national banking association, savings and loan association, or building and loan association, life insurance company, the federal government or other financial institutions or government agencies which are authorized to and customarily provide service or otherwise aid in the financing of mortgages on residential housing located in the Commonwealth for persons and families of low or moderate income.

"Mortgage loan" means an interest-bearing obligation secured by a mortgage.

"Multifamily residential housing" means residential housing other than single-family residential housing, as hereinafter defined.

"Municipality" means any city, town, county, or other political subdivision of the Commonwealth.

"Nonhousing building" means a building or portion thereof and any related improvements and facilities used or to be used for manufacturing, industrial, commercial, governmental, educational, entertainment, community development, health care, or nonprofit enterprises or undertakings other than residential housing.

"Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin, sex, sexual orientation, or gender identity, determined by the HDA to require such assistance as is made available by this chapter on account of insufficient personal or family income taking into consideration, without limitation, such factors as follows: (i) the amount of the total income of such persons and families available for housing needs, (ii) the size of the family, (iii) the cost and condition of housing facilities available, (iv) the ability of such persons and families to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing, and (v) if appropriate, standards established for various federal programs determining eligibility based on income of such persons and families.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

"Residential housing" means a specific work or improvement within the Commonwealth, whether multifamily residential housing or single-family residential housing undertaken primarily to provide dwelling accommodations, including the acquisition, construction, rehabilitation, preservation or improvement of land, buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental, related, or appurtenant thereto. For the purposes of this chapter, medical and related facilities for the residence and care of the aged shall be deemed to be dwelling accommodations.

"Single-family residential housing" means residential housing consisting of four or fewer dwelling units, the person or family owning or intending to acquire such dwelling units, upon completion of the construction, rehabilitation, or improvement thereof, also occupying or intending to occupy one of such dwelling units.

1972, c. 830; 1975, c. 536; 1987, c. 363; 1988, c. 218; 1996, c. 498; 2004, c. 187; 2011, c. 690; 2020, c. 1137.

§ 36-55.27. Virginia Housing Development Authority continued; constituted a public instrumentality

There is hereby continued within the Department of Housing and Community Development, for the purpose of § 36-55.51, a political subdivision of the Commonwealth of Virginia with all of the politic and corporate powers as are set forth in this chapter, which are hereby reaffirmed, to be known as the "Virginia Housing Development Authority" to carry out the provisions of this chapter. The HDA is

hereby constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the HDA of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the Commonwealth.

1972, c. 830; 1977, c. 613; 1979, c. 243.

§ 36-55.27:1.Programs and regulations to implement the Consolidated Plan

The HDA shall be responsible for implementing, to the extent and in the manner determined by the HDA to be reasonable and proper and consistent with its legal and financing responsibilities, new and existing programs, policies, and regulations to accomplish the goals, objectives, and strategies set forth in the Consolidated Plan developed in accordance with the provisions of §§ 36-131 and 36-139.

1992, c. 754; 2002, c. 461.

§ 36-55.28.Appointment and tenure of commissioners; officers; quorum; compensation; liability

A. The powers of HDA shall be vested in the commissioners of HDA as follows: a representative of the Board of Housing and Community Development, such representative to be selected by that Board; the Director of the Department of Housing and Community Development as an ex officio voting commissioner; the Treasurer of the Commonwealth; and seven persons appointed by the Governor, subject to confirmation by the General Assembly, for terms of four years. An additional commissioner satisfying the criteria specified by Section 2 (b) of the United States Housing Act of 1937, as amended, and the rules and regulations promulgated thereunder, shall be appointed by the Governor, subject to confirmation by the General Assembly, for a term of four years. If, however, after appointment, the additional commissioner no longer satisfies such criteria, he may be removed by the Governor effective upon the appointment and qualification of his successor, who shall serve for the remainder of the unexpired term. In appointing persons to the commission the Governor shall refrain from appointing more than three persons from any one commercial or industrial field. No commissioner appointed pursuant to this chapter by the Governor shall serve more than two consecutive full terms. Any vacancies in the membership of HDA shall be filled in like manner but only for the remainder of an unexpired term. Except as otherwise provided in this section, each commissioner shall hold office for the term of his appointment and until his successor shall have been appointed and qualified.

B. The commissioners shall elect from among their number a chairman and a vice-chairman annually and such other officers as they may determine. Meetings shall be held at the call of the chairman or whenever two commissioners so request. Five commissioners of the HDA shall constitute a quorum and any action taken by HDA under the provisions of this chapter may be authorized by resolution approved by a majority of the commissioners who are present at any regular or special meeting. No vacancy in the membership of the HDA shall impair the right of a quorum to exercise all the rights and perform all the duties of the HDA.

C. Each commissioner shall be compensated from funds of the HDA at the rate per day specified in § 2.2-2813 for each day or portion thereof in which the commissioner is engaged in the business of the HDA. In addition, each commissioner shall be reimbursed for his reasonable expenses incurred in carrying out his duties under this chapter.

D. Commissioners and employees of HDA shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for inefficiency, neglect of duty or misconduct in the manner set forth therein.

E. Notwithstanding the provisions of any other law, no officer or employee of this Commonwealth shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on HDA or his service thereto.

F. HDA may use its funds, and may obtain liability insurance or provide self-insurance, for the payment or reimbursement of costs and expenses (including, without limitation, amounts paid or to be paid in satisfaction of judgment or settlement, penalties, attorneys' fees and expenses, and court costs) incident to any liability of its commissioners and employees arising from the performance or discharge of their official duties and such other activities as the commissioners of HDA may by resolution approve for the purpose of making such payment or reimbursement or providing such insurance or self-insurance.

1972, c. 830; 1974, c. 668; 1975, c. 536; 1976, c. 117; 1977, c. 613; 1985, c. 70; 1987, Sp. Sess., c. 1; 1988, c. 226; 1992, c. 754; 1993, c. 857; 2002, c. 454; 2003, c. 434.

§ 36-55.29. Executive director

(a) The commissioners shall employ an executive director who shall also be the secretary and who shall administer, manage and direct the affairs and business of the HDA, subject to the policies, control and direction of the commissioners. The commissioners may employ technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The commissioners may delegate to one or more of its agents or employees such administrative duties as it may deem proper.

(b) The secretary shall keep a record of the proceedings of the HDA and shall be custodian of all books, documents and papers filed with the HDA and of its minute book and seal. He shall have authority to cause to be made copies of all minutes and other records and documents of the HDA and to give certificates under the seal of the HDA to the effect that such copies are true copies and all persons dealing with the HDA may rely upon such certificates.

1972, c. 830.

§ 36-55.30. Powers of HDA generally

The HDA is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purposes, including, without limitation, the following:

1. Sue and be sued in its own name;

2. Have an official seal and to alter the same at pleasure;

3. Have perpetual succession;

4. Maintain an office at such place or places within the Commonwealth as it may designate;

5. Adopt and from time to time amend and repeal bylaws, not inconsistent with this chapter, to carry into effect the powers and purposes of HDA and the conduct of its business;

6. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

7. Acquire real or personal property, or any interest therein, by purchase, exchange, gift, assignment, transfer, foreclosure, lease or otherwise, including rights or easements; to hold, manage, operate, or improve real or personal property; to sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or deed of trust or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;

8. To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities to effectuate the purposes of this chapter;

9. To enter into agreements or other transactions with the federal government, the Commonwealth of Virginia or any governmental agency thereof or any municipality in furtherance of the purposes of this chapter, including but not limited to the development, maintenance, operation and financing of any housing development or residential housing, or land improvement; to enter into agreements with the federal government or other parties for the provision by the HDA, or any entity or fund owned or sponsored by or related to the HDA, of services and assistance in the restructuring or modification of debt or subsidy, or in the improvement of the financial or physical condition, of any housing development or residential housing, including without limitation any housing development or residential housing owned, financed or assisted by the federal government or financed by a mortgage loan insured by the federal government, which agreements may provide for the indemnification by the HDA of the federal government or other parties against liabilities and costs in connection with the provision of such services and assistance if such indemnification is determined by the executive director to be in furtherance of the public purposes of this chapter, provided that (i) such indemnification shall be payable solely from the funds of the HDA, excluding any funds appropriated

by the Commonwealth which shall be held by the HDA in a separate fund while such indemnification is in effect, (ii) such indemnification shall not constitute a debt or obligation of the Commonwealth and the Commonwealth shall not be liable therefor, and (iii) any such agreement limits the HDA's total liability for the indemnification thereunder to a stated dollar amount and notifies the federal government or other parties that the full faith and credit of the Commonwealth are not pledged or committed to payment of the HDA's obligation to indemnify the federal government or other parties under such agreement; to operate and administer loan programs of the federal government, the Commonwealth of Virginia, or any governmental agency thereof or any municipality involving land development, the planning, development, construction or rehabilitation of housing developments and residential housing, the acquisition, preservation, improvement or financing of existing residential housing or other forms of housing assistance for persons and families of low and moderate income, however funded; and to operate and administer any program of housing assistance for persons and families of low and moderate income, however funded;

10. To receive and accept aid, grants, contributions and cooperation of any kind from any source for the purposes of this chapter subject to such conditions, acceptable to HDA, upon which such aid, grants, contributions and cooperation may be made, including, but not limited to, rent supplement payments made on behalf of eligible persons or families or for the payment in whole or in part of the interest expense for a housing development or for any other purpose consistent with this chapter;

11. To provide, contract or arrange for consolidated processing of any aspect of a housing development in order to avoid duplication thereof by either undertaking the processing in whole or in part for any department, agency, or instrumentality of the United States or of the Commonwealth, or, in the alternative, to delegate the processing in whole or in part to any such department, agency or instrumentality;

12. To provide advice and technical information, including technical assistance at the state and local levels in the use of both public and private resources to increase low-income housing resources for the disabled;

13. To employ architects, engineers, attorneys, accountants, housing, construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix their compensation;

14. To procure insurance against any loss in connection with its property and other assets, including mortgages and mortgage loans, in such amounts and from such insurers as it deems desirable;

15. To insure mortgage payments of any mortgage loan made for the purpose of constructing, rehabilitating, purchasing, leasing, or refinancing housing developments for persons and families of low and moderate income upon such terms and conditions as HDA may prescribe and to create

insurance funds and form corporations for the purpose of providing mortgage guaranty insurance on mortgage loans made or financed by HDA pursuant to this chapter;

16. To invest its funds as provided in this chapter or permitted by applicable law;

17. To borrow money and issue bonds and notes or other evidences of indebtedness thereof as hereinafter provided;

18. Subject to the requirements of any agreements with bondholders or noteholders, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which HDA is a party;

19. Subject to the requirements of any agreements with bondholders or noteholders, to enter into contracts with any mortgagor containing provisions enabling such mortgagor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where, by reason of other income or payment from any department, agency or instrumentality of the United States or the Commonwealth, such reductions can be made without jeopardizing the economic stability of housing being financed;

20. To procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or notes or any other evidences of indebtedness thereof issued by HDA or an authority, including the power to pay premiums on any such insurance;

21. To make and enter into all contracts and agreements with mortgage lenders for the servicing and processing of mortgage loans pursuant to this chapter;

22. To establish, and revise from time to time and charge and collect fees and charges in connection with any agreements made by HDA under this chapter;

23. To do any act necessary or convenient to the exercise of the powers herein granted or reasonably implied;

24. To invest in, purchase or make commitments to purchase securities or other obligations secured by or payable from mortgage loans on, or issued for the purpose of financing or otherwise assisting land development or residential housing for persons or families of low or moderate income;

25. To acquire, develop and own multifamily residential housing as hereinafter provided;

26. To enter into agreements with owners of housing developments eligible for federal low-income housing credits as hereinafter provided in this chapter;

27. To exercise any of the powers granted by this chapter for the purpose of financing an economically mixed project and, if such project is within a revitalization area designated in or pursuant to § 36-55.30:2, any nonhousing buildings that are incidental to such project or are

determined by such governing body to be necessary or appropriate for the revitalization of such area or for the industrial, commercial, or other economic development of such area; provided that a capital reserve fund shall not be created for any such financing pursuant to § 36-55.41;

28. To make and enter into contracts and agreements to act as the loan servicer for a housing lender on properties located in or outside of the Commonwealth to persons and families of any income; and

29. To indemnify other parties against liabilities, obligations, losses, payments, damages, expenses, and costs as may be necessary or appropriate to the exercise of any power herein granted or reasonably implied, provided that (i) such indemnification shall be payable solely from the funds of the HDA and (ii) such indemnification shall not constitute a debt or obligation of the Commonwealth, and the Commonwealth shall not be liable therefor.

1972, c. 830; 1975, c. 536; 1979, c. 613; 1986, c. 6; 1987, c. 254; 1990, c. 956; 1996, c. 498; 1998, c. 442; 2004, c. 187; 2011, c. 690; 2012, c. 238.

§ 36-55.30:2.Housing revitalization areas; economically mixed projects

A. For the sole purpose of empowering the HDA to provide financing in accordance with this chapter, the governing body of any city or county may by resolution designate an area within such city or county as a revitalization area if such governing body shall in such resolution make the following determinations with respect to such area: (i) either (a) the area is blighted, deteriorated, deteriorating or, if not rehabilitated, likely to deteriorate by reason that the buildings, improvements or other facilities in such area are subject to one or more of the following conditions: dilapidation; obsolescence; overcrowding; inadequate ventilation, light or sanitation; excessive land coverage; deleterious land use; or faulty or inadequate design, quality or condition; or (b) the industrial, commercial or other economic development of such area will benefit the city or county but such area lacks the housing needed to induce manufacturing, industrial, commercial, governmental, educational, entertainment, community development, healthcare or nonprofit enterprises or undertakings to locate or remain in such area; and (ii) private enterprise and investment are not reasonably expected, without assistance, to produce the construction or rehabilitation of decent, safe and sanitary housing and supporting facilities that will meet the needs of low and moderate income persons and families in such area and will induce other persons and families to live within such area and thereby create a desirable economic mix of residents in such area. Any redevelopment area, conservation area, or rehabilitation area created or designated by the city or county pursuant to Chapter 1 (§ 36-1 et seq.) of this title, any census tract in which 70 percent or more of the families have incomes which are 80 percent or less of the statewide median income as determined by the federal government pursuant to Section 143 of the United States Internal Revenue Code or any successor code provision on the basis of the most recent decennial census for which data are available, and any census tract which is designated by the United States Department of Housing and Urban Development and, for the most recent year for which census data are available on household income in such tract, either in which 50 percent or more of

the households have an income which is less than 60 percent of the area median gross income for such year or which has a poverty rate of at least 25 percent shall be deemed to be designated as a revitalization area without adoption of the above described resolution of the city or county. In any revitalization area, the HDA may provide financing for one or more economically mixed projects and, in conjunction therewith, any nonhousing buildings that are incidental to such project or projects or are determined by the governing body of the city or county to be necessary or appropriate for the revitalization of such area or for the industrial, commercial or other economic development thereof.

B. The HDA may finance an economically mixed project that is not within a revitalization area if the governing body of the city or county in which such project is or will be located shall by resolution determine (i) either (a) that the ability to provide residential housing and supporting facilities that serve persons or families of lower or moderate income will be enhanced if a portion of the units therein are occupied or held available for occupancy by persons and families who are not of low and moderate income or (b) that the surrounding area of such project is, or is expected in the future to be, inhabited predominantly by lower income persons and families and will benefit from an economic mix of residents in such project and (ii) private enterprise and investment are not reasonably expected, without assistance, to produce the construction or rehabilitation of decent, safe and sanitary housing and supporting facilities that will meet the needs of low and moderate income persons and families in such area and will induce other persons and families to live within such area and thereby create a desirable economic mix of residents in such area.

C. In any economically mixed project financed under this section, the percentage of units occupied or held available for occupancy by persons and families who are not of low and moderate income, as determined as of the date of their initial occupancy of such units, shall not exceed 80 percent.

1979, c. 374; 1996, cc. 77, 498; 2004, c. 187; 2006, c. 784.

§ 36-55.30:3.Regulations; adoption procedures

A. The HDA shall have the power to adopt, amend and repeal regulations, not inconsistent with this chapter or other applicable laws, to carry into effect the powers and purposes of the HDA and the conduct of its business. Such regulations shall be designed to effectuate the general purposes of this chapter.

B. The full text or an informative summary of any proposed new regulation, or any amendment to or repeal of a regulation shall be published not less than fifteen nor more than thirty days before the same may be acted upon and shall state the time and place of a public hearing at which the matters mentioned therein will be considered, at which time any person wishing to comment shall be heard and any written comments shall be considered. Such publication shall be in a newspaper of general circulation published in Richmond and in addition, as HDA may determine, it may be similarly

published in newspapers in localities particularly affected as well as publicized through press releases and other media as will best serve the purpose and subject involved.

C. If HDA is satisfied that the proposed regulation or amendments thereto or repeal thereof, or any part thereof, in the form in which it was proposed or changed as a result of such public hearing, provided the changes do not alter the main purpose of the regulation, is advisable, such regulation, amendment to or repeal of a regulation, or any part thereof, may be adopted and, if adopted, shall be published as prescribed in subsection B of this section and shall state the date when it is to become effective.

1979, c. 613; 1988, c. 364.

§ 36-55.31.Powers relative to making mortgage loans and temporary construction loans to housing sponsors and persons and families of low and moderate income

The HDA shall have all the powers necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others herein granted:

(1) through (3) [Repealed.]

(4) Enter into agreements and contracts with housing sponsors under the provisions of this section;

(5) Institute any action or proceeding against any housing sponsor or persons and families of low or moderate income receiving a loan under the provisions hereof, or owning any housing development hereunder in any court of competent jurisdiction in order to enforce the provisions of this chapter, the terms and provisions of any agreement or contract between HDA and such recipients of loans under the provisions hereof, including without limitation provisions as to rental or carrying charges and income limits as applied to tenants or occupants, or to foreclose its mortgage, or to protect the public interest, persons and families of low and moderate income, stockholders, or creditors of such sponsor. In connection with any such action or proceeding it may apply for the appointment of a trustee or receiver to take over, manage, operate and maintain the affairs of a housing sponsor and HDA through such agent as it shall designate is hereby authorized to accept appointment as trustee or receiver of any such sponsor when so appointed by a court of competent jurisdiction.

The reorganization of any housing sponsor shall be subject to the supervision and control of HDA, and no such reorganization shall be had without the consent of HDA. Upon any such reorganization the amount of capitalization, including therein all stocks, income debentures and bonds and other evidence of indebtedness shall be such as is authorized by HDA, but not in excess of the fair value of the property received;

(6) In any foreclosure action involving a housing sponsor other than a foreclosure action instituted by HDA, the municipality in which any housing development is situate shall, in addition to other necessary parties, be made parties defendant. HDA and the municipality shall take all steps in such

action necessary to protect the interest of the public therein, and no costs shall be awarded against HDA or the municipality.

Subject to the terms of any applicable agreement, contract or other instrument entered into or obtained pursuant to this chapter, judgment of foreclosure shall not be entered unless the court to which application therefor is made shall be satisfied that the interest of the lienholders or holders of bonds or other obligations cannot be adequately secured or safeguarded except by the sale of the property; and in such proceeding the court shall be authorized to make an order increasing the rental or carrying charges to be charged for the housing accommodations in the housing development involved in such foreclosure, or appoint a member of HDA or any officer of the municipality, as a receiver or trustee of the property, or grant such other and further relief as may be reasonable and proper; and in the event of a foreclosure or other judicial sale, the property shall be sold only to a housing sponsor which will manage, operate and maintain the housing development subject to the provisions of this chapter, unless the court shall find that the interest and principal on the obligations secured by the lien which is the subject of foreclosure cannot be earned under the limitations imposed by the provisions of this chapter and that the proceeding was brought in good faith, in which event the property may be sold free of limitations imposed by this chapter or subject to such limitations as the court may deem advisable to protect the public interest;

(7) In the event of a judgment against any housing sponsor in any action not pertaining to the foreclosure of a mortgage, there shall be no sale of any of the real property included in any housing development hereunder of such housing sponsor except upon 60 days' written notice to HDA. Upon receipt of such notice HDA shall take such steps as in its judgment may be necessary to protect the rights of all parties;

(8) In the event of violation by a housing sponsor of any provision of a loan, the terms of any agreement between HDA and the housing sponsor, the provisions of this chapter or of any rules or regulations duly promulgated pursuant to the provisions of this chapter, HDA may remove any or all of the existing directors or officers of such corporate housing sponsor and may appoint such person or persons who HDA in its sole discretion deems advisable as new directors or officers to serve in the places of those removed notwithstanding the provisions of any other law and may designate a managing agent with complete and exclusive power to act on behalf of a defaulting partnership housing sponsor; provided, however, that any such directors or officers or managing agents so appointed by HDA shall serve only for a period coexistent with the duration of such violation or until HDA is assured in a manner satisfactory to it against violations of a similar nature or both. Officers or directors so appointed need not be stockholders or meet other qualifications which may be prescribed by the certificate of incorporation or by other laws governing such qualified housing sponsor;

(9) Foreclose under deeds of trust by powers of sale pursuant to Title 55.1 and amendments thereto;

(10) Make, undertake commitments to make and participate in the making of mortgage loans, including without limitation federally insured mortgage loans, to housing sponsors to finance the ownership and operation of housing developments and multifamily residential housing intended for occupancy by persons and families of low and moderate income, upon the terms and conditions set forth in subsections A and B of § 36-55.33:1;

(11) Make, undertake commitments to make and participate in the making of mortgage loans, including without limitation federally insured mortgage loans, to persons and families of low and moderate income to finance the purchase or refinancing of single-family residential housing, upon the terms and conditions set forth in subsections A and C of § 36-55.33:1;

(12) Make, undertake commitments to make and participate in the making of mortgage loans, including without limitation federally insured mortgage loans, to housing sponsors and persons and families of low and moderate income to finance the construction, rehabilitation, preservation or improvement of housing developments and residential housing intended, upon completion of such construction, rehabilitation, preservation or improvement, for ownership or occupancy by persons and families of low and moderate income, upon the terms and conditions set forth in subsections A and D of § 36-55.33:1;

(13) Make, undertake commitments to make and participate in the making of mortgage loans to finance the construction, rehabilitation, preservation or improvement, or ownership and operation, of economically mixed projects and, if any such project is within a revitalization area designated in or pursuant to § 36-55.30:2, any nonhousing buildings that are incidental to such project or are determined by such governing body to be necessary or appropriate for the revitalization of such area or for the industrial, commercial or other economic development of such area, upon the terms and conditions set forth in subsections A and E of § 36-55.33:1.

1972, c. 830; 1975, c. 536; 1979, c. 374; 2004, c. 187.

§ 36-55.31:1.Loans for installation of certain energy-saving devices

The Virginia Housing Development Authority shall establish a program of loans for financing the purchase and installation of insulation, storm windows and doors and solar or other alternative energy sources which will reduce the reliance on present sources of energy for use in the dwellings of residents of the Commonwealth or public or nonprofit buildings or facilities. Any and all funds available through specific state appropriations or federal grants or other state or federal assistance for such purposes may be utilized by the Virginia Housing Development Authority. Any loan made pursuant to this section may be secured by a mortgage or otherwise or may be unsecured, shall be repaid, shall bear interest and shall be upon such terms and conditions as may be determined by HDA in its rules and regulations or in the HDA resolution, or commitment for, such loan. Any such loans made with respect to dwellings of residents of the Commonwealth shall be limited to dwellings

occupied by persons or families of low and moderate income. The Commissioners of the Virginia Housing Development Authority shall promulgate rules and regulations for the orderly administration of this section.

1977, c. 431; 1978, c. 631.

§ 36-55.32.Powers relative to purchase and sale to mortgage lenders of mortgage loans; loans to mortgage lenders

The HDA shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To invest in, purchase or to make commitments to purchase, and take assignments from mortgage lenders, of notes and mortgages evidencing loans for the construction, rehabilitation, purchase, leasing or refinancing of residential housing for persons and families of low and moderate income in this Commonwealth upon the terms set forth in § 36-55.35;

(2) To make loans to mortgage lenders under terms and conditions requiring the proceeds thereof to be used by such mortgage lenders for the making of new residential mortgage loans to finance multi-family or single-family residential housing for persons and families of low and moderate income, upon the terms set forth in § 36-55.35;

(3) To make commitments to purchase, and to purchase, service and sell mortgages insured by any department, agency or instrumentality of the United States, and to make loans directly upon the security of any such mortgage, provided the underlying mortgage loans shall have been made and shall be continued to be used solely to finance or refinance the construction, rehabilitation, purchase or leasing of residential housing for persons and families of low and moderate income in this Commonwealth;

(4) To sell, at public or private sale, with or without public bidding, any mortgage or other obligation held by HDA;

(5) To enter into mortgage insurance agreements with mortgage lenders in connection with the lending of money by such institutions to persons and families of low and moderate income for the purchase of residential housing;

(6) Subject to any agreement with bondholders or noteholders, to collect, enforce the collection of, and foreclose on any collateral securing its loans to mortgage lenders and acquire or take possession of such collateral and sell the same at public or private sale, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interests of HDA therein.

1972, c. 830; 1975, c. 536; 1982, c. 152.

§ 36-55.33:1.Mortgage loan terms and conditions

A. All mortgage loans made by HDA pursuant to § 36-55.31 of this chapter shall be subject to the following terms and conditions:

1. The ratio of mortgage loan principal amount to total housing development costs and the amortization period of any mortgage loans made by HDA which are federally insured mortgages, in whole or in part, or which are otherwise assisted or aided, directly or indirectly, by the federal government, shall be governed by the rules and regulations provided in or pursuant to the federal government program under which the HDA mortgage loan or part thereof is insured, guaranteed, assisted or aided; but in no event shall such amortization period exceed 50 years.

2. A mortgage loan made by HDA may be prepaid to maturity after a period of years, and on such terms and conditions, as are determined by HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage loan.

3. HDA shall have authority to establish and modify from time to time the interest rates at which it shall make mortgage loans and commitments therefor. Such interest rates shall be established by HDA in its sole discretion at the lowest level consistent with HDA's cost of operation and its responsibilities to the holders of its bonds, bond anticipation notes and other obligations. In addition to such interest charges, HDA may make and collect such fees and charges, including but not limited to reimbursement of HDA's financing costs, service charges, insurance premiums and mortgage insurance premiums, as HDA determines to be reasonable. No person shall, by way of defense or otherwise, avail himself of any of the provisions of Chapter 3 (§ 6.2-300 et seq.) of Title 6.2 to avoid or defeat the payment of any interest or fee which he shall have contracted to pay on any loan or forbearance of money made, directly or indirectly, or assisted in any manner by HDA under or pursuant to this chapter.

B. Mortgage loans made by HDA to housing sponsors to finance the ownership and operation of housing developments and multifamily residential housing intended for occupancy by persons and families of low and moderate income, pursuant to subdivision (10) of § 36-55.31, shall be subject to the following terms and conditions in addition to those contained in subsection A of this section:

1. The amount disbursed with respect to an HDA mortgage loan to a limited profit housing sponsor shall not exceed 95 percent of the total housing development costs and to a nonprofit housing sponsor shall not exceed 100 percent of the total housing development costs. Subsequent to the disbursement of such amount, additional amounts may be from time to time disbursed if the sum of the amount to be so disbursed and the then outstanding principal balance of the HDA mortgage loan does not exceed 95 percent of the market value of the housing development or residential housing as then determined by the Authority. The amortization period of such an HDA mortgage loan shall be as determined by HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage loan; but in no event shall such amortization period exceed 50 years.

2. The instrument evidencing any such HDA mortgage loan and the mortgage securing any such HDA mortgage loan shall be in such form and contain such terms and conditions as shall be prescribed or approved by HDA. The aforesaid mortgage and instrument evidencing an HDA mortgage loan may contain exculpatory provisions relieving the housing sponsor or its principal or principals from personal liability if deemed desirable by HDA.

3. With respect to any such HDA mortgage loan made to a limited profit housing sponsor, HDA may require that such limited profit housing sponsor not make distributions in any one year with respect to the housing development or multifamily residential housing financed by such HDA mortgage loan in excess of such percentage of such limited profit housing sponsor's equity in the housing development or multifamily residential housing as may be determined by HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for such mortgage loan. None of the partners, principals, stockholders or holders of a beneficial interest in such limited profit housing sponsor shall earn, accept or receive a return in any one year with respect to the housing development or multifamily residential housing financed by such HDA mortgage loan greater than his applicable proportion of any such percentage of such limited profit housing sponsor's equity in the housing development or multifamily residential housing as may be determined by HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage loan. The right to any such limited distribution or return may be cumulative to the extent provided by HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage loan. For the purpose of this section, the terms "distribution" and "return" are intended to mean payments on account of the housing development or multifamily residential housing financed by such HDA mortgage loan resulting from the operation thereof. Any payment to a person or entity who is a partner, principal, stockholder or holder of a beneficial interest in such limited profit housing sponsor shall not be deemed a "distribution" or "return" to such person or entity if the funds with which such payment is made are funds paid or contributed to such limited profit housing sponsor by persons or entities purchasing a beneficial interest in such limited profit housing sponsor. At or after the completion of construction, rehabilitation or improvement of the housing development or multifamily residential housing financed by such HDA mortgage loan, such limited profit housing sponsor's equity in the housing development or multifamily residential housing shall be established in the manner provided by HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for such mortgage loan. Such equity shall be determined by HDA, at its option, as either (i) the difference between the total housing development costs as to the housing development or multifamily residential housing and the final principal amount of such HDA mortgage loan, or (ii) the difference between the fair market value of such housing development and the final principal amount of such HDA mortgage loan. HDA may thereafter from time to time adjust such equity to be equal to the difference, as of the date of adjustment, between the fair market value of such housing development and the outstanding principal balance of such HDA mortgage loan. HDA may review and regulate a proposed retirement

of any capital investment in, or redemption of any stock of, such limited profit housing sponsor in the manner provided by HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage loan.

4. With respect to any such HDA mortgage loan, HDA may require the housing sponsor and other parties related to the housing development or multifamily residential housing financed by such HDA mortgage loan to execute such agreements, assurances, guarantees and certifications as HDA shall determine to be necessary including, without limitation, agreements between HDA and such housing sponsor and its partners, principals or stockholders to limitations established by HDA as to rentals and other charges, profits, fees, the use and disposition of the real property constituting the site of or relating to the housing development or multifamily residential housing and other property of such housing sponsor, and the use and disposition of franchises of such housing sponsor to the extent more restrictive limitations are not provided by the law under which such housing sponsor is incorporated or organized.

5. As a condition of any such HDA mortgage loan, HDA shall have the power to supervise the housing sponsor in accordance with the provisions of § 36-55.34:1 at all times during which such HDA mortgage loan is outstanding and thereafter as necessary to preserve the federal tax exemption of the notes or bonds issued by HDA to finance such HDA mortgage loan.

C. Mortgage loans made by HDA to persons and families of low and moderate income to finance the purchase or refinancing of single-family residential housing, pursuant to subdivision (11) of § 36-55.31, shall be subject to the following terms and conditions in addition to those contained in subsection A of this section:

1. The amount disbursed with respect to such HDA mortgage loan shall not exceed 100 percent of the sales price or market value of the single-family residential housing, as determined or approved by or on behalf of HDA. HDA may also disburse additional amounts to finance such closing costs and fees as it may deem necessary or appropriate, and all such disbursements and financings of closing costs and fees subsequent to the enactment of this chapter are hereby validated. The amortization period of such an HDA mortgage loan shall be as determined by HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage loan; but in no event shall such amortization period exceed 50 years. If during the term of the HDA mortgage loan (i) the outstanding principal balance of the HDA mortgage loan is expected to increase to an amount in excess of the original principal balance or (ii) the amount of monthly payments on the HDA mortgage loan will or may be adjusted, HDA shall so notify the applicants prior to the execution of the HDA mortgage loan. Such notice shall describe the terms and conditions under which the outstanding principal balance or the amount of monthly payments, or both, may be so increased or adjusted, and such notice shall be signed by the applicants.

2. Such an HDA mortgage loan shall be made only after a determination that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and the HDA resolution authorizing, or commitment for, such mortgage loan shall contain such a determination.

3. The instrument evidencing any such HDA mortgage loan and the mortgage securing any such HDA mortgage loan shall be in such form and contain such terms and conditions as shall be prescribed or approved by HDA. With respect to any such HDA mortgage loan, HDA may require the person or family of low or moderate income to execute such agreements, assurances, guarantees and certifications as HDA shall determine to be necessary including, without limitation, agreements between HDA and such person or family of low or moderate income relating to the use, occupancy, maintenance and sale of the single-family residential housing financed by such HDA mortgage loan and the payment, prepayment and assignment of such HDA mortgage loan.

D. Mortgage loans made by HDA to housing sponsors or persons or families of low or moderate income to finance the construction, rehabilitation, preservation or improvement of housing developments or residential housing intended, upon completion of such construction, rehabilitation, preservation or improvement, for ownership or occupancy by persons and families of low and moderate income, pursuant to subdivision (12) of § 36-55.31 of this chapter, shall be subject to the following terms and conditions in addition to those contained in subsection A of this section:

1. The amount disbursed with respect to such an HDA mortgage loan to a limited profit housing sponsor shall not exceed 95 percent of the total housing development costs and to a nonprofit housing sponsor or a person or family of low or moderate income shall not exceed 100 percent of the total housing development costs. Subsequent to the disbursement of such amount, additional amounts may be from time to time disbursed if the sum of the amount to be so disbursed and the then outstanding principal balance of the HDA mortgage loan does not exceed 95 percent of the market value of the housing development or residential housing as then determined by the Authority. Without regard as to whether HDA intends to remain the lender in respect to such mortgage loan throughout the amortization period thereof, the amortization period of such an HDA mortgage loan shall be as determined by HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage loan.

2. In considering any application for such an HDA mortgage loan, HDA shall give first priority to applications relating to housing developments or residential housing which are or will be well-planned and well-designed, and also shall give consideration to:

a. The comparative need for housing for persons and families of low and moderate income in the area proposed to be served by the housing development or residential housing;

b. The ability of the applicant to construct, rehabilitate or improve and market or operate, manage and maintain the housing development or residential housing;

c. The existence of zoning or other regulations to protect adequately the housing development or residential housing against detrimental future uses which could cause undue depreciation in the value of the housing development or residential housing;

d. The availability of adequate parks, recreational areas, utilities, schools, transportation and parking; and

e. The existence of statewide housing plans.

3. With respect to any such HDA mortgage loan, HDA may require the housing sponsor, person or family of low or moderate income, contractors, architects, marketing agents, management agents and other parties related to the housing development or residential housing financed by such HDA mortgage loan to execute such agreements, assurances, guarantees and certifications as HDA shall determine to be necessary including, without limitation, agreements between HDA and such housing sponsor and its partners, principals or stockholders or such person or family of low or moderate income to limitations established by HDA as to rentals and other charges, profits, fees, the use and disposition of the real property constituting the site of or relating to the housing development or residential housing and other property of such housing sponsor, and the use and disposition of franchises of such housing sponsor to the extent more restrictive limitations are not provided by the law under which such housing sponsor is incorporated or organized. HDA shall require the housing sponsor or person or family of low or moderate income receiving such HDA mortgage loan, or the construction contractor, or both, to furnish such assurances of completion of the construction, rehabilitation or improvement as determined by HDA in its rules and regulations or in the HDA resolution authorizing, or commitment for, such mortgage loan.

4. As a condition of any such HDA mortgage loan to a housing sponsor, HDA shall have the power to supervise such housing sponsor in accordance with the provisions of § 36-55.34:1 at all times during which such HDA mortgage loan is outstanding and thereafter as necessary to preserve the federal tax exemption of the notes or bonds issued by HDA to finance such HDA mortgage loan.

5. With respect to any such HDA mortgage loan, the provisions of subdivisions 2 and 3 of subsection B of this section shall be applicable.

E. Mortgage loans made by HDA pursuant to subdivision 13 of § 36-55.31 to finance the construction, rehabilitation, preservation or improvement, or ownership and operation, of economically mixed projects or portions thereof and, if any such project is within a revitalization area designated in or pursuant to § 36-55.30:2, any nonhousing buildings that are incidental to such project or are determined by such governing body of the city or county to be necessary or appropriate for the revitalization of such area or for the industrial, commercial or other economic development of such

area shall be subject to the following terms and conditions in addition to those contained in subsection A of this section:

1. The principal amount of such an HDA mortgage loan shall not exceed 95 percent of the total housing development costs, and the amortization period of such an HDA mortgage loan shall be as determined by HDA in its rules and regulations or in the HDA resolution authorizing, or in the commitment for, such mortgage loan; but in no event shall such amortization period exceed 50 years.

2. Such an HDA mortgage loan shall be made only if the provisions of § 36-55.30:2 are satisfied.

3. The instrument evidencing any such HDA mortgage loan and the mortgage securing any such HDA mortgage loan shall be in such form and contain such terms and conditions as shall be prescribed or approved by HDA. The aforesaid mortgage and instrument evidencing an HDA mortgage loan may contain exculpatory provisions relieving a housing sponsor, if any, or its principal or principals from personal liability if deemed desirable by HDA.

4. The nonhousing buildings shall be financed by such an HDA mortgage loan only if the HDA shall receive a certification from the housing sponsor that a mortgage loan for the financing of such nonhousing buildings is not otherwise available from private lenders upon reasonably equivalent terms and conditions.

1975, c. 536; 1979, c. 374; 1982, c. 176; 1987, c. 164; 1988, c. 556; 1989, c. 161; 1991, c. 447; 2004, c. 187; 2010, c. 794.

§ 36-55.33:2.Powers relative to acquisition, development and ownership by HDA of multi-family residential housing

A. HDA shall have all the powers necessary or convenient to purchase, acquire, construct, rehabilitate, own, operate, improve, repair, maintain, encumber, mortgage, lease, sell and transfer or otherwise dispose of multi-family residential housing or any part or interest therein for occupancy by persons and families of low and moderate income. For the purposes of this section, HDA may form corporations, joint ventures, partnerships, trusts or other legal entities or any combination thereof, on its own behalf or in conjunction with individuals or other public or private entities, to serve as housing sponsors for multi-family residential housing developments; may acquire, own, encumber, pledge, sell, transfer or otherwise dispose of interests in such housing sponsors; may provide financing and other funding to such housing sponsors; and may exercise all necessary or convenient rights and powers and perform all requisite duties and obligations relating thereto. HDA shall not exercise the powers granted under this section with respect to any multi-family residential housing development, unless HDA makes the following findings:

1. That there exists a shortage of decent, safe and sanitary housing at rentals or prices which persons and families of low income or moderate income can afford within the general housing market area to be served by the proposed housing development.

2. That private enterprise and investment have been unable, without assistance, to provide the needed decent, safe and sanitary housing at rentals or prices which persons or families of low and moderate income can afford.

3. That private sponsors would not be willing, without assistance, to undertake the proposed housing development upon substantially similar terms and conditions.

4. That HDA has not received notification from both the local housing authority having jurisdiction over the area in which the housing development would be located and the sponsor of such development that it is the preference of both parties that the local housing authority undertake the proposed housing development.

5. That the proposed housing development will provide well-planned, well-designed housing for persons or families of low and moderate income.

6. That the housing development will be of public use and will provide a public benefit.

7. That the housing development will be undertaken within the authority conferred by this chapter upon HDA.

B. HDA shall also find, in connection with the new construction or substantial rehabilitation by HDA of any proposed multi-family residential housing development, that the governing body of the locality in which such housing development is to be located has not, within sixty days after written notification of such proposed construction or substantial rehabilitation has been sent by HDA to such governing body and to any local housing authority having jurisdiction in such locality, certified to HDA in writing its disapproval of the proposed multi-family residential housing development. The foregoing notwithstanding, no such finding need be made if HDA has received from the governing body its certified resolution approving the proposed housing development.

C. At least sixty days prior to purchasing, acquiring, constructing or rehabilitating any multi-family residential housing development pursuant to this section, HDA shall publish a notice in a newspaper of general circulation in the locality in which such development is to be located. Such notice (i) shall state that HDA intends to purchase, acquire, construct or rehabilitate a multi-family residential housing development or developments in such locality and shall solicit proposals from interested parties for such purchase, acquisition, construction or rehabilitation or (ii) shall identify the multi-family residential housing development or developments to be purchased, acquired, constructed or rehabilitated and shall request comments from the general public with respect to such proposed purchase, acquisition, construction or rehabilitation.

D. In the event HDA or any legal entity formed by HDA is to construct or rehabilitate a multi-family residential housing development pursuant to this section, HDA or such legal entity shall contract with a private firm for the performance of such construction and rehabilitation, unless HDA determines that

no responsible private firm would be willing and able to contract for such construction or rehabilitation at a price necessary for the financial feasibility of such development. HDA or any legal entity formed by HDA shall contract with a private firm or public body for the performance of management services for any multi-family residential housing development owned by HDA or such legal entity pursuant to this section, unless HDA determines that no responsible private firm and no public body would be willing and able to contract for the performance of such management services at a price necessary for the financial feasibility of such development. For the purpose of this subsection, the term "private firm" shall include an individual, joint venture, partnership, stock corporation, trust or other similar business entity legally authorized to perform the construction, rehabilitation or management, as may be applicable, of the proposed multi-family residential housing development.

1987, c. 254; 1991, c. 206; 1996, c. 298.

§ 36-55.34:1.Power to supervise housing sponsors

Subject to such limitations and conditions as may be agreed to by HDA, HDA shall have the power to supervise a housing sponsor and its real and personal property, at all times during which an HDA mortgage loan to such housing sponsor is outstanding and thereafter as necessary to preserve the federal tax exemption of the notes or bonds issued by HDA to finance such HDA mortgage loan, in the following respects:

1. Through its agents or employees, HDA may enter upon and inspect the housing development or residential housing and any nonhousing buildings, including all parts thereof, financed by such HDA mortgage loan, for the purpose of investigating the physical and financial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and may examine all books and records with respect to capitalization, income, expenditures and other matters relating thereto;

2. HDA may supervise the operation and maintenance of the housing development or residential housing and any nonhousing buildings financed by such HDA mortgage loan and may order such alterations, changes or repairs as HDA may deem to be necessary to protect the security of its investment, the public interest, or the health, safety or welfare of the occupants of such housing development or residential housing and any nonhousing buildings;

3. HDA may order such housing sponsor, or the management agent or other parties related to the housing development or residential housing and any nonhousing buildings financed by such HDA mortgage loan, to perform such actions as may be necessary to comply with the provisions of all applicable laws or ordinances, HDA's rules and regulations or the terms of any agreement concerning such housing development or residential housing and any nonhousing buildings, or to refrain from doing any acts in violation thereof; and in this regard HDA shall be a proper party to file a complaint and to prosecute thereon for any violations of laws or ordinances as set forth herein;

4. HDA may prescribe uniform systems of accounts and records for housing sponsors and may require such housing sponsors to make reports, make certifications as to expenditures and give answers to specific questions on such forms and at such times as HDA may deem to be necessary for the purposes of this chapter;

5. HDA may establish and alter from time to time a schedule of rents and charges for the housing development or residential housing and any nonhousing buildings financed by such HDA mortgage loan, and HDA may establish standards for, and may monitor and regulate, tenant or occupant selection by such housing sponsor;

6. HDA may require such housing sponsor to pay to HDA such fees and charges as it may prescribe in connection with the examination, inspection, supervision, auditing or other regulation of the housing development or residential housing and any nonhousing buildings financed by such HDA mortgage loan or of such housing sponsor;

7. In its rules and regulations HDA shall specify the categories of cost which shall be allowable in the construction, rehabilitation, preservation or improvement of a housing development or residential housing and any nonhousing buildings, and HDA shall require such housing sponsor to certify the actual housing development costs upon completion of the housing development or residential housing and any nonhousing buildings, subject to audit and determination by HDA, or shall require such housing sponsor to provide such other assurances of such housing development costs as HDA shall deem necessary to enable HDA to determine with reasonable accuracy the actual amount of such housing development costs; and

8. The provisions of any agreements which provide for the regulation and supervision by HDA of any housing development or residential housing and any nonhousing buildings shall, when duly recorded among the land records of the jurisdiction or jurisdictions in which the housing development or residential housing and any nonhousing buildings are located, run with the land and be binding on the successors and assigns of the owner thereof until released of record by HDA.

1975, c. 536; 1987, c. 164; 1991, c. 447; 2004, c. 187.

§ 36-55.34:2.Power to enter into agreements with owners of housing developments eligible for federal low-income housing credits

HDA may enter into agreements with the owners of housing developments which are or will be eligible for low-income housing credits under the United States Internal Revenue Code. Any such agreement shall contain covenants and restrictions as shall be required by the United States Internal Revenue Code and such other provisions as HDA shall deem necessary or appropriate. Any such agreement shall be enforceable in accordance with its terms in any court of competent jurisdiction in the Commonwealth by HDA or by such other persons as shall be specified in the United States Internal Revenue Code. Any such agreement, when duly recorded as a restrictive covenant among

the land records of the jurisdiction or jurisdictions in which the development is located, shall run with the land and be binding on the successors and assigns of the owner. All references in this section to the United States Internal Revenue Code shall include any amendments thereto and any rules and regulations promulgated thereunder, as the foregoing may be or become effective at any time.

1990, c. 956.

§ 36-55.35.Terms and conditions of purchase from and sale to mortgage lenders of mortgage loans; loans to mortgage lenders

A. Except in the case of a mortgage loan that, when made by the mortgage lender, is to be purchased by HDA, no obligation shall be eligible for purchase or commitment to purchase by HDA from a mortgage lender hereunder if the date of said obligation precedes the date of HDA's commitment to purchase such obligation by such number of years as shall be determined by HDA and unless at or before the time of transfer thereof to HDA such mortgage lender certifies:

1. That in its judgment the loan would in all respects be a prudent investment; and

2. That the proceeds of sale or its equivalent shall be reinvested as provided in subsection F of this section, or invested in short-term obligations pending such reinvestment. However, certification pursuant to this subsection shall not be required in the case of the purchase or commitment to purchase by HDA of a mortgage loan held, insured or assisted by the federal government or any agency or instrumentality thereof.

B. HDA shall purchase mortgage loans at a purchase price equal to the outstanding principal balance; however, discount from the principal balance or the payment of a premium may be employed to effect a fair rate of return which in the opinion of HDA is consistent with the obligations of the HDA hereunder and the purposes of this chapter. In addition to the aforesaid payment of outstanding principal balance HDA shall pay the accrued interest due thereon, on the date the loan or obligation is delivered against payment therefor. The provisions of this subsection shall not apply to the purchase by HDA of a mortgage loan held, insured or assisted by the federal government or any agency or instrumentality thereof, in which case the purchase price shall be determined by agreement of HDA and the mortgage lender.

C. Loans purchased or sold hereunder may include but shall not be limited to loans which are insured, guaranteed or assisted by the federal government or for which there is a commitment by the federal government to insure, guarantee or assist such loan.

D. HDA shall from time to time adopt, modify or repeal rules and regulations governing the making of loans to mortgage lenders and the purchase and sale of mortgage loans and the application of the proceeds thereof, including rules and regulations as to any or all of the following:

1. Procedures for the submission of requests or the invitation of proposals for the purchase and sale of mortgage loans or for loans to mortgage lenders;

2. Limitations or restrictions as to number of family units, location or other qualifications or characteristics of residences to be financed by residential mortgage loans and requirements as to the income limits of persons and families of low and moderate income occupying such residences;

3. Restrictions as to the interest rates on residential mortgage loans or the return realized therefrom by mortgage lenders;

4. Requirements as to commitments by mortgage lenders with respect to residential mortgage loans;

5. Schedules of any fees and charges necessary to provide for expenses and reserves of the HDA; and

6. Any other matters related to the duties and the exercise of the powers of HDA to purchase and sell mortgage loans or to make mortgage loans or other loans to mortgage lenders.

Such rules and regulations shall be designed to effectuate the general purposes of this chapter and the following specific objectives: (i) the expansion of the supply of funds in the Commonwealth available for residential mortgage loans; (ii) the provision of the additional housing needed to remedy the shortage of adequate housing in the Commonwealth and eliminate the existence of a large number of substandard dwellings; and (iii) the restriction of the financial return and benefit to that necessary to protect against the realization by mortgage lenders of an excessive financial return or benefit as determined by prevailing market conditions.

E. The interest rate or rates and other terms of the loans to mortgage lenders made from the proceeds of any issue of bonds of the HDA shall be at least sufficient so as to assure the payment of said bonds and the interest thereon as the same become due from the amounts received by HDA in repayment of such loans and interest thereon.

F. HDA shall require as a condition of each loan to a mortgage lender and as a condition of the purchase or the making of a commitment to purchase mortgage loans from a mortgage lender that such mortgage lender within such period of time following the receipt of the proceeds as shall be prescribed by rules and regulations of HDA, shall have entered into written commitments to make, and shall thereafter proceed as promptly as practicable to make and disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not less than twenty years from the date thereof in an aggregate principal amount equal to the amount of such proceeds. HDA shall not purchase nor make commitment to purchase mortgage loans or obligations from a mortgage lender from which it has previously purchased mortgage loans nor make a loan to a mortgage lender to which it has previously made a loan unless said mortgage lender has either restored or made commitments to restore to its portfolio of residential mortgage loans in the

Commonwealth of Virginia, residential mortgage loans having a stated maturity of not less than twenty years from the date thereof in an aggregate principal amount equal to either the proceeds of prior sale or the amount of prior loan to said mortgage lender. HDA may require the submission to it by each mortgage lender of evidence satisfactory to it of the making of such new residential mortgage loans. The provisions of this subsection shall not apply to the purchase or commitment to purchase by HDA of a mortgage loan held, insured or assisted by the federal government or any agency or instrumentality thereof or a mortgage loan that, when made by the mortgage lender, is to be purchased by HDA.

G. HDA shall require that such loans to mortgage lenders shall be additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security in such amounts as HDA shall by resolution determine to be necessary to assure the payment of such loans and the interest thereon as the same become due. Such collateral security shall consist of (a) direct obligations of, or obligations guaranteed by, the United States of America or the Commonwealth of Virginia; (b) bonds, debentures, notes or other evidences of indebtedness, satisfactory to the HDA, issued by any of the following federal agencies: Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan Bank System, Export-Import Bank of Washington, Federal Land Banks, the Federal National Mortgage Association or the Government National Mortgage Association; (c) direct obligations of or obligations guaranteed by the Commonwealth; or (d) mortgages insured or guaranteed, upon terms and conditions satisfactory to the HDA, by the federal government or private mortgage insurance companies as to payment of principal and interest.

1972, c. 830; 1975, c. 536; 1982, c. 101; 1996, c. 298; 2011, cc. 218, 224.

§ 36-55.36.Terms and conditions of mortgage insurance

(1) For mortgage payments to be eligible for insurance under the provisions of this chapter, the underlying mortgage loan shall: (a) be one which is made to and held by a mortgagee approved by HDA as responsible and able to service the mortgage properly; (b) not exceed (i) 100% of the estimated cost of such proposed housing development if owned or to be owned by a nonprofit mortgagor or if owned by a person or family of low or moderate income, in the case of a single-family dwelling or condominium; or, (ii) 95% of the estimated cost of the proposed housing development if owned or to be owned by any other mortgagor; (c) have a maturity satisfactory to HDA but in no case longer than 80% of HDA's estimate of the remaining useful life of said housing or 40 years from the date of the issuance of insurance, whichever is earlier; (d) contain amortization provisions satisfactory to HDA requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by HDA; (e) be in such form and contain such terms and provisions with respect to maturity, property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens,

equitable and legal redemption rights, prepayment privileges and other matters as HDA may prescribe.

(2) All applications for mortgage insurance shall be forwarded, together with an application fee prescribed by HDA, to the executive director of HDA. HDA shall cause an investigation of the proposed housing to be made, review the application and the report of the investigation, and approve or deny the application. No application shall be approved unless HDA finds that it is consistent with the purposes of this chapter and further finds that the financing plan for the proposed housing is sound. HDA shall notify the applicant and the proposed lender of its decision. Any such approval shall be conditioned upon payment to HDA, within such reasonable time and after notification of approval as may be specified by HDA, of the commitment fee prescribed by HDA.

(3) HDA shall fix mortgage insurance premiums for the insurance of mortgage payments under the provisions of this chapter. Such premiums shall be computed as a percentage of the principal of the mortgage outstanding at the beginning of each mortgage year, but shall not be more than one-half of one per centum per year of such principal amount. The amount of premium need not be uniform for all insured loans. Such premiums shall be payable by mortgagors or mortgagees in such manner as prescribed by HDA.

(4) In the event of default by the mortgagor, the mortgagee shall notify HDA both of the default and the mortgagee's proposed course of action. When it appears feasible, HDA may for a temporary period upon default or threatened default by the mortgagor authorize mortgage payments to be made by HDA to the mortgagee which payments shall be repaid under such conditions as HDA may prescribe. HDA may also agree to revised terms of financing when such appear prudent. The mortgagee shall be entitled to receive the benefits of the insurance provided herein upon: (a) Any sale of the mortgaged property by court order in foreclosure or a sale with the consent of HDA by the mortgagor or a subsequent owner of the property or by the mortgagee after foreclosure or acquisition by deed in lieu of foreclosure, provided all claims of the mortgagee against the mortgagor or others arising from the mortgage, foreclosure, or any deficiency judgment shall be assigned to HDA without recourse except such claims as may have been released with the consent of HDA; or (b) the expiration of six months after the mortgagee has taken title to the mortgaged property under judgment of strict foreclosure, foreclosure by sale or other judicial sale, or under a deed in lieu of foreclosure if during such period the mortgagee has made a bona fide attempt to sell the property, and thereafter conveys the property to HDA with an assignment, without recourse, to HDA of all claims of the mortgagee against the mortgagor or others arising out of the mortgage foreclosure, or deficiency judgment; or (c) the acceptance by HDA of title to the property or an assignment of the mortgage, without recourse to HDA, in the event HDA determines it imprudent to proceed under (a) or (b) above. Upon the occurrence of either (a), (b) or (c) hereof, the obligation of the mortgagee to pay premium charges for insurance shall cease, and HDA shall, within thirty days thereafter, pay to the mortgagee ninety-eight percent of the

sum of (i) the then unpaid principal balance of the insured indebtedness, (ii) the unpaid interest to the date of conveyance or assignment to HDA, as the case may be, (iii) the amount of all payments made by the mortgagee for which it has not been reimbursed for taxes, insurance, assessments and mortgage insurance premiums, and (iv) such other necessary fees, costs or expenses of the mortgagee as may be approved by HDA.

(5) Upon request of the mortgagee, HDA may at any time, under such terms and conditions as it may prescribe, consent to the release of the mortgagor from his liability or consent to the release of parts of the property from the lien of the mortgage, or approve a substitute mortgagor or sale of the property or part thereof.

(6) No claim for the benefit of the insurance provided in this chapter shall be accepted by HDA except within one year after any sale or acquisition of title of the mortgaged premises described in subdivision (a) or (b) of subsection (4) of this section.

1972, c. 830; 1975, c. 536.

§ 36-55.36:1.Power to create insurance funds and form corporations for the purpose of insuring HDA mortgage loans

HDA shall have the power to create one or more insurance funds and to form one or more corporations for the purpose of providing replacement mortgage guaranty insurance, upon such terms and conditions as HDA shall prescribe, on mortgage loans made or financed by HDA pursuant to this chapter for which (i) mortgage guaranty insurance is being provided by a company which, subsequent to the provision of such coverage, has experienced a drop in rating by a nationally recognized credit rating service which could result in a rating for the bonds which would be in nonconformance with the rating covenants of the related bond indenture; and (ii) the executive director of HDA executes an affidavit stating that HDA was unable, after diligent effort, to procure replacement mortgage guaranty insurance in a form and premium acceptable to HDA from another insurer licensed in this Commonwealth to transact mortgage guaranty insurance business. For purposes of this section, "diligent effort" means a good faith search by HDA for mortgage guaranty insurance among admitted insurers resulting in declinations of coverage, by three unaffiliated insurers licensed and authorized in this Commonwealth to write the mortgage guaranty insurance coverage sought, at a premium equal to or less than the premium in force for the loans made or financed by HDA. HDA may provide financing and other funding to any such fund or corporation and may exercise all necessary or convenient rights and powers and perform all requisite duties and obligations relating thereto. Any such fund or corporation shall be subject to the direction and control of the commissioners of HDA and shall have such powers and duties as the commissioners of HDA shall prescribe. Any such fund or corporation may charge such premiums and may establish such reserves as HDA shall specify. HDA may specify that any such reserves shall be assets of such fund or corporation and shall not be subject to the claims of creditors of HDA. Any such fund or corporation, its directors, officers and employees, its

assets and operations, and its policies of insurance and the premiums therefor shall not be subject to the provisions of Title 38.2 and rules and regulations issued pursuant thereto. The property of any such fund or corporation and its income and operations shall be exempt from taxation or assessments of every kind by the Commonwealth and all municipalities and other political subdivisions thereof. The provisions of § 36-55.36 shall not be applicable to mortgage guaranty insurance provided under this section.

1990, c. 956.

§ 36-55.37. Exemption from taxation

(1) As set forth in the declaration of finding and purpose herein, HDA will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the notes and bonds of HDA issued and to be issued pursuant to this chapter, the transfer thereof, and the income therefrom including any profit made on the sale thereof and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received, pledged to pay or secure the payment of such notes or bonds shall at all times be free from taxation and assessment of every kind by the Commonwealth and by the municipalities and all other political subdivisions of the Commonwealth.

(2) The property of HDA and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by HDA under the provisions of this chapter.

(3) Any housing development, residential housing or nonhousing building financed in whole or in part pursuant to the provisions of this chapter and owned by HDA shall be exempt from all property taxation and special assessments of the Commonwealth or political subdivisions thereof; provided, however, that in lieu of such taxes, HDA may agree to make such payments to the Commonwealth or any political subdivision thereof as HDA finds consistent with the cost of supplying municipal services to the housing development, residential housing or nonhousing building and maintaining the economic feasibility of the housing development, residential housing or nonhousing building, which payments such bodies are hereby authorized to accept.

1972, c. 830; 1974, c. 263; 2004, c. 187.

§ 36-55.38. Admission and income limitations relative to housing developments

(1) Admission to housing developments financed pursuant to the provisions of this chapter shall be limited to persons or families of low or moderate income and, in the case of economically mixed projects, such other persons and families as the HDA shall determine, subject to the limitation in subsection C of § 36-55.30:2.

(2) HDA shall make and publish rules and regulations from time to time governing the terms of tenant selection plans and income limits for tenants eligible to occupy housing developments assisted by HDA in conformance with the provisions of this chapter and such income limits may vary with the size and circumstances of the person or family.

(3) HDA shall by rules and regulations provide income standards for continued residence in housing developments assisted by HDA, and either HDA, or with its approval the housing sponsor of any such housing development may terminate the tenancy or interest of any person or family residing in any such housing development whose gross aggregate income exceeds prescribed income standards for a period of six months or more; provided, that no tenancy or interest of any such person or family in any such housing development shall be terminated except upon reasonable notice and opportunity to obtain suitable alternate housing, in accordance with rules and regulations of HDA; provided further, that any such person or family, with the approval of HDA, shall be permitted to continue to occupy the unit, subject to payment of a rent or carrying charges or surcharge to the housing sponsor in accordance with a schedule of surcharges fixed by HDA.

(4) Any person or family residing in a housing development which shall be a cooperative and is required to be removed from the housing development because of excessive income as herein provided shall be discharged from liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed, in accordance with the rules of HDA, for all sums paid by such person or family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy or on account of the acquisition of title for such purpose.

1972, c. 830; 1975, c. 536; 1996, c. 498; 2004, c. 187.

§ 36-55.39. Procedure prior to financing of housing developments undertaken by housing sponsors

A. Notwithstanding any other provision of this chapter, HDA is not empowered to finance any housing development undertaken by a housing sponsor pursuant to §§ 36-55.31, 36-55.33:1 and 36-55.34:1 of this chapter unless, prior to the financing of any housing development hereunder, the commissioners or the executive director of HDA find:

1. That there exists a shortage of decent, safe and sanitary housing at rentals or prices which persons and families of low income or moderate income can afford within the general housing market area to be served by the proposed housing development.

2. That private enterprise and investment have been unable, without assistance, to provide the needed decent, safe and sanitary housing at rentals or prices which persons or families of low and moderate income can afford or to provide sufficient mortgage financing for residential housing for occupancy by such persons or families.

3. That the housing sponsor or sponsors undertaking the proposed housing development in the Commonwealth will supply well-planned, well-designed housing for persons or families of low and moderate income and, in the case of an economically mixed project, other persons and families and that such sponsors are financially responsible.

4. That the housing development, to be assisted pursuant to the provisions of this chapter, will be of public use and will provide a public benefit.

5. That the housing development will be undertaken within the authority conferred by this chapter upon HDA and the housing sponsor or sponsors.

B. The locality, upon written request from the housing sponsor, shall provide a written staff determination that the proposed development is consistent with current zoning and other land use regulations in effect at the time of such request. Failure of the locality to comply with this subsection within 30 days of the receipt of the written request from the housing sponsor shall be deemed to be a determination that the proposed development is consistent with current zoning and other land use regulations. Prior to financing by the HDA, the housing sponsor shall provide the HDA with (i) a copy of the written staff determination received from the locality, (ii) a written certification that the locality failed to respond to the housing sponsor's request within 30 days as provided herein, or (iii) a copy of any building permit issued by the locality.

1972, c. 830; 1975, c. 536; 1978, c. 297; 1982, c. 175; 1990, c. 461; 1995, c. 215; 1996, c. 560; 1997, c. 684; 2004, c. 187.

§ 36-55.40.Notes and bonds

A. 1. HDA shall have power and is hereby authorized to issue from time to time its negotiable notes and bonds in conformity with applicable provisions of the Uniform Commercial Code in such principal amount as HDA shall determine to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of HDA, establishment of reserves to secure such notes and bonds, and all other expenditures of HDA incident to and necessary or convenient to carry out its corporate purposes and powers. In accordance with § 2.2-5002, such power to issue notes and bonds shall not be restricted or limited solely because the interest on the notes and bonds is subject, in whole or in part, directly or indirectly, to federal income taxes.

2. HDA shall have the power, from time to time, to issue (i) notes to renew notes and (ii) bonds, to pay notes, including the interest thereon and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. The refunding bonds may be (i) exchanged for the bonds to be refunded or (ii) sold and the proceeds applied to the purchase, redemption or payment of such bonds.

3. Except as may otherwise be expressly provided by HDA, every issue of its notes and bonds shall be general obligations of HDA payable out of any revenues or moneys of HDA, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

B. The notes and bonds shall be authorized by resolution or resolutions of HDA, shall bear such date or dates and shall mature at such time or times as such resolution or resolutions may provide, except that no bond shall mature more than fifty years from the date of its issue. The bonds may be issued as

serial bonds payable in annual installments or as term bonds or as a combination thereof. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of HDA may be sold by HDA, at public or private sale, at such price or prices as HDA shall determine.

C. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract or contracts with the holders thereof, as to:

1. Pledging all or any part of the revenues to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

2. Pledging all or any part of the assets of HDA, including mortgages and obligations securing the same, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

3. The use and disposition of the gross income from mortgages owned by HDA and payment of principal of mortgages owned by HDA;

4. The setting aside of reserves or sinking funds and the regulation and disposition thereof;

5. Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

6. Limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; and the refunding of outstanding or other notes or bonds;

7. The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto; and the manner in which such consent may be given;

8. Limitations on the amount of moneys to be expended by HDA for operating expenses of HDA;

9. Vesting in a trustee or trustees such property, rights, powers and duties in trust as HDA may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this chapter and limiting or abrogating the right of the bondholders to appoint a trustee under this chapter or limiting the rights, powers and duties of such trustee;

10. Defining the acts or omissions to act which shall constitute a default in the obligations and duties of HDA to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the Commonwealth and the other provisions of this chapter;

11. Any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

D. Any pledge made by HDA shall be valid and binding from the time when the pledge is made; HDA's interest, then existing or thereafter obtained, in the revenues, moneys, mortgage loans, receivables, contract rights or other property or proceeds so pledged shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against HDA, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded, nor shall any filing be required with respect thereto.

E. Neither the commissioners of HDA nor any other person executing such notes or bonds shall be subject to any personal liability or accountability by reason of the issuance thereof.

F. HDA, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of HDA, which shall thereupon be cancelled unless HDA shall provide written notification to the trustee pursuant to subsection J, at a price not exceeding:

1. If the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon, or

2. If the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

G. In the discretion of HDA, the bonds may be secured by a trust indenture by and between HDA and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without the Commonwealth. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of HDA in relation to the exercise of its corporate powers and the custody, safeguarding and application of all moneys. HDA may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under such trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of HDA. If the bonds shall be secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

H. Whether or not the notes and bonds are of such form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the notes and bonds are hereby made negotiable

instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the notes and bonds for registration.

I. In case any of the commissioners or officers of HDA whose signatures appear on any notes or bonds or coupons shall cease to be such commissioners or officers before the delivery of such notes or bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery.

J. Notwithstanding any statute or case law to the contrary, the purchase or actual or constructive ownership by HDA of any of its notes or bonds with the intent that such notes or bonds remain outstanding, as evidenced by written notification from HDA to the trustee under the resolution or trust indenture, shall not cause such notes or bonds or the indebtedness evidenced thereby to be canceled or extinguished, subject to such terms and conditions as may be set forth in the written notification and except as may be otherwise provided in the resolution or trust indenture.

1972, c. 830; 1978, c. 189; 1996, c. 298; 1998, c. 442.

§ 36-55.41.Reserve funds and appropriations

A. 1. HDA may create and establish one or more special funds (herein referred to as "capital reserve funds"), and shall pay into each such capital reserve fund (i) any moneys appropriated and made available by the Commonwealth for the purpose of such fund, (ii) any proceeds of sale of notes or bonds, to the extent provided in the resolution or resolutions of HDA authorizing the issuance thereof, and (iii) any other moneys which may be made available to HDA for the purpose of such fund from any other source or sources. All moneys held in any capital reserve fund, except as hereinafter provided, shall be used, as required, solely for the payment of the principal of bonds secured in whole or in part by such fund or of the sinking fund payments hereinafter mentioned with respect to such bonds, the purchase or redemption of such bonds, the payment of interest on such bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; however, if moneys in any such fund at any time are less than the minimum capital reserve fund requirement established for such fund as hereinafter provided, HDA shall not use such moneys for any optional purchase or redemption of such bonds. Any income or interest earned by, or increment to, any capital reserve fund due to the investment thereof may be transferred by HDA to other funds or accounts of HDA to the extent it does not reduce the amount of such capital reserve fund below the minimum capital reserve fund requirement for such fund;

2. HDA shall not at any time issue bonds, secured in whole or in part by a capital reserve fund, if upon the issuance of such bonds, the amount of such capital reserve fund will be less than the minimum capital reserve fund requirement of such fund, unless HDA, at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds to be issued, or from other sources, an amount which, together with the amount then in such fund, will not be less than the minimum capital

reserve fund requirement for such fund. For purposes of this section, the term "minimum capital reserve fund requirement" shall mean, as of any particular date of computation, an amount of money, as provided in the resolutions of HDA authorizing the bonds with respect to which such fund is established, equal to not more than the greatest of the respective amounts, for the current or any future fiscal year of HDA, of annual debt service on the bonds of HDA secured in whole or in part by such fund, such annual debt service for any fiscal year being the amount of money equal to the aggregate of (i) all interest payable during such fiscal year on all bonds secured in whole or in part by such fund outstanding on the date of computation, plus (ii) the principal amount of all such bonds outstanding on said date of computation which mature during such fiscal year, plus (iii) all amounts specified in any resolution of the authority authorizing any of such bonds as payable during such fiscal year as a sinking fund payment with respect to any of such bonds which mature after such fiscal year, all calculated on the assumption that such bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due and application in accordance with the resolution authorizing those bonds, of all of such sinking fund payments payable at or after said date of computation; however, in computing the annual debt service for any fiscal year as aforesaid, bonds deemed to have been paid in accordance with the defeasance provisions of the resolution or resolutions of HDA authorizing the issuance thereof shall not be included in bonds outstanding on the date of computation aforesaid;

3. In computing the amount of any capital reserve funds for the purpose of this section, securities in which all or a portion of such funds shall be invested shall be valued at par or if purchased at less than par, at their cost to HDA;

4. To assure the continued operation and solvency of HDA for the carrying out of its corporate purposes, provision is made in subdivision 1 of this subsection for the accumulation in each capital reserve fund of an amount equal to the minimum capital reserve fund requirement for such fund.

B. In order further to assure the maintenance of the foregoing capital reserve funds, the chairman of HDA shall annually, on or before December 1, make and deliver to the Governor and Director of the Budget his certificate stating the sum, if any, required to restore each such capital reserve fund to the minimum capital reserve fund requirement for such fund. Within five days after the beginning of each session of the General Assembly, the Governor shall submit to the presiding officer of each house printed copies of a budget including the sum, if any, required to restore each such capital reserve fund to the minimum capital reserve fund requirement for such fund. All sums appropriated by the legislature for such restoration and paid shall be deposited by HDA in the applicable capital reserve fund.

C. HDA shall create and establish such other fund or funds as may be necessary or desirable for its corporate purposes.

D. All amounts paid over to HDA by the Commonwealth pursuant to the provisions of this section shall constitute and be accounted for as advances by the Commonwealth to HDA and, subject to the rights of the holders of any bonds or notes of HDA theretofore or thereafter issued, shall be repaid to the Commonwealth without interest from all available operating revenues of HDA in excess of amounts required for the payment of bonds, notes or other obligations of HDA, the capital reserve funds and operating expenses.

E. The outstanding principal amount of notes and bonds issued by HDA secured by capital reserve funds pursuant to this section, other than notes and bonds for which refunding obligations shall have been issued pursuant to § 36-55.42, shall not exceed $1.5 billion. For the purpose of this subdivision, the outstanding principal amount of notes or bonds issued by HDA at a price less than the face amount thereof shall be deemed to be the issue price of such notes or bonds.

1972, c. 830; 1974, c. 263; 1987, c. 451; 1994, c. 378; 1997, c. 41.

§ 36-55.42.Refunding obligations; issuance

HDA may provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding which have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such obligations and for any corporate purpose of HDA. The issuance of such obligations, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the HDA in respect of the same shall be governed by the provisions of this chapter which relate to the issuance of obligations, insofar as such provisions may be appropriate therefor.

1972, c. 830.

§ 36-55.43.Same; sale

Refunding obligations issued as provided in § 36-55.42 may be sold or exchanged for outstanding obligations issued under this chapter and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of such refunding obligations or in the trust agreement securing the same, to the payment of any interest on such refunding obligations and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by the United States of America, which proceeds shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later

than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

1972, c. 830.

§ 36-55.44. Deposit and investment of moneys of HDA

A. All moneys of HDA except as otherwise authorized or provided in this chapter shall be deposited as soon as practicable in a separate account or accounts in banks or trust companies organized under the laws of the Commonwealth, in national banking associations, in federal home loan banks, or to the extent then permitted by law, in savings institutions organized under the laws of the Commonwealth of Virginia or the United States. The moneys in such accounts shall be paid out on checks, drafts payable on demand, electronic wire transfers, or other means authorized by HDA. Each payment shall be approved by the executive director or such other officers or employees of HDA as HDA shall authorize. Deposits of such moneys shall, if required by HDA, be secured as it shall prescribe, and all banks and trust companies are authorized to give such security for such deposits.

B. Unless otherwise limited by contract with the holders of any of its notes or bonds or with any other parties making loans to HDA, any moneys of HDA and any moneys held in trust or otherwise for the payment of such notes, bonds or loans may be invested in (i) obligations or securities which are considered lawful investments for fiduciaries, both individual and corporation, as set forth in § 2.2-4519, (ii) any investments and deposits authorized by Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2, and (iii) any other investments which are permitted pursuant to subsection C for moneys held under any bond resolution or trust indenture of the Authority and which, when acquired by HDA, have, or are general obligations of issuers who have, long-term ratings of at least AA or Aa or the highest short-term ratings, as applicable, by two rating agencies, one of which shall be Moody's Investors Service, Inc., or Standard & Poor's Ratings Group or any successor thereto.

C. In addition to the authorization in subsection B and regardless of any other provisions of law which would otherwise have the effect of limiting the powers set forth in this subsection, HDA shall have power to contract with the holders of any of its notes or bonds and with any other parties making loans to HDA as to the custody, collection, securing, investment and payment of any moneys of HDA and of any moneys held in trust or otherwise for the payment of such notes, bonds or loans, and to carry out such contracts. Unless otherwise specified in such contracts, moneys held in trust or otherwise for the payment of notes, bonds or loans or in any way to secure notes, bonds or loans and deposits of such moneys may be secured in the same manner as set forth in subsection A.

D. Whenever investments are made in accordance with this section, no commissioner or employee of HDA shall be liable for any loss therefrom in the absence of negligence, malfeasance, misfeasance, or nonfeasance on his part.

1972, c. 830; 1975, c. 536; 1982, cc. 231, 235; 1993, c. 224; 1996, c. 77; 1998, c. 442.

§ 36-55.44:1.Swap agreements by HDA authorized

In connection with, or incidental to, the issuance or carrying of notes or bonds or the acquisition or carrying of any investments, HDA may enter into swap agreements or other contracts or arrangements which HDA determines to be necessary or appropriate to place obligations or investments of HDA, as represented by notes, bonds or investments of HDA, in whole or in part, on the interest rate, currency, cash flow or other basis desired by HDA or to hedge payment, currency, rate, spread, or other exposure. Such contracts or arrangements may be entered into by HDA in connection with, or incidental to, entering into or maintaining (i) any agreement which secures notes or bonds of HDA and is authorized or permitted by law or (ii) any investment, or contract providing for any investment, otherwise authorized or permitted by law.

Such contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by HDA, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate.

In connection with, or incidental to, any of these contracts or arrangements, HDA may enter into credit enhancement or liquidity agreements with such terms and conditions as HDA shall determine.

1994, c. 84.

§ 36-55.45.Agreement with Commonwealth

The Commonwealth does hereby pledge to and agree with the holders of any notes or bonds issued under this chapter that the Commonwealth will not limit or alter the rights hereby vested in HDA to fulfill the terms of any agreements made with the said holders thereof or in any way impair the rights and remedies of such holders until such notes and bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. HDA is authorized to include this pledge and agreement of the Commonwealth in any agreement with the holders of such notes or bonds.

1972, c. 830.

§ 36-55.46.Commonwealth not liable on notes and bonds

The notes, bonds or other obligations of HDA shall not be a debt or grant or loan of credit of the Commonwealth of Virginia, and the Commonwealth shall not be liable thereon, nor shall they be payable out of any funds other than those of HDA; and such notes and bonds shall contain on the face thereof a statement to such effect.

1972, c. 830.

§ 36-55.47.Remedies of noteholders and bondholders

(1) In the event that HDA shall default in the payment of principal of or interest on any issue of notes and bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that HDA shall fail or refuse to comply with the provisions of this chapter, or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the Circuit Court of the City of Richmond, Commonwealth of Virginia, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

(2) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) By suit, action or proceeding in accordance with the provisions of Title 8.01, enforce all rights of the noteholders or bondholders, including the right to require HDA to carry out any agreements with such holders and to perform its duties under this chapter;

(b) Bring suit upon such notes or bonds;

(c) By action or suit, require HDA to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) By action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(e) Declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, annul such declaration and its consequences.

(3) The Circuit Court of the City of Richmond shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any suit, action or proceeding shall be laid in the City of Richmond, Commonwealth of Virginia.

(4) Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to HDA.

1972, c. 830.

§ 36-55.48. Grants from Commonwealth

The Commonwealth may make grants of money or property to HDA for the purpose of enabling it to carry out its corporate purposes and for the exercise of its powers, including, but not limited to, deposits to the reserve funds. This section shall not be construed to limit any other power the Commonwealth may have to make such grants to HDA.

1972, c. 830.

§ 36-55.49. Notes and bonds as legal investments

The notes and bonds of HDA shall be legal investments in which all public officers and public bodies of this Commonwealth, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks, and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the Commonwealth, may properly and legally invest funds, including capital, in their control or belonging to them. The notes and bonds are also hereby made securities which may properly and legally be deposited with and received by all public officers and bodies of the Commonwealth or any agency or political subdivisions of the Commonwealth and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law including but not limited to security for deposits pursuant to Chapter 44 (§ 2.2-4400 et seq.) of Title 2.2 and amendments thereto.

1972, c. 830; 1975, c. 536.

§ 36-55.50. Liberal construction

Neither this chapter nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which HDA might otherwise have under any laws of this Commonwealth, and this chapter is cumulative to any such powers. This chapter does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds, notes and other obligations and refunding bonds under the provisions of this chapter need not comply with the requirements of any other state law applicable to the issuance of bonds, notes and other obligations, and contracts for the construction and acquisition of any housing developments undertaken pursuant to this chapter need not comply with the provisions of any other state law applicable to contracts for the construction and acquisition of state-owned property. No proceedings, notice or approval shall be required for the issuance of any bonds, notes and other obligations or any instrument as security therefor, except as is provided in this chapter.

1972, c. 830.

§ 36-55.51. Reports

A. HDA shall submit to the Governor within ninety days after the end of its fiscal year a complete and detailed report setting forth:

(1) Its operations and accomplishments;

(2) Its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by HDA for its operating and capital outlay purposes;

(3) Its assets and liabilities at the end of its fiscal year, including a schedule of its mortgage loans and commitments and the status of reserve, special or other funds; and

(4) A schedule of its notes and bonds outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year.

B. In order to maintain liaison in development of housing policy, the HDA shall also have the duty of providing reports to the Director of the Department of Housing and Community Development on its policies, objectives, priorities, operations and programs, both present and projected, so as to assist the Director in the formulation of his reports to the Governor and General Assembly regarding housing and community development policies, goals, plans and programs.

1972, c. 830; 1977, c. 613.

§ 36-55.51:1.Annual audit

An annual audit shall be conducted on the accounts of HDA by an independent certified public accountant, and such audit shall be reviewed by the Auditor of Public Accounts. The cost of such audit and review shall be borne by HDA.

1987, c. 451.

§ 36-55.52.Inconsistent provisions in other laws superseded

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special or local, the provisions of this chapter shall be controlling.

1972, c. 830.

Industrial Development and Revenue Bond Act

§ 15.2-4900.Short title

This chapter shall be known and may be cited as the "Industrial Development and Revenue Bond Act."

1966, c. 651, § 15.1-1373; 1997, c. 587.

§ 15.2-4901.Purpose of chapter

It is the intent of the legislature by the passage of this chapter to authorize the creation of industrial development authorities by the localities in the Commonwealth so that such authorities may acquire, own, lease, and dispose of properties and make loans to the end that such authorities may be able to promote industry and develop trade by inducing manufacturing, industrial, governmental, nonprofit and commercial enterprises, and institutions of higher education to locate in or remain in the Commonwealth and further the use of its agricultural products and natural resources, and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience, or prosperity. Such authority shall not itself be authorized to operate any such manufacturing, industrial, nonprofit or commercial enterprise, or any facility of an institution of higher education.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to pollution control facilities to the end that such authorities may protect and promote the health of the inhabitants of the Commonwealth and the conservation, protection, and improvement of its natural resources by exercising such powers for the control or abatement of land, sewer, water, air, noise, and general environmental pollution derived from the operation of any industrial or medical facility and to vest such authorities with all powers that may be necessary to enable them to accomplish such purpose, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience, or prosperity.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to medical facilities and facilities for the residence or care of the aged to the end that such authorities may protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, and improvement of medical facilities and facilities for the residence or care of the aged in order to provide modern and efficient medical services to the inhabitants of the Commonwealth and care of the aged of the Commonwealth in accordance with their special needs and also by assisting in the refinancing of medical facilities and facilities for the

residence or care of the aged owned and operated by organizations which are exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code of 1954, as amended, in order to reduce the costs to residents of the Commonwealth of utilizing such facilities and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health and welfare. It is not intended hereby that any such authority shall itself be authorized to operate any such medical facility or facility for the residence or care of the aged.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for use by organizations (other than institutions organized and operated exclusively for religious purposes) which are described in § 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which are exempt from federal income taxation pursuant to § 501(a) of the Internal Revenue Code of 1954, as amended, to the end that such authorities may protect or promote the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of such facilities of the aforesaid entities and organizations in order to provide operations, recreational, activity centers, and other facilities for the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, convenience, or prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for accredited nonprofit private institutions of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education to the end that such authorities may protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, and improvement of facilities of aforesaid institutions in order to provide improved educational facilities for the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience, or prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such educational facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant industrial development authorities the powers contained herein with respect to facilities for a locality, the Commonwealth and its agencies, and governmental and nonprofit organizations and to vest such

authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience, or prosperity.

It is further the intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for museums and historical education, demonstration, and interpretation, together with any and all buildings, structures, or other facilities necessary or desirable in connection with the foregoing, for use by nonprofit organizations in order to promote tourism and economic development in the Commonwealth, to promote the knowledge of and appreciation by the citizens of the Commonwealth of the historical and cultural development and heritage of the Commonwealth and the United States and to promote thereby their health, welfare, convenience, and prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities devoted to the staging of equine events and activities (other than racing) for use by governmental or nonprofit, nonreligious organizations and operated by such governmental or nonprofit, nonreligious organizations in order to promote the equine industry and equine-related activities (other than racing) which are integral to the Commonwealth's economy and heritage and to promote thereby the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to acquiring, developing, owning, and operating an industrial park and any utilities that are intended primarily to serve the park and to issue bonds for such purposes. The bonds may be secured by revenues generated by the industrial park or the utilities being financed or by any other funds of the authority.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities created by one or more municipalities whose housing authorities have not been activated as provided by §§ 36-4 and 36-4.1, in addition to the powers previously or hereafter granted in this chapter, the powers contained herein with respect to facilities used primarily for single or multi-family residences in order to promote safe and affordable housing in the Commonwealth and to benefit thereby the safety, health, welfare, and prosperity of the inhabitants of the Commonwealth. It is not intended hereby that any such authority shall itself be authorized to operate any such facility or exercise any powers of eminent domain set forth in § 36-27.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant industrial development authorities the powers contained herein with respect to public school buildings and facilities to promote the safety, health, welfare, convenience, and prosperity of the school children of

the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of such facilities of school boards in order to provide for the modernization of public school buildings or facilities pursuant to Article 3 (§ 22.1-141.1 et seq.) of Chapter 9 of Title 22.1.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilitating and supporting landowner access to carbon markets through aggregation of landowners to reach a size that attracts the investment of private capital. Such aggregation provides landowners of various size tracts of land enhanced opportunities to access capital and benefits that support and enhance the agriculture and forest industries for the health, welfare, convenience and prosperity of the inhabitants of the Commonwealth.

In any instance in this chapter where an industrial development authority may issue bonds through its authority to finance, the authority may also refinance such bonds.

This chapter shall be liberally construed in conformity with these intentions.

1966, c. 651, § 15.1-1375; 1972, c. 783; 1975, c. 489; 1977, c. 619; 1978, cc. 276, 526; 1984, c. 700; 1985, c. 317, § 15.1-1392; 1986, c. 473; 1988, c. 211; 1990, c. 312; 1991, c. 6; 1997, cc. 587, 758, 763; 2002, cc. 680, 725; 2005, c. 928; 2012, c. 498; 2019, cc. 546, 818, 819.

§ 15.2-4902.Definitions

Wherever used in this chapter, unless a different meaning clearly appears in the context:

"Authority" means any political subdivision, a body politic and corporate, created, organized and operated pursuant to the provisions of this chapter, or if the authority is abolished, the board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Authority facilities" or "facilities" means any or all (i) medical (including, but not limited to, office and treatment facilities), pollution control or industrial facilities; (ii) facilities for the residence or care of the aged; (iii) multi-state regional or national headquarters offices or operations centers; (iv) facilities for private, accredited and nonprofit institutions of collegiate, elementary, or secondary education in the Commonwealth whose primary purpose is to provide collegiate, elementary, secondary, or graduate education and not to provide religious training or theological education, such facilities being for use as academic or administration buildings or any other structure or application usual and customary to a college, elementary or secondary school campus other than chapels and their like; (v) parking facilities, including parking structures; (vi) facilities for use as office space by nonprofit, nonreligious organizations; (vii) facilities for museums and historical education, demonstration and interpretation, together with buildings, structures or other facilities necessary or desirable in connection with the foregoing, for use by nonprofit organizations; (viii) facilities for use by an organization (other than an

organization organized and operated exclusively for religious purposes) which is described in § 501 (c) (3) of the Internal Revenue Code of 1986, as amended, and which is exempt from federal income taxation pursuant to § 501 (a) of such Internal Revenue Code; (ix) facilities for use by a locality, the Commonwealth and its agencies, or other governmental organizations, provided that any such facilities owned by a locality, the Commonwealth or its agencies or other public bodies subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not be exempt from competitive procurement requirements, under the exception granted in subsection B of § 2.2-4344; (x) facilities devoted to the staging of equine events and activities (other than racing events); however, such facilities must be owned by a governmental or nonprofit, nonreligious organization and operated by any such governmental or nonprofit, nonreligious organization; (xi) facilities for commercial enterprises that are not enterprise zone facilities (as defined in § 1394 (b) of the Internal Revenue Code of 1986, as amended) now existing or hereafter acquired, constructed or installed by or for the authority pursuant to the terms of this chapter; however, facilities for commercial enterprise that are not enterprise zone facilities but which are taxable authority facilities shall constitute authority facilities only if the interest on any bonds issued to finance such facilities is not exempt from federal income taxation; (xii) enterprise zone facilities; and (xiii) facilities used primarily for single or multi-family residences. Clause (xiii) applies only to industrial development authorities created by one or more localities whose housing authorities have not been activated as provided by §§ 36-4 and 36-4.1. Any facility may be located within or outside or partly within or outside the locality creating the authority. Any facility may consist of or include any or all buildings, improvements, additions, extensions, replacements, machinery or equipment, and may also include appurtenances, lands, rights in land, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, acquired, constructed, or installed by or on behalf of the authority. A pollution control facility shall include any facility acquired, constructed or installed or any expenditure made, including the reconstruction, modernization or modification of any existing building, improvement, addition, extension, replacement, machinery or equipment, and which is designed to further the control or abatement of land, sewer, water, air, noise or general environmental pollution derived from the operation of any industrial or medical facility. Any facility may be constructed on or installed in or upon lands, structures, rights-of-way, easements, air rights, franchises or other property rights or interests whether owned by the authority or others.

"Bonds" or "revenue bonds" embraces notes, bonds and other obligations authorized to be issued by the authority pursuant to the provisions of this chapter.

"Cost" means, as applied to authority facilities, the cost of construction; the cost of acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interests; the cost of demolishing, removing or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated; the cost

of all labor, materials, machinery and equipment; financing charges and interest on all bonds prior to and during construction and, if deemed advisable by the authority, for a period not exceeding one year after completion of such construction; cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, and other expenses necessary or incident to determining the feasibility or practicability of constructing the authority facilities; administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions and improvements; and such other expenses as may be necessary or incident to the construction of the authority facilities, the financing of such construction and the placing of the authority facilities in operation. Any obligation or expense incurred by the Commonwealth or any agency thereof, with the approval of the authority, for studies, surveys, borings, preparation of plans and specifications or other work or materials in connection with the construction of the authority facilities may be regarded as a part of the cost of the authority facilities and may be reimbursed to the Commonwealth or any agency thereof out of the proceeds of the bonds issued for such authority facilities as hereinafter authorized.

"Enterprise" means any industry for manufacturing, processing, assembling, storing, warehousing, distributing, or selling any products of agriculture, mining, or industry and for research and development or scientific laboratories, including, but not limited to, the practice of medicine and all other activities related thereto or for such other businesses or activities as will be in the furtherance of the public purposes of this chapter.

"Loans" means any loans made by the authority in furtherance of the purposes of this chapter from the proceeds of the issuance and sale of the authority's bonds and from any of its revenues or other moneys available to it as provided herein.

"Revenues" means any or all fees, rates, rentals and receipts collected by, payable to or otherwise derived by the authority from, and all other moneys and income of whatsoever kind or character collected by, payable to or otherwise derived by the authority in connection with the ownership, leasing or sale of the authority facilities or in connection with any loans made by the authority under this chapter.

"Taxable authority facilities" means any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard and ice skating), racquet sports facility, suntan facility, race track, or facility the primary purpose of which is one of the following: (i) retail food and beverage services (excluding grocery stores), (ii) automobile sales and service, (iii) recreation or entertainment, or (iv) banks, savings and loan institutions or mortgage loan companies. The foregoing sentence notwithstanding, no facility financed as an enterprise zone facility using tax-exempt "enterprise zone facility bonds" (as such term is used in § 1394 of the Internal Revenue Code) shall constitute a taxable authority facility.

"Trust indenture" means any trust agreement or mortgage under which bonds authorized pursuant to this chapter may be secured.

1966, c. 651, § 15.1-1374; 1968, c. 687; 1970, c. 725; 1972, c. 783; 1973, c. 528; 1977, cc. 238, 619, 673; 1978, c. 526; 1980, c. 372; 1983, c. 514; 1984, c. 700; 1986, c. 473; 1988, c. 211; 1990, cc. 312, 469; 1991, c. 6; 1994, c. 737; 1997, cc. 587, 758, 763; 1999, c. 379; 2005, c. 928; 2006, c. 324.

§ 15.2-4903.Creation of industrial development authorities

A. The governing body of any locality in the Commonwealth is hereby authorized to create by ordinance a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in this chapter. Any such ordinance may limit the type and number of facilities that the authority may otherwise finance under this chapter, which ordinance of limitation may, from time to time, be amended. Louisa County may, by ordinance, authorize an authority created or established under this chapter to acquire, own, operate, and regulate the use of airports, landing fields, and facilities, and other property incident thereto, including such facilities and property necessary for the servicing of aircraft. In the absence of any such limitation, an authority shall have all powers granted under this chapter.

B. The name of the authority shall be the Industrial Development Authority of (the blank spaces to be filled in with the name of the locality which created the authority, including the proper designation thereof as a county, city or town).

C. Notwithstanding subsection B, for any authority authorized by this section, the name of the authority may be the Economic Development Authority of (the blank space to be filled in with the name of the locality that created the authority), if the governing body of such locality so chooses.

D. The authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916 may be named the Economic Development Authority of Halifax, Virginia, or such other name as the governing bodies of the Town of South Boston and Halifax County shall choose in the concurrent resolutions creating such authority.

1966, c. 651, § 15.1-1376; 1975, c. 254; 1997, c. 587; 1999, c. 157; 2000, c. 398; 2001, cc. 5, 6, 730; 2002, cc. 169, 680, 725; 2003, cc. 159, 343, 345, 350, 357; 2004, cc. 292, 782, 933; 2016, cc. 164, 312; 2017, c. 560.

§ 15.2-4904.Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three, and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms, and one being appointed for a four-year term. Subsequent appointments shall be

for terms of four years, except appointments to fill vacancies, which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority; the board of supervisors of King William County may appoint nine members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council; however, the town council of the Town of Saint Paul may at its option return to a seven-member board by removing the last three members appointed; the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow $2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors, and the town council of the Town of South Boston shall appoint two at-large members; Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one member at-large, with terms staggered as agreed upon by the board of supervisors; Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority; the board of supervisors of Goochland County may appoint five members to serve on the board of the authority; the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council; the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs and one at-large member, with terms staggered as agreed upon by the city council; and the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council; however, in the City of Chesapeake, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Economic Development Authority as of July 1,

2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Economic Development Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Economic Development Authority member shall work for the Authority within one year after serving as a member. The city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council, and the board of supervisors of Louisa County may appoint directors to serve on the board of the authority for terms coincident with members of the board of supervisors.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority or is absent from any four meetings of the authority within any 12-month period or upon unanimous vote of the board of supervisors. In any such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a director provided the governing body of such county approves, and (iii) in Frederick County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed $200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Except as provided herein, four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board

shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. In the case of the Economic Development Authority of Goochland County, three members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Small Business and Supplier Diversity.

1966, c. 651, § 15.1-1377; 1979, c. 35; 1980, c. 304; 1982, c. 463; 1983, c. 514; 1984, c. 750; 1987, c. 368; 1990, c. 87; 1993, c. 896; 1996, cc. 589, 599; 1997, c. 587; 1999, cc. 337, 408, 414; 2000, c. 963; 2001, c. 121; 2003, cc. 347, 357; 2006, c. 687; 2007, cc. 283, 338; 2008, c. 619; 2009, cc. 199, 200, 460, 597; 2012, cc. 337, 352; 2013, c. 482; 2014, cc. 381, 382; 2016, c. 414; 2017, cc. 541, 557, 560; 2018, c. 310; 2019, c. 363.

§ 15.2-4905.Powers of authority

The authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at pleasure;

3. To enter into contracts; however, any written contract of the authority shall contain provisions addressing the issue of whether attorney's fees shall be recoverable by the prevailing party in the event the contract is subject to litigation;

4. To acquire, whether by purchase, exchange, gift, lease or otherwise, and to improve, maintain, equip and furnish one or more authority facilities including all real and personal properties which the board of directors of the authority may deem necessary in connection therewith and regardless of whether any such facilities shall then be in existence;

5. To lease to others any or all of its facilities and to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to

include in any such lease, if desired, a provision that the lessee thereof shall have options to renew such lease or to purchase any or all of the leased facilities, or that upon payment of all of the indebtedness of the authority it may lease or convey any or all of its facilities to the lessee thereof with or without consideration;

6. To sell, exchange, donate, and convey any or all of its facilities or properties whenever its board of directors shall find any such action to be in furtherance of the purposes for which the authority was organized;

7. To issue its bonds for the purpose of carrying out any of its powers including specifically, but without intending to limit any power conferred by this section or this chapter, the issuance of bonds to provide long-term financing of any pollution control facility, whether any such facility was constructed prior to or after the enactment hereof or the receipt of a commitment from an authority to undertake financing pursuant hereto, unless the major part of the proceeds of such bonds will be used to redeem any prior long-term financing of such facility other than financings pursuant to this chapter or any similar law;

8. As security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith, to mortgage and pledge any or all of its facilities or any part or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues therefrom or from any part thereof or from any loans made by the authority;

9. To employ and pay compensation to such employees and agents, including attorneys, and real estate brokers whether engaged by the authority or otherwise, as the board of directors shall deem necessary in carrying on the business of the authority;

10. To exercise all powers expressly given the authority by the governing body of the locality which established the authority and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the authority's affairs;

11. To appoint an industrial advisory committee or similar committee or committees to advise the authority, consisting of such number of persons as it may deem advisable. Such persons may be compensated such amount per regular, special, or committee meeting as may be approved by the appointing authority, not to exceed $50 per meeting day, and may be reimbursed for necessary traveling and other expenses incurred while on the business of the authority;

12. To borrow money and to accept contributions, grants and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth, for or in aid of the construction, acquisition, ownership, maintenance or repair of the authority facilities, for the payment of principal of any bond of the authority, interest thereon, or other cost incident thereto, or in order to make loans in furtherance of the purposes of this chapter of such money, contributions, grants, and

other financial assistance, and to this end the authority shall have the power to comply with such conditions and to execute such agreements, trust indentures, and other legal instruments as may be necessary, convenient or desirable and to agree to such terms and conditions as may be imposed; and

13. To make loans or grants to any person, partnership, association, corporation, business, or governmental entity in furtherance of the purposes of this chapter including for the purposes of promoting economic development, provided that such loans or grants shall be made only from revenues of the authority which have not been pledged or assigned for the payment of any of the authority's bonds, and to enter into such contracts, instruments, and agreements as may be expedient to provide for such loans and any security therefor. An authority may also be permitted to forgive loans or other obligations if it is deemed to further economic development. The word "revenues" as used in this subdivision includes contributions, grants and other financial assistance, as set out in subdivision 12.

The authority shall not have power to operate any facility as a business other than as lessor and shall not have the power to operate any single or multi-family housing facilities. However, the authority shall have the power to apply for, establish, operate and maintain a foreign-trade zone in accordance with the provisions of Chapter 14 (§ 62.1-159 et seq.) of Title 62.1. Any meeting held by the board of directors at which formal action is taken shall be open to the public.

If a locality has created an industrial development authority pursuant to this chapter or any other provision of law, no other such authority, not created by such locality, shall finance facilities, except pollution control facilities, within the boundaries of such locality, unless the governing body of such locality in which the facilities are located or are proposed to be located, concurs with the inducement resolution adopted by the authority, and shows such concurrence in a duly adopted resolution. Notwithstanding the foregoing, nothing contained herein shall be deemed to invalidate or otherwise impair any existing financing by an authority or the financing of any facilities for which application has been made to an authority prior to July 1, 1981.

Notwithstanding the provisions of this section, and notwithstanding the provisions of any other law, general or special, nothing herein shall be deemed to impair the authority of the town council of the Town of Front Royal from creating its own independent industrial development authority, separate and apart for all purposes from any currently existing or future industrial development authority. A Town of Front Royal independent industrial development authority, created solely by the town, shall have all powers granted industrial development authorities generally as set forth in this chapter. Such industrial development authority may also include Warren County in any of its economic development projects for a period of five years ending July 1, 2025.

1966, c. 651, § 15.1-1378; 1970, c. 598; 1972, c. 783; 1973, c. 528; 1981, c. 3; 1991, c. 6; 1993, c. 896; 1994, c. 317; 1997, cc. 587, 758, 763; 1998, c. 728; 2005, c. 575; 2020, c. 1001.

§ 15.2-4906.Public hearing and approval

A. Whenever federal law requires public hearings and public approval as a prerequisite to obtaining federal tax exemption for the interest paid on industrial development bonds, unless otherwise specified by federal law or regulation, the public hearing shall be conducted by the authority and the procedure for the public hearing and public approval shall be in accordance with this section.

B. For a public hearing by the authority, notice of the hearing shall be published once a week for two successive weeks in a newspaper having general circulation in the locality in which the facility to be financed is to be located of intention to provide financing for a named individual or business entity. The applicant shall pay the cost of publication. The notice shall specify the time and place of hearing at which persons may appear and present their views. The hearing shall be held not less than six days nor more than twenty-one days after the second notice shall appear in such newspaper.

The notice shall contain: (i) the name and address of the authority; (ii) the name and address (principal place of business, if any) of the party seeking financing; (iii) the maximum dollar amount of financing sought; and (iv) the type of business and purpose and specific location, if known, of the facility to be financed.

If after the hearing has been held the authority approves the financing, a reasonably detailed summary of the comments expressed at the hearing shall be conveyed promptly to the locality's governing body together with the recommendation of the authority.

C. For public approval, the governing body of the locality on behalf of which the bonds of the authority are issued shall within sixty calendar days from the public hearing held by the authority either approve or disapprove financing of any facility recommended by the authority.

Action of the governing body shall be by a majority of a quorum set out in a resolution. Such vote shall be recorded and disclose how each member voted.

In case of a joint authority the approval required by the governing body of the locality shall be that governing body of the area where the facility will be located, if permitted by federal law or regulation.

The provisions of this section shall not apply to bonds, notes or other obligations issued pursuant to hearings held and governmental approvals obtained prior to the effective date of this act in compliance with federal law or regulation.

1983, c. 514, § 15.1-1378.1; 1997, c. 587.

§ 15.2-4907.Fiscal impact statement

Every request for industrial development (facility) financing when submitted to the governing body of the locality for approval shall be accompanied by a statement in the following form:

_____

Date

_____

(Name of Applicant)

_____

(Facility)

a	1. Maximum amount of financing sought	$____
b	2. Estimated taxable value of the facility's real property to be constructed in the locality	$____
c	3. Estimated real property tax per year using present tax rates	$____
d	4. Estimated personal property tax per year using present tax rates	$____
e	5. Estimated merchants' capital tax per year using present tax rates	$____
f	6. a. Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality	$____
g	b. Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality	$____
h	c. Estimated dollar value per year of services that will be purchased from Virginia companies within the locality	$____
i	d. Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality	$____
j	7. Estimated number of regular employees on year round basis	$____
k	8. Average annual salary per employee	$____

Signature

_____

Authority Chairman

_____

Name of Authority

If one or more of the above questions do not apply to the facility indicate by writing N/A (not applicable) on the appropriate line.

The provisions of this section shall not apply to bonds, notes or other obligations issued pursuant to hearings held and governmental approvals obtained prior to the effective date of this act in compliance with federal law or regulation.

1983, c. 514, § 15.1-1378.2; 1997, c. 587; 1998, c. 728.

§ 15.2-4908.Issuance of bonds, notes and other obligations of authority

A. Subject to the limitations of Chapter 50 (§ 15.2-5000 et seq.) of this title, the authority may issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of authority facilities and including the payment or retirement of bonds previously issued by it. All bonds issued by the authority shall be payable solely from the revenues and receipts derived from the leasing or sale by the authority of its facilities or any part thereof or from payments received by the authority in connection with its loans, and the authority may issue such types of bonds as it may determine, including, without limiting the generality of the foregoing, bonds payable, both as to principal and interest: (i) from its revenues and receipts generally; (ii) exclusively from the revenues and receipts of a particular facility or loan; or (iii) exclusively from the revenues and receipts of certain designated facilities or loans whether or not they are financed in whole or in part from the proceeds of such bonds. Unless otherwise provided in the proceeding authorizing the issuance of the bonds, or in the trust indenture securing the bonds, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the authority at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding 40 years from the date thereof, may be payable at such place or places whether within or outside the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be determined by the board of directors. If deemed advisable by the board of directors, there may be retained in the proceedings under which any bonds of the authority are authorized to be issued an option to redeem all or any part thereof, at such price or prices and after such notice or notices and on such terms and conditions as may be determined by the board of directors and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the authority may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors of the authority to be most advantageous, and the authority may pay all costs, premiums and commissions which its board of directors may deem necessary or advantageous in connection with the issuance thereof. Issuance by the authority of one

or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the authority at any time outstanding may from time to time be refunded by the authority by the issuance of its refunding bonds in such amount as the board of directors may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether the bonds proposed to be refunded are payable on the same date or on different dates or are due serially or otherwise. The determination of the form, denominations, maturities, redemption provisions, places of payment, interest rate or rates, payment installations, dates and all other terms and provisions of bonds as authorized in this section may be made by the board of directors in such manner as the board may provide, including the determination by reference to indices and formulas or by agents designated by the board of directors under guidelines established by it.

B. All bonds shall be signed by the chairman or vice-chairman of the authority or shall bear his facsimile signature, and the corporate seal of the authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of the chairman. In case any officer whose signature or a facsimile signature appears on any bonds or coupons ceases to be an officer before delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds shall be authenticated by a corporate trustee or other authenticating agent approved by the authority.

C. If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, are less than the cost of the authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue

shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements or enlargements of the authority facilities for which such bonds shall have been issued.

D. Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which are mutilated, destroyed or lost. Bonds may be issued under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this chapter; however, nothing contained in this chapter shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

E. All bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia (§ 8.1A-101 et seq.), subject only to provisions respecting registration of the bonds.

F. In addition to all other powers granted to the authority by this chapter, the authority may issue, from time to time, notes or other obligations of the authority for any of its authorized purposes. The provisions of this chapter which relate to bonds or revenue bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate.

1966, c. 651, § 15.1-1379; 1968, c. 687; 1983, c. 514; 1991, c. 6; 1997, c. 587; 2003, cc. 353, 683.

§ 15.2-4909.Liability of Commonwealth, political subdivisions, directors and officers

A. Bonds issued pursuant to this chapter shall not be deemed to constitute a debt or a pledge of the faith and credit of the Commonwealth, or any political subdivision thereof, including the locality which created the authority issuing such bonds, but such bonds shall be payable solely from the funds provided therefor as herein authorized. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the authority shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

B. Neither the directors of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

C. All expenses incurred in carrying out the provisions of this chapter shall be payable solely from the funds of the authority and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which moneys shall be available to the authority.

D. Bonds issued pursuant to the provisions of this chapter shall not constitute an indebtedness within the meaning of any debt limitation or restriction.

1966, c. 651, § 15.1-1380; 1997, c. 587.

§ 15.2-4910.Security for payment of bonds; default

The principal of and interest on any bonds issued by the authority shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture covering all or any part of the authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of and additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the board of directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement and trust indenture made for the benefit or security of any of the bonds of the authority shall continue effective until the principal of and interest on such bonds have been fully paid. In the event of default in such payment or in any agreements of the authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any trust indenture executed as security therefor, such payment or agreements may be enforced by writ of mandamus, or by a suit, action or proceeding at law or in equity to compel the authority and the directors, officers, agents or employees thereof to perform the terms, provisions, and covenants contained in any trust indenture of the authority, by the appointment of a receiver in equity or by foreclosure of any such trust indenture or any one or more of said remedies.

1966, c. 651, § 15.1-1381; 1997, c. 587.

§ 15.2-4911.Rents, fees and other charges

The authority shall fix and revise from time to time the rents, fees and other charges to be paid to it in connection with the lease or sale of various authority facilities and for any other services furnished or provided by the authority. Such rents, fees and charges shall provide at least sufficient funds to pay the cost of maintaining, repairing and operating such projects and the principal and interest of any bonds issued by the authority or other debts contracted as the bonds become due and payable. The authority and the political subdivision in which all or any part of a particular authority facility is located may agree on payment by the authority on account of governmental services to be rendered by the

political subdivision in such amounts as the authority may find to be consistent with the purposes of this chapter. A reserve may be accumulated and maintained out of the revenues and receipts of the authority for extraordinary repairs and expenses and for such other purposes as may be provided in any resolution authorizing a bond issue or in any trust indenture securing the authority's bonds. Subject to such provisions and restrictions as may be set forth in the resolution or in the trust indenture authorizing or securing any of the bonds or other obligations hereunder, the authority shall have exclusive control of the revenues and receipts derived from the lease or sale of any authority facility and the right to use the revenues and receipts in the exercise of its powers and duties set forth in this chapter.

1966, c. 651, § 15.1-1382; 1968, c. 687; 1973, c. 528; 1997, c. 587.

§ 15.2-4912.Exemption from taxation

The authority is hereby declared to be performing a public function in behalf of the locality with respect to which the authority is created and to be a public instrumentality of such locality. Accordingly, the income, including any profit made on the sale thereof from all bonds issued by the authority, shall at all times be exempt from all taxation by the Commonwealth or any political subdivision thereof.

1966, c. 651, § 15.1-1383; 1997, c. 587.

§ 15.2-4913.Authority to be nonprofit; excess earnings

The authority shall be nonprofit and no part of its net earnings remaining after payment of its expenses shall enure to the benefit of any individual, firm or corporation, except that if the board of directors of the authority determines that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the authority then any net earnings of the authority thereafter accruing shall be paid to the locality with respect to which the authority was created. However, nothing herein contained shall prevent the board of directors from transferring all or any part of its facilities or properties in accordance with the terms of any contract entered into by the authority.

1966, c. 651, § 15.1-1384; 1973, c. 528; 1997, c. 587.

§ 15.2-4914.Dissolution of authority; disposition of property

Whenever the board of directors of the authority by resolution determines that the purposes for which the authority was formed have been substantially complied with and all bonds theretofore issued and all obligations theretofore incurred by the authority have been fully paid, the then members of the board of directors of the authority shall thereupon execute and file for record with the governing body of the locality which created the authority, a resolution declaring such facts. If the governing body of the locality which created the authority is of the opinion that the facts stated in the authority's resolution are true and that the authority should be dissolved, it shall so resolve and the authority shall stand dissolved. Upon such dissolution, the title to all funds and properties owned by the authority at

the time of such dissolution shall vest in the locality creating the authority and possession of such funds and properties shall forthwith be delivered to such locality.

1966, c. 651, § 15.1-1385; 1997, c. 587.

§ 15.2-4915.Bonds as legal investments and lawful security

The bonds issued pursuant to this chapter shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians and for all public funds of the Commonwealth or other political corporations or subdivisions of the Commonwealth. Such bonds shall be eligible to secure the deposit of public funds of the Commonwealth, localities, school districts or other political corporations or subdivisions of the Commonwealth, and shall be security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

1966, c. 651, § 15.1-1386; 1997, c. 587.

§ 15.2-4916.Authorities acting jointly

The powers herein conferred upon authorities created under this chapter may be exercised by two or more authorities acting jointly. Two or more localities may jointly create an authority, in which case each of the directors of such authority shall be appointed by the governing body of the respective locality which the director represents.

1966, c. 651, § 15.1-1387; 1982, c. 463; 1997, c. 587.

§ 15.2-4917.Facility sites

Any locality may acquire, pursuant to § 15.2-1800, but not by condemnation, a facility site and may likewise transfer any facility site to an authority. Such transfer may be authorized by a resolution of the governing body of the locality without submission of the question to the voters and without regard to the requirements, restrictions, limitations or other provisions contained in any other general, special or local law. Such facility sites may be located within or outside or partially within or outside the locality creating the authority. If a real estate broker licensed under § 54.1-2100 represents a party in a transaction through which a facility site is acquired, the locality may pay a reasonable brokerage fee to such real estate broker.

1966, c. 651, § 15.1-1388; 1997, c. 587; 1998, c. 728.

§ 15.2-4918.Provisions of chapter cumulative; construction

This chapter neither limits nor restricts any powers which the authority might otherwise have under any laws of this Commonwealth. No proceedings, notice or approval shall be required for the organization of the authority or the issuance of any bonds or any instrument as security therefor, except as herein provided. However, nothing herein shall be construed to deprive the Commonwealth and its political subdivisions of their respective police powers over properties of the authority or to

impair any power thereover of any official or agency of the Commonwealth and its political subdivisions which may be otherwise provided by law. Nothing contained in this chapter shall be deemed to authorize the authority to occupy or use any land, streets, buildings, structures or other property of any kind, owned or used by any political subdivision within its jurisdiction, or any public improvement or facility maintained by such political subdivision for the use of its inhabitants, without first obtaining the consent of the governing body thereof.

1966, c. 651, § 15.1-1389; 1997, c. 587.

§ 15.2-4919.Provisions of chapter controlling over other statutes and charters

Any provision of this chapter which is found to be in conflict with any other statute or charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict.

1966, c. 651, § 15.1-1390; 1997, c. 587; 2015, c. 709.

§ 15.2-4920.Validation of creation of authorities, appointment of directors and proceedings; curative resolutions

All proceedings heretofore taken with respect to the creation of authorities by any locality pursuant to this chapter are hereby validated and confirmed and all such authorities are declared to be legally created. All incumbent directors of authorities are declared to be and are lawfully appointed directors of authorities, notwithstanding any failure to conform to the requirements of this chapter, and all such appointments are hereby ratified, validated and confirmed. However, all terms of incumbent directors shall conform to § 15.2-4904. The governing body of any locality is hereby authorized to adopt such corrective resolutions as may be necessary to carry out the requirements of the immediately preceding sentence. All proceedings heretofore taken to provide for or with respect to the authorization, issuance, sale, execution or delivery of bonds by or on behalf of any authority are hereby validated, ratified, approved and confirmed, and any such bonds so issued shall be valid, legal, binding and enforceable obligations of such authority.

1980, c. 304, § 15.1-1391; 1997, c. 587.

Innovation and Entrepreneurship Investment Authority

§ 2.2-2201.Short title; definitions

A. This article shall be known and may be cited as the "Virginia Commercial Space Flight Authority Act."

B. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Commercial Space Flight Authority.

"Board" means the board of directors of the Authority.

"Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility or the provision for or funding of any activity that will further the purposes described in § 2.2-2202.

1995, c. 758, §§ 9-266.1, 9-266.2; 2001, c. 844; 2012, cc. 779, 817.

§ 2.2-2202.Declaration of public purpose; Virginia Commercial Space Flight Authority created

The General Assembly has determined that there exists in the Commonwealth a need to promote industrial and economic development and scientific and technological research and development through the development and promotion of the commercial and government aerospace industry.

In order to facilitate and coordinate the advancement of these needs, there is hereby created the Virginia Commercial Space Flight Authority, with the powers and duties set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public functions, and the exercise by the Authority of the powers and duties conferred by this article shall be deemed and held to be the performance of an essential government function of the Commonwealth and a public purpose.

1995, c. 758, § 9-266.3; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2203.Board of directors; members and officers; Executive Director

The Authority shall be governed by a board of directors consisting of nine members, two of whom shall be the Secretary of Transportation and the Director of the Virginia Department of Aviation or their respective designees. The remaining seven members shall be appointed by the Governor and shall have experience in at least one of the following fields: (i) the aerospace industry, (ii) the financial industry, (iii) the marketing industry, (iv) scientific and technological research and development; or (v) higher education. Members of the Board appointed by the Governor shall be appointed for terms of four years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members shall serve at the pleasure of the Governor and shall be confirmed by the General Assembly. Members of the Board shall receive reimbursement for their

expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on Board business.

The Board shall annually elect one of its members as chairman and another as vice-chairman and may also elect from its membership, or appoint from the Authority's staff, a secretary and a treasurer and prescribe their powers and duties. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings. Five members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also serve as the Chief Executive Officer of the Authority and exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. Such compensation shall be established at a level that will enable the Authority to attract and retain a capable Executive Director. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary to carry out the powers and duties of the Authority.

1995, c. 758, § 9-266.4; 1999, cc. 412, 421, 433; 2001, c. 844; 2009, c. 82; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2204.Powers of the Authority

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the power to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board;

4. Adopt a strategic plan pursuant to § 2.2-2203.2 and plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain and operate projects pursuant to such plan;

5. Adopt an annual budget for the Authority's capital improvements and operations;

6. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the power of the Authority shall be exercised and its duties performed. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary and expedient. Such bylaws, rules, and regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.);

7. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of projects of, the sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority; the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties; the payment of the costs accomplishing its purposes set forth in § 2.2-2202; the payment of the principal of and interest on its obligations; and the creation of reserves for such purposes, for other purposes of the Authority and to pay the cost of maintaining, repairing and operating any project and fulfilling the terms and provisions of any agreements made with the purchasers or holders of any such obligations and any other purposes as set forth in this article;

8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2202 or for refunding bonds previously issued by the Authority, whether such outstanding bonds have matured or are then subject to redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof, by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to provide for the security for said bonds and the rights of holders thereof. However, the total principal amount of bonds, including refunding bonds, outstanding at any time shall not exceed $50 million, excluding from such limit any revenue bonds. The Authority shall not issue any bonds, other than revenue bonds, that are not specifically authorized by a bill or resolution passed by a majority vote of those elected to each house of the General Assembly;

9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including interstate compacts that have been authorized by the General Assembly and where necessary consented to by the United States Congress and agreements with any person or federal agency;

10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as

may be necessary, and to fix their compensation to be payable from funds made available to the Authority;

11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants, donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made;

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; foster the utilization of scientific and technological research, information discoveries and data and obtain patents, copyrights and trademarks thereon; coordinate the scientific and technological research efforts of public institutions and private industry and collect and maintain data on the development and utilization of scientific and technological research capabilities;

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority; and

15. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

1995, c. 758, § 9-266.5; 1996, c. 111; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2219.Declaration of public purpose; Authority created

A. It is found and determined by the General Assembly that there exists in the Commonwealth of Virginia a need to (i) promote the economic development of the Commonwealth by attracting and retaining high technology jobs and businesses in Virginia; (ii) increase industry competitiveness by supporting the application of innovative technologies that improve productivity and efficiency; (iii) mobilize support for high technology industries to commercialize new products and processes, including organizing assistance for small business and supporting select industry sectors and regional high technology efforts; (iv) enhance and expand the scientific and technological research and development capabilities of the institutions of higher education in the Commonwealth and coordinate such capabilities with the scientific and technological research and development activities

and requirements of the public and private sectors, including transferring technological advances to the private sector; (v) expand knowledge pertaining to scientific and technological research and development among public and private entities; (vi) attract research and development (R&D) facilities and contracts from the federal government and private sector, including coordinating efforts to identify and compete for large federal and private sector R&D facilities, tracking federal technology initiatives and recommending state actions, and developing a statewide strategy to compete for large R&D contracts; and (vii) facilitate and coordinate the marketing, organization, utilization and development of scientific and technological research and development in the Commonwealth.

B. To achieve the objectives of subsection A, there is created and constituted a political subdivision of the Commonwealth to be known as "The Innovation and Entrepreneurship Investment Authority." The Authority's exercise of powers conferred by this article shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

1984, c. 782, § 9-252; 1993, c. 967; 2001, c. 844; 2009, cc. 325, 810.

§ 2.2-2220.(Repealed effective January 1, 2021) Board of directors; members; President

The Authority shall be governed by a board of directors consisting of 17 members appointed as follows: (i) two presidents of the major research public institutions of higher education, and one president representing the other public institutions of higher education, appointed by the Governor; (ii) three nonlegislative citizen members appointed by the Governor; (iii) eight nonlegislative citizen members appointed by the General Assembly as follows: four nonlegislative citizen members appointed by the Speaker of the House from a list recommended by the House Committee on Science and Technology and the Joint Commission on Technology and Science and four nonlegislative citizen members appointed by the Senate Committee on Rules from a list recommended by the Senate Committee on General Laws and Technology and the Joint Commission on Technology and Science; and (iv) three Secretaries as defined in § 2.2-200, to be appointed by the Governor, who shall serve ex officio with full voting privileges.

One nonlegislative citizen member appointed by the Governor, one nonlegislative citizen member appointed by the Speaker of the House, and one nonlegislative citizen member appointed by the Senate Committee on Rules shall each have experience as a founding member of a technology company based upon intellectual property that has secured private investment capital. One nonlegislative citizen member appointed by the Governor, one nonlegislative citizen member appointed by the Speaker of the House, and one nonlegislative citizen member appointed by the Senate Committee on Rules shall each have experience as an institutional venture capital investment partner. One nonlegislative citizen member appointed by the Governor, one nonlegislative citizen member appointed by the Speaker of the House, and one nonlegislative citizen member appointed by the Senate Committee on Rules shall each have experience as a senior executive in a technology or

scientific research and development company with annual revenues in excess of $5 million. One nonlegislative citizen member appointed by the Governor, one nonlegislative citizen member appointed by the Speaker of the House and one nonlegislative citizen member appointed by the Senate Committee on Rules shall be from rural areas of the Commonwealth.

The Secretary of Administration, Secretary of Commerce and Trade, and Secretary of Education shall serve terms coincident with their terms of office. After the initial staggering of terms, nonlegislative citizen members and presidents shall be appointed for terms of two years. Vacancies in the membership of the Board shall be filled in the same manner as the original appointments for the unexpired portion of the term. No nonlegislative citizen member or president shall be eligible to serve for more than three successive two-year terms; however, after the expiration of a term of one year, or after the expiration of the remainder of a term to which appointed to fill a vacancy, three additional terms may be served by such member if appointed thereto. Members of the Board shall be subject to removal from office in like manner as are state, county, town and district officers under the provisions of §§ 24.2-230 through 24.2-238. Immediately after appointment, the members of the Board shall enter upon the performance of their duties.

The Board shall annually elect from among its members a chairman and a vice-chairman. The Board shall also elect annually a secretary, who need not be a member of the Board, and may also elect such other subordinate officers who need not be members of the Board, as it deems proper. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings. Nine members shall constitute a quorum of the Board.

The Board shall employ a President of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out such of the powers and duties conferred upon him by the Board. The President and employees of the Authority shall be compensated in the manner provided by the Board and shall not be subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.).

1984, c. 782, § 9-253; 1993, c. 967; 1999, cc. 412, 421, 433; 2001, c. 844; 2005, c. 439; 2008, cc. 299, 611; 2009, cc. 325, 810; 2011, cc. 816, 874; 2015, cc. 685, 687; 2020, c. 738.

§ 2.2-2221. Powers of the Authority

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the following rights and powers to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts.

2. Adopt, use, and alter at will a corporate seal.

3. Acquire, purchase, hold, use, lease or otherwise dispose of any project and property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and, without limitation of the foregoing, to lease as lessee, any project and any property, real, personal or mixed, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board and to lease as lessor to any person, any project and any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board, and to sell, transfer or convey any property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the board of the Authority.

4. Plan, develop, undertake, carry out, construct, improve, rehabilitate, repair, furnish, maintain, and operate projects.

5. Adopt bylaws for the management and regulation of its affairs.

6. Establish and maintain satellite offices within the Commonwealth.

7. Fix, alter, charge, and collect rates, rentals, and other charges for the use of projects of, or for the sale of products of or for the services rendered by, the Authority, at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority, the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties, the payment of the costs accomplishing its purposes set forth in § 2.2-2219, the payment of the principal of and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations.

8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2219 or of refunding bonds previously issued by the Authority, and to secure the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any interest therein, and to make agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority deems advisable, and in general to provide for the security for the bonds and the rights of holders thereof.

9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes and the execution of its powers under this article, including agreements with any person or federal agency.

10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as

may be necessary, and to fix their compensation to be payable from funds made available to the Authority.

11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants to be expended in accomplishing the objectives of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made.

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia.

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training, provided that credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; to foster the utilization of scientific and technological research information, discoveries and data and to obtain patents, copyrights and trademarks thereon; to coordinate the scientific and technological research efforts of public institutions and private industry and to collect and maintain data on the development and utilization of scientific and technological research capabilities. The institutions of higher education set forth in § 2.2-2220 shall be the principal leading institutions of higher education in the research institutes.

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority.

15. Receive, administer, and market any interest in patents, copyrights and materials that were potentially patentable or copyrightable developed by or for state agencies, public institutions of higher education and political subdivisions of the Commonwealth. The Authority shall return to the agency, institution or political subdivision any revenue in excess of its administrative and marketing costs. When general funds are used to develop the patent or copyright or material that was potentially patentable or copyrightable, any state agency, except a public institution of higher education in the Commonwealth, shall return any revenues it receives from the Authority to the general fund unless the Governor authorizes a percentage of the net royalties to be shared with the developer of the patented, copyrighted, or potentially patentable or copyrightable property.

16. Provide assistance to the Virginia Research Investment Committee related to the development of the Commonwealth Research and Technology Strategic Roadmap, pursuant to § 23.1-3134, for the Commonwealth to use to identify research areas worthy of institutional focus and Commonwealth investment in order to promote commercialization and economic development efforts in the Commonwealth.

17. Foster innovative partnerships and relationships among the Commonwealth, the Commonwealth's state institutions of higher education, the private sector, federal labs, and not-for-profit organizations to improve research and development commercialization efforts.

18. Receive and review annual reports from state institutions of higher education regarding the progress of projects funded through the Commonwealth Research Initiative or the Commonwealth Research and Commercialization Fund. The Authority shall develop guidelines, methodologies, and criteria for the reports. The Authority shall aggregate the reports and submit an annual omnibus report on the status of research and development initiatives in the Commonwealth to the Governor and the chairmen of the Senate Finance Committee, the House Appropriations Committee, the Senate Committee on General Laws and Technology, the House Committee on Science and Technology, and the Joint Commission on Technology and Science.

19. In consultation with the Secretary of Technology, develop guidelines for the application, review, and award of funds from the Commonwealth Research Commercialization Fund pursuant to § 2.2-2233.1. These guidelines shall address, at a minimum, the application process and shall give special emphasis to fostering collaboration between institutions of higher education and partnerships between institutions of higher education and business and industry.

20. Exclusively, or with any other person, form and otherwise develop, own, operate, govern, and otherwise direct the disposition of assets of, or any combination thereof, separate legal entities, on any such terms and conditions and in any such manner as may be determined by the Board, provided that such separate legal entities shall be formed solely for the purpose of managing and administering any assets disposed of by the Authority. These legal entities may include limited liability companies, limited partnerships, charitable foundations, real estate holding companies, investment holding companies, nonstock corporations, and benefit corporations. Any entities created by the Authority shall be operated under the governance of the Authority. The Board shall be provided with quarterly performance reports for all governed entities. The articles of incorporation, partnership, or organization for these entities shall provide that, upon dissolution, the assets of the entities that are owned on behalf of the Commonwealth shall be transferred to the Authority. The legal entity shall ensure that the economic benefits attributable to the income and property rights arising from any transactions in which the entity is involved are allocated on a basis that is equitable in the reasonable business judgment of the Board, with due account being given to the interest of the citizens of the Commonwealth and the needs of the formed entity. No legal entity shall be deemed to be a state or governmental agency,

advisory agency, or public body or instrumentality. No director, officer, or employee of any such entity shall be deemed to be an officer or employee for purposes of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). Notwithstanding the foregoing, the Auditor of Public Accounts or his legally authorized representatives shall annually audit the financial accounts of the Authority and any such entity, provided that the working papers and records of the Auditor of Public Accounts relating to such audits shall not be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

21. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

1984, c. 782, § 9-254; 1985, c. 502; 2001, c. 844; 2009, cc. 325, 810; 2010, c. 630; 2011, cc. 816, 874; 2015, cc. 490, 685, 687; 2017, cc. 796, 816.

§ 2.2-2221.01.Designation of staff of Center for Innovative Technology

The Board of the Authority may designate the President and staff of the Center for Innovative Technology to carry out the day-to-day operations and activities of the Authority and to perform such other duties as may be directed by the Board.

2008, cc. 70, 610.

§ 2.2-2221.1.Reporting and transparency requirement for the Center for Innovative Technology

A. The president of the Center for Innovative Technology shall report annually to the Joint Commission on Technology and Science, created pursuant to § 30-85, regarding a review of the Center's initiatives and projects, its work plan for the year and the expected results therefrom, and an overview of the results that it has achieved to date, to assist the Commission in its effort to stimulate, encourage, and promote the development of technology and science in the Commonwealth and sound public policies related thereto.

B. No later than July 15 of each year, the Innovation and Entrepreneurship Investment Authority shall provide to the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Technology, and the Director of the Department of Planning and Budget a report of its operating plan for each year of the biennium. Within three months after the end of the fiscal year, the Center shall submit to the same persons a detailed expenditure report for the concluded fiscal year. Both reports shall be prepared in the format as approved by the Director of the Department of Planning and Budget and include, but not be limited to, the following:

1. All planned and actual revenue and expenditures along with funding sources, including state, federal, and other revenue sources, of both the Innovation and Entrepreneurship Investment Authority and the Center for Innovative Technology;

2. A listing of the salaries, bonuses, and benefits of all employees of the Innovation and Entrepreneurship Investment Authority and the Center for Innovative Technology;

3. By program, total grants made and investments awarded for each grant and investment program, to include the Commonwealth Research Commercialization Fund;

4. By program, the projected economic impact on the Commonwealth and recoveries of previous grants or investments and sales of equity positions; and

5. Cash balances by funding source, and report, by program, available, committed, and projected expenditures of all cash balances.

C. The president of the Center for Innovative Technology shall report quarterly to the Center's board of directors, the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Technology, and the Director of the Department of Planning and Budget in a format approved by the Board the following:

1. The quarterly financial performance, determined by comparing the budgeted and actual revenues and expenditures with planned revenues and expenditures for the fiscal year;

2. All investments and grants executed compared with projected investment closings and the return on prior investments and grants including all gains and losses; and

3. The financial and programmatic performance of all operating entities owned by the Center.

D. The president of the Center for Innovative Technology shall provide an annual report describing key programs and their economic performance for the Commonwealth in a format understandable by the citizens of the Commonwealth and available on the Center's website.

2001, c. 57, § 9-254.1; 2015, cc. 685, 687.

§ 2.2-2223.Trust agreement securing bonds

In the discretion of the Authority any bonds issued under the provisions of this article may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. The trust agreement or the resolution providing for the issuance of the bonds may (i) pledge or assign the revenues to be received and provide for the mortgage of any project or property or any part thereof and (ii) contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the planning, development, acquisition, construction, rehabilitation, establishment, improvement, extension, enlargement, maintenance, repair, operation and insurance of the project in connection with which the bonds have been authorized, the rates and fees to be charged, the custody, safeguarding and application of all moneys, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenue to furnish the indemnifying bonds or to pledge the

securities required by the Authority. Any trust agreement may set forth the rights of action by bondholders. In addition to the foregoing, any trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the cost of the operation of the project or projects.

1984, c. 782, § 9-256; 2001, c. 844.

§ 2.2-2224.Moneys received deemed trust funds

All moneys received pursuant to the authority of this article, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this article. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as a trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to the regulations as this article and the resolution or trust agreement may provide.

1984, c. 782, § 9-257; 2001, c. 844.

§ 2.2-2225.Proceedings by bondholder or trustee to enforce rights

Any holder of bonds issued under the provisions of this article or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the trust agreement or the resolution authorizing the issuance of such bonds, may either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under the trust agreement or resolution, and may enforce and compel the performance of all duties required by this article or by the trust agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging, and collecting of rates, rentals, and other charges.

1984, c. 782, § 9-258; 2001, c. 844.

§ 2.2-2226.Bonds made securities for investment and deposit

Bonds issued by the Authority under the provisions of this article shall be securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds shall be securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is now or may be authorized by law.

1984, c. 782, § 9-259; 2001, c. 844.

§ 2.2-2227.Revenue refunding bonds; bonds for refunding and for cost of additional projects

The Authority may provide for the issuance of revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding that have been issued under the provisions of this article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions, or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued. The Authority may provide by resolution for the issuance of its revenue bonds for the combined purpose of (i) refunding any bonds then outstanding which shall have been issued under the provisions of this article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, and (ii) paying all or any part of the cost of any additional project or any portion thereof. The issuance of the bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same shall be governed by the provisions of this article insofar as they may be applicable.

1984, c. 782, § 9-260; 2001, c. 844.

§ 2.2-2228.Grants or loans of public or private funds

The Authority may accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both or otherwise, to accomplish, in whole or in part, any of the purposes of this article. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth.

1984, c. 782, § 9-261; 2001, c. 844.

§ 2.2-2229.Moneys of Authority; examination of books by the Auditor of Public Accounts

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other order of the treasurer of the Authority or of other persons as the Authority may authorize to execute such warrants or orders. The Auditor of Public Accounts or his legally authorized representatives, shall examine the accounts and books of the Authority.

1984, c. 782, § 9-265; 2001, c. 844.

§ 2.2-2230.Exemption from taxes or assessments

The exercise of the powers granted by this article shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of projects by the Authority and the undertaking of activities in furtherance of the purpose of the Authority constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, including sales and use taxes on tangible personal property used in the operations of the Authority, and any bonds issued under the provisions of this article, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from state and local taxation. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of a facility businesses for which local or state taxes would otherwise be required.

1984, c. 782, § 9-262; 2001, c. 844.

§ 2.2-2231.Exemption of Authority from personnel and procurement procedures

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) of and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of this title shall not apply to the Authority in the exercise of any power conferred under this article.

1984, c. 782, § 9-264; 2001, c. 844.

§ 2.2-2232.Auxiliaries

A. The Governor may provide for the formation of a nonstock corporation to carry out the purpose of this article. The board of directors of the nonstock corporation shall consist of the fifteen members of the Board of the Authority. The articles of incorporation of the nonstock corporation shall provide that upon dissolution the net assets of the corporation shall be transferred to the Commonwealth. The nonstock corporation shall ensure that the economic benefits attributable to the income and property rights arising from any transactions in which the nonstock corporation is involved are allocated on a basis that is equitable in the reasonable business judgment of the board of directors, with due account being given to the interest of the citizens of the Commonwealth and the needs of the nonstock corporation. Any such nonstock corporation shall not be deemed to be a state or governmental agency, advisory agency, public body or agency or instrumentality for purposes of Chapters 8 (§ 2.2-800 et seq.), 18 (§ 2.2-1800 et seq.), 24 (§ 2.2-2400 et seq.), 29 (§ 2.2-2900 et seq.), 31 (§ 2.2-3100 et seq.), 37 (§ 2.2-3700 et seq.), 38 (§ 2.2-3800 et seq.), 43 (§ 2.2-4300 et seq.), 44 (§ 2.2-4400 et seq.), 45 (§ 2.2-4500 et seq.), 46 (§ 2.2-4600 et seq.), and 47 (§ 2.2-4700 et seq.) of this title, Chapter 14 (§ 30-130 et seq.) of Title 30 or Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1. No director, officer or employee of any such nonstock corporation or entity be shall deemed to be an officer or employee for purposes of Chapter 31 (§ 2.2-3100 et seq.) of this title. Notwithstanding the foregoing, the Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the financial accounts

of the Authority and any such nonstock corporation entity, provided that the working papers and files of the Auditor of Public Accounts relating to such audits shall not be subject to the provisions of The Freedom of Information Act (§ 2.2-3700 et seq.).

B. Notwithstanding the provisions of subsection A, as an entity receiving state funds, any such nonstock corporation shall be subject to periodic external review either (i) under the provisions of the Legislative Program Review and Evaluation Act (§ 30-64 et seq.) or (ii) by an entity appointed for that purpose by the Governor. Any such nonstock corporation shall be deemed to be an institution of higher education within the meaning of §§ 23.1-101 and 23.1-103, but only for the limited purposes therein stated.

1984, c. 782, § 9-263; 1987, Sp. Sess., c. 1; 1993, c. 967; 2001, c. 844.

§ 2.2-2233.Advanced Communications Assistance Fund created; purposes

A. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is created in the state treasury a special nonreverting, permanent fund, to be known as the Advanced Communications Assistance Fund ("the Fund"), to be administered by the Authority. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the chairman or the vice-chairman of the Authority, or, if so authorized by the Authority, bearing his facsimile signature, and the official seal of the Authority.

B. Moneys in the Fund shall be used solely for the purpose of helping underserved localities in the Commonwealth take full advantage of advanced communications services. Loans or grants from the Fund shall be used in underserved localities for (i) the internal communication needs of such localities, which may include but are not limited to fiber-optic, satellite, and wireless communications networks, or (ii) help in financing the costs of planning, designing, purchasing, leasing, installing, or maintaining dark fiber to the extent permitted in § 15.2-1500.

C. For purposes of this section:

"Dark fiber" means fiber optic cable that is not lighted by lasers or other electronic equipment.

"Underserved locality" means a locality wherein advanced communication services are not readily and generally available from three or more nonaffiliated certificated local exchange companies.

1999, c. 924, § 9-265.1; 2001, c. 844.

§ 2.2-2233.1.Commonwealth Research Commercialization Fund; continued; purposes; report

A. For purposes of this section:

"Guidelines" means guidelines developed in consultation with the Secretary of Technology and published by the Authority regarding the administration of the Commonwealth Research Commercialization Fund.

"Qualified research and technologies" means research programs or technologies identified in the Commonwealth Research and Technology Strategic Roadmap as areas of focus for technology investment in the Commonwealth, which may include but are not limited to the fields of energy, conservation, environment, microelectronics, robotics and unmanned vehicle systems, advanced shipbuilding, or lifespan biology and medicine.

"Qualifying institution" means (i) a public or private institution of higher education in the Commonwealth or its associated intellectual property foundation that adopts a policy regarding the ownership, protection, assignment, and use of intellectual property pursuant to subdivision B 14 of § 23.1-1303 or (ii) a federal research facility located in the Commonwealth.

"SBIR" means the Small Business Innovation Research Program authorized under 15 U.S.C. § 638.

"STTR" means the Small Business Technology Transfer Program authorized under 15 U.S.C. § 638.

B. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is created in the state treasury a special nonreverting, permanent fund, to be known as the Commonwealth Research Commercialization Fund (the Fund), to be administered by the Authority pursuant to the guidelines. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the chairman or the vice-chairman of the Authority, or, if so authorized by the Authority, bearing his facsimile signature, and the official seal of the Authority.

C. Awards from the Fund shall be made by the Authority, pursuant to the guidelines and upon the recommendation of the Research and Technology Investment Advisory Committee. Awards from the Fund shall only be made to applications that further the goals set forth in the Commonwealth Research and Technology Strategic Roadmap.

D. Awards from the Fund may be granted for the following programs:

1. For fiscal years beginning with a Fund balance of less than $7 million, an SBIR matching funds program for Virginia-based technology businesses. Businesses meeting the following criteria shall be eligible to apply for an award:

a. The applicant has received a Phase I SBIR award from the National Institute of Health targeted at the development of qualified research or technologies;

b. The applicant employs fewer than 12 full-time employees;

c. At least 51 percent of the applicant's employees reside in Virginia; and

d. At least 51 percent of the applicant's property is located in Virginia.

The length of time that a business has been incorporated shall have no bearing on an applicant's eligibility for an award. Applicants shall be eligible for matching grants of up to $50,000 of the Phase I award. All applicants shall be required to submit a commercialization plan with their application.

2. For fiscal years beginning with a Fund balance of $7 million or greater, an SBIR and STTR matching funds program for Virginia-based technology businesses. Businesses meeting the following criteria shall be eligible to apply for an award:

a. The applicant has received an SBIR or STTR award targeted at the development of qualified research or technologies;

b. The applicant employs fewer than 12 full-time employees;

c. At least 51 percent of the applicant's employees reside in Virginia; and

d. At least 51 percent of the applicant's property is located in Virginia.

The length of time that a business has been incorporated shall have no bearing on an applicant's eligibility for an award. Applicants shall be eligible for matching grants of up to $100,000 for Phase I awards and up to $500,000 for Phase II awards. All applicants shall be required to submit a commercialization plan with their application.

3. A matching funds program to assist qualifying institutions and other research institutions in leveraging federal and private funds designated for the commercialization of qualified research or technologies. The chairman of the Authority is authorized to issue letters of financial commitment to assist applicants in leveraging federal and private funds.

4. A commercialization program to incentivize the commercialization of a product or service related to a qualifying technology. An eligible applicant shall have operations in the Commonwealth, and the project proposed by the applicant shall:

a. Commercialize a product or service related to a qualifying technology;

b. Have a demonstrable economic development benefit to the Commonwealth;

c. Match the award, on at least a one-to-one basis, from other available funds, including funds from an institution of higher education collaborating on the project; and

d. Have a reasonable probability of enhancing the Commonwealth's national and global competitiveness.

Priority shall be given to those applications that propose projects that (i) are collaborative between private and nonprofit entities, public or private agencies, and qualifying institutions or research institutions; (ii) project a short time to commercialization, although transformative projects with a longer projected time to commercialization shall not be discounted; (iii) have active third-party equity holders; (iv) have technology and management in place that are likely to successfully bring the product or service to the marketplace; or (v) are from applicants who have a history of successful projects funded by the Fund. The length of time that a business has been incorporated shall have no bearing on an applicant's eligibility for an award.

5. An eminent researcher recruitment program to acquire and enhance research superiority at public qualifying institutions. For purposes of applications pursuant to this subdivision, the applicant shall be a public institution of higher education. In order to qualify for an award, the applicant shall:

a. Demonstrate that the researcher being recruited would create research superiority at the institution;

b. Demonstrate that the institution making the application has sufficient technology transfer processes and other research capabilities in place to meet the needs of the researcher being recruited;

c. Involve a private sector partner with business operations in the Commonwealth;

d. Demonstrate that the research conducted by the researcher is in a qualifying technology; and

e. Match the award, on at least a one-to-one basis, with 50 percent of the match from the applicant and 50 percent of the match from the private sector partner.

E. Any application for an award from the Fund shall include a strategic plan that, at a minimum, identifies (i) how the proposed project fits into the Commonwealth Research and Technology Strategic Roadmap, (ii) other funds that may be reasonably expected from other sources as a result of an award from the Fund, (iii) the potential for commercialization of the research or technology underlying the application, and (iv) opportunities for public and private collaboration.

F. No award shall be made from the Fund until a performance agreement or memorandum of understanding is agreed to by the Authority and the recipient of the award memorializing the terms and conditions of the award. Such agreement or memorandum of understanding shall set forth any conditions for receipt of the award, any dates certain for the completion of certain acts by the recipient, and provisions for the repayment of any award, including the rate of interest to be charged if any, if the recipient does not meet the terms of the agreement. In the event that an award is to be made over a multi-year period, the performance agreement or memorandum of understanding shall establish certain benchmarks or performance standards against which to measure the interim success of the project before additional funds are disbursed from the Fund.

G. The chairman of the Authority shall provide the Governor and the General Assembly with an annual report to include a detailed list of awards and loans committed, the amount of each approved award or loan, a description of the approved proposals, and the amount of federal or private matching funds anticipated where applicable, a statement concerning how the approved proposals further the goals of the Commonwealth Research and Technology Strategic Roadmap, and an assessment of the effectiveness of the Fund.

H. Administrative expenses related to implementing the guidelines and review process may be reimbursed from the Fund.

2003, c. 362; 2008, cc. 63, 527; 2009, cc. 243, 325, 810, 853; 2011, cc. 816, 874; 2015, c. 490; 2016, c. 441; 2017, c. 320.

Jail Authorities Act

§ 53.1-95.2.Jail authority

The governing bodies of two or more counties, cities, or towns or a combination thereof may by concurrent ordinances or resolutions or by agreement, create a jail authority. Such authority shall be subject to all rights, privileges, and obligations contained in Chapter 3 (§ 53.1-68 et seq.) of this title.

1990, c. 837; 1992, c. 421.

§ 53.1-95.3.Definitions

As used in this article, the following words and terms shall have the following meanings unless the context indicates another meaning or intent:

"County" means any county in the Commonwealth of Virginia.

"Governing body" means in the case of a county the board of supervisors and in the case of a city or town the board, commission, council or other body by whatever name it may be known, in which the general legislative powers of the city or town are vested.

"Political subdivision" means a county, city, or town of the Commonwealth of Virginia.

"Unit" means any department, institution or commission of the Commonwealth of Virginia and any public corporate instrumentality thereof, and any district, and includes counties and municipalities.

1990, c. 837; 1992, c. 421.

§ 53.1-95.4.Ordinance, agreement or resolution creating authority

A. Each such ordinance, agreement or resolution shall include the following:

1. The name of the "authority" and address of its principal office.

2. The name of each participating political subdivision, together with the names, addresses and terms of office of the first members of the board of the authority.

3. The purpose or purposes for which the authority is to be created together with, insofar as the governing bodies of the participating political subdivisions determine to be practicable, preliminary estimates of capital costs and financing proposals for any specific project or projects to be undertaken by the authority.

4. The number of members who shall exercise the powers of the authority and the number from each participating political subdivision.

B. Any such ordinance, agreement or resolution that does not set forth the information required in subdivision A 3 of this section regarding capital cost estimates and project financing proposals shall also set forth a finding that inclusion of such information is impracticable.

1990, c. 837.

§ 53.1-95.5.Joinder of new subdivision; withdrawal from authority

Any political subdivision may become a member of any existing authority, and any political subdivision which is a member of an existing authority may withdraw therefrom, but no political subdivision shall be permitted to withdraw from any authority after any obligation has been incurred by the authority except by unanimous vote of all members of the authority.

The governing body of any political subdivision wishing to withdraw from an existing authority shall signify its desire by resolution or ordinance. The governing body of any political subdivision wishing to become a member of an existing authority and the governing bodies of the political subdivisions then members of the authority shall by concurrent resolutions or ordinances or by agreement provide for the joinder of such political subdivision and specify the number and term of office of members of the expanded authority which are to be appointed by each of the participating political subdivisions, together with the name, address and term of office of initial appointments to membership.

1990, c. 837.

§ 53.1-95.6.Governing body

The powers of the authority shall be exercised by a governing body established in the manner provided in § 53.1-106.

1990, c. 837.

§ 53.1-95.7.Powers of authority

Each authority created hereunder shall be deemed to be an instrumentality exercising public and essential governmental functions to provide for the public safety and welfare, and each such authority is hereby authorized and empowered:

1. To have a seal and alter the same at pleasure;

2. To acquire by gift, purchase, lease, or otherwise, and to hold, to sell, at public or private sale, or exchange, lease, mortgage, pledge, subordinate interest in, or otherwise dispose of real and personal property of every kind and character for its purposes;

3. To appoint, select, and employ officers, agents, and employees, including a superintendent of the regional correctional facility and necessary jail officers and employees therefor, and also including engineering and construction experts, fiscal agents and attorneys, and to fix their respective compensations;

4. To make contracts and leases and to execute all instruments necessary or convenient, including contracts for construction and financing of projects and leases of projects or contracts with respect to the use of projects which it causes to be erected or acquired, and to dispose by conveyance of its title in fee simple of real and personal property of every kind and character, and any and all political subdivisions, departments, institutions, or agencies of the Commonwealth are hereby authorized to

enter into contracts, leases, or agreements with the authority upon such terms and for such purposes as they deem advisable;

5. To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, furnish, operate, and manage projects, the cost of any such project to be paid in whole or in part from the proceeds or other funds made available to the authority;

6. To accept loans and grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof, upon such terms and conditions as the United States of America or such agency or instrumentality may impose;

7. To accept loans and grants of money or materials or property of any kind from the Commonwealth of Virginia or any agency or instrumentality or political subdivision thereof, upon such terms and conditions as the Commonwealth of Virginia or such agency or instrumentality or political subdivision may impose;

8. To borrow money for any of its corporate purposes and to execute evidences of such indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from funds pledged for that purpose and to provide for the payment of the same and for the rights of the holders thereof. Any city or county participating in the authority may lend, advance, or give money or materials or property of any kind to the authority;

9. To exercise any power usually possessed by private corporations performing similar functions, which is not in conflict with the Constitution and laws of the Commonwealth;

10. An authority created pursuant to this article and any trustee acting under any trust indenture are specifically authorized from time to time to sell, lease, grant, exchange, or otherwise dispose of any surplus property, both real and personal, or interest therein not required in the normal operation of and usable in the furtherance of the purpose for which the authority was created, except as such right and power may be limited as provided in § 53.1-95.8 hereof;

11. To sue and be sued in its own name, plead and be impleaded;

12. To adopt, amend, or repeal bylaws, rules, and regulations, not inconsistent with this article or the general laws of the Commonwealth, for the regulation of its affairs and the conduct of its business and to carry into effect its powers and purposes;

13. To do all things necessary or convenient to carry out the powers expressly given in this article.

1990, c. 837; 1994, c. 270.

§ 53.1-95.8.Authority of superintendent and jail officers; oath and bond; fees charged to prisoner

The superintendent appointed by an authority created pursuant to this article to administer its correctional facility shall have and exercise the same control and authority over the prisoners

committed or transferred to such facility as the sheriffs of this Commonwealth have by law over the prisoners committed or transferred to their jails.

During the term of their appointment, the superintendent and jail officers are hereby vested with the powers and authority of a conservator of the peace (i) within the limits of such correctional facility and within one mile thereof; (ii) for the purpose of conveying prisoners to and from such facility; (iii) for the purpose of enforcing the provisions of alternative incarceration and treatment programs pursuant to §§ 53.1-129, 53.1-131, and 53.1-131.2; (iv) for the purpose of providing security and supervision of prisoners taken to a medical, dental, or psychiatric facility; and (v) for the purpose of providing a security escort and supervision of prisoners transported to a funeral or graveside service. Prisoners may be charged reasonable fees for services described in clause (v).

Before entering upon the duties of their office, the superintendent and jail officers shall take and subscribe the oath prescribed by § 49-1. An authority created pursuant to this article may require the superintendent or jail officers or both to give bond in such penalty and with such security as the authority may prescribe, conditioned upon the faithful discharge of the duties of their offices.

1990, c. 837; 1994, cc. 270, 923, 953; 2002, c. 336; 2004, c. 378.

§ 53.1-95.8:1.Handling of funds for regional correctional facility; county or city treasurer or director of finance as fiscal agent

Any authority constituted pursuant to the provisions of this article or Article 1.1 (§ 53.1-71.1 et seq.) may appoint as its fiscal agent the treasurer of a county or city which is a member of the authority, or in the case of member jurisdictions where there is no treasurer, the director of finance. No treasurer or director of finance shall be appointed as fiscal agent without their concurrence. In the event such treasurer or director of finance is appointed, all disbursements on behalf of the authority shall be by warrant signed by the chairman of the authority or his designee and countersigned by such treasurer or director of finance as fiscal agent. For his services as fiscal agent, a treasurer or director of finance thus appointed may be paid such salary supplement and reimbursed such expenses as may be agreed upon by the board of the authority and the treasurer or director of finance. Such salary supplement and expenses shall be borne exclusively by the authority and not by the Compensation Board.

1996, c. 623.

§ 53.1-95.9.Acquisition of interests in land

An authority created pursuant to this article is hereby authorized and empowered to acquire by gift or by lease or purchase solely from funds provided under the provisions of this article such lands, structures, property, rights, rights-of-way, franchises, easements, and other interests in lands as it may deem necessary or convenient for the construction and operation of the project upon such terms and

at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and the commissions of the Commonwealth, with the approval of the Governor, are hereby authorized and empowered to lease, lend, grant, or convey to an authority created pursuant to this article at its request, upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court, or other action or formality, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including real property already devoted to public use.

Title to any property acquired by an authority created pursuant to this article shall be taken in the name of the authority.

1990, c. 837.

§ 53.1-95.10. Issuance of revenue bonds

An authority created pursuant to this article is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates as shall be fixed by the authority, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this article or any recitals in any bonds issued under the provisions of this article, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as both principal and interest and for the interchange of registered and coupon bonds. The authority may sell such bonds in such manner, either at public or negotiated sale, or for such price, as it may determine will best effectuate the purposes of this article.

The proceeds of the bonds shall be used solely for the payment of the cost of the project and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issuance, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this article without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any conditions other than those proceedings or conditions which are specifically required by this article.

Revenue bonds issued under the provisions of this article shall not be deemed to constitute a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof. All such bonds shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any county, city, town, or other subdivision of the Commonwealth is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth or any county, city, town, or other subdivision of the Commonwealth to levy any taxes whatever therefor or to make any appropriation for their payment except from the funds pledged under the provisions of this article.

1990, c. 837.

§ 53.1-95.11. Trust agreements

In the discretion of an authority created pursuant to this article, any bonds issued under the provisions of this article may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the charges and other revenues to be received, but shall not convey or mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the

bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the project, the rates to be charged for services, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project.

1990, c. 837.

§ 53.1-95.12.Charge for use of services

An authority created pursuant to this article is hereby authorized to fix, revise, and charge for the use of the service furnished by the project and to contract with any unit or department of government at any level, including cities, counties, towns, authorities, regional jail boards, and the state and federal governments and their respective departments, commissions and agencies, desiring the use of any part thereof, and to fix the terms, conditions, rents, and rates of charges for such use. Such charges shall be so fixed and adjusted in respect to the aggregate of the charges from the project as to provide a fund sufficient with other revenues, if any, to pay (i) the cost of maintaining, repairing, and operating such project and (ii) the principal of and interest on such bonds as the same shall become due and payable and to create reserves for such purposes. The revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking

fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

1990, c. 837.

§ 53.1-95.13.Revenues and proceeds from sale of bonds

All moneys received pursuant to the provisions of this article, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this article. An authority created pursuant to this article may provide for the payment of its revenues to such officer, board, or depository as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. The authority shall, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds to a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this article, subject to such regulations as this article and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds.

1990, c. 837.

§ 53.1-95.14.Rights of bond holders and trustees

Any holder of bonds issued under the provisions of this article or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this article or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this article or by such agreement or resolution to be performed by an authority created pursuant to this article or by any officer or agent thereof including the fixing, charging, and collection of such charges.

1990, c. 837.

§ 53.1-95.15.Exemption from taxes

The exercise of the powers granted by this article shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience, and prosperity, and as the operation and maintenance of the project by an authority created pursuant to this article will constitute the performance of essential governmental functions, the authority shall not be required to pay any taxes or assessments upon the

project or any property acquired or used by the authority under the provisions of this article or upon the income therefrom; and the bonds issued under the provisions of this article, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county, or other political subdivision thereof.

1990, c. 837.

§ 53.1-95.16.Issuance of revenue refunding bonds

The authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the authority, for the additional purpose of constructing enlargements, renovations, or improvements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the authority in respect of the same, shall be governed by the provisions of this article insofar as the same may be applicable.

1990, c. 837.

§ 53.1-95.17.General purpose of an authority

Without limiting the generality of any provisions of this article, the general purpose of an authority created pursuant to this article is declared to be that of acquiring, constructing, equipping, maintaining, and operating a jail or jail farm and the usual facilities appertaining to such undertakings; enlarging, renovating, and improving such facilities; acquiring the necessary property therefor, both real and personal, with the right of contract for the use of or to lease, mortgage, or sell any or all of such facilities, including real property; and doing any and all things deemed by the authority necessary, convenient, and desirable for and incident to the efficient and proper development and operation of such types of undertakings.

1990, c. 837.

§ 53.1-95.18.Design-build contracts

An authority created pursuant to this article may enter into a contract for a jail on a fixed price or not-to-exceed price design-build basis or construction management basis in accordance with procedures consistent with those described in the Virginia Public Procurement Act (§ 2.2-4300 et seq.) for procurement of nonprofessional services through competitive negotiation. The authority may authorize payment to no more than three responsive bidders who are not awarded the design-build contract if the authority determines that such payment is necessary to promote competition. The authority shall not be required to award a design-build contract to the lowest bidder but may consider price as one

factor in evaluating the proposals received. The authority shall maintain adequate records to allow post-project evaluation by the Commonwealth.

1990, c. 837.

§ 53.1-95.19. State reimbursement

An authority created pursuant to this article shall be eligible to receive state reimbursement for jail construction and operation in accordance with the provisions of Article 3 (§ 53.1-80 et seq.) of this chapter. State reimbursement for the cost of the project shall be made to the authority and shall be determined as if each participating political subdivision in the authority had contributed its pro rata share of such cost. However, when an authority created pursuant to this article enters into an agreement with one or more political subdivisions not participating in the authority for the purpose of construction and operating a jail, that share of the state reimbursement due to any political subdivision not participating in the authority shall be made directly to such political subdivision in accordance with the provisions of Article 3 of this chapter. The Commonwealth shall fund the positions of superintendent, correctional officers, and two-thirds of the salaries of required medical or treatment personnel on a basis approved by the State Compensation Board. Such salaries shall be paid in the manner provided in § 15.2-1609.2, and such section shall be applicable mutatis mutandis to such superintendent.

The superintendent of the correctional facility shall report on the first day of each month to the Director of the State Department of Corrections to give the record of each prisoner received during the preceding month on blank forms to be furnished by the Director, to state whether the offense for each prisoner is for violation of state law or of city or town ordinance. The report shall be signed by both the superintendent and chairman of the authority. Either signer found guilty of willfully falsifying the information contained in such report shall be guilty of a Class 1 misdemeanor.

If any superintendent fails to send such report within five days after the date when the report is to be forwarded, the Director shall notify the superintendent of such failure. If the superintendent fails to make the report within ten days from that date, then the Director shall cause the report to be prepared from the books of the superintendent and shall certify the cost thereof to the Comptroller. The Comptroller shall issue his warrant on the Treasurer for that amount, deducting the same from any funds that may be due the superintendent by the Commonwealth.

1990, c. 837.

§ 53.1-95.20. Duty to prescribe rules and regulations

It shall be the duty of an authority created pursuant to this article to prescribe rules and regulations, not inconsistent with standards of the State Board of Local and Regional Jails, for the operation of the project or projects constructed under the provisions of this article.

1990, c. 837; 2020, c. 759.

§ 53.1-95.21.Supplemental and additional powers

The foregoing sections of this article shall be deemed to provide an additional and alternative method for the performance of acts authorized thereby, shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

1990, c. 837.

§ 53.1-95.22.Liberal construction

This article, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

1990, c. 837.

§ 53.1-95.23.Repealed

Repealed by Acts 2015, c. 709, cl. 2.

§ 53.1-95.24.Inconsistent laws inapplicable

All other general or special laws inconsistent with any provision of this article are hereby declared to be inapplicable to the provisions of this article.

1990, c. 837.

§ 53.1-133.10. (See Editor's note) Governor to execute; form of compact

The Governor is authorized and requested to execute, on behalf of the Commonwealth, with any other state or states legally joining therein a compact that shall be in form substantially as follows:

The compacting states solemnly agree that:

ARTICLE I. The party states, desiring by common action to efficiently utilize and provide emergency medical, dental, and psychiatric care for prisoners of local correctional facilities, declare that it is the policy of each of the party states to cooperate with one another to serve the best interests of the prisoners and of the state and local governments in the convenient and economical provision of these services. The purpose of this compact is to provide for the mutual recognition of the control and authority over prisoners during transport to and from medical, dental, and psychiatric facilities across state boundaries.

ARTICLE II. As used in this compact, unless the context clearly requires otherwise:

1. "State" means a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

2. "Sending state" means a state party to this compact in which a prisoner in need of medical, dental, or psychiatric services is incarcerated.

3. "Receiving state" means a state party to this compact in which is located a medical, dental, or psychiatric facility.

4. "Prisoner" means a male or female offender who is committed under sentence to or confined in a local correctional facility.

5. "Local correctional facility" means any penal or correctional facility or any jail, regional jail, jail farm, or other place used for the detention or incarceration of adult offenders that is owned, maintained, or operated by any political subdivision or combination of subdivisions of a state or a local government of a state.

ARTICLE III. Each party state agrees to extend all necessary authority to law-enforcement or corrections officers from a sending state while such officers have in their custody a prisoner for the purpose of escorting the prisoner to and from a medical, dental, or psychiatric facility located in the receiving state.

ARTICLE IV. This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

ARTICLE V. This compact shall continue in force and remain binding upon a party state until the party state has enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. No actual withdrawal shall take effect until one year after the notice provided in said statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE VI. The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

2013, c. 138.

Lake Country Airport Commission

Created
2005 Acts of Assembly, c. 680, as Clarksville-Boydton Airport Commission.

Amendments
2008, c. 421 (§ 3, §§ 15 through 22 [added])
2010, c. 150 (§§ 1, 2, 5, 6, 7, 8, 12; name changed to Lake Country Airport Commission)

§ 1. If the governing bodies of the towns of Clarksville and Boydton shall by resolution declare that there is a need for an airport commission to be created for the purpose of establishing and operating one or more airports or landing fields for all such political subdivisions, an airport commission, originally known as "The Clarksville-Boydton Airport Commission," shall thereupon exist for the towns and shall exercise its powers and functions therein.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Lake Country Airport Commission, formerly known as and doing business as The Clarksville-Boydton Airport Commission, the airport commission shall be conclusively deemed to have become created as a body corporate, and to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body of each of the towns creating the airport commission declaring that there is need for an airport commission and that it unites with the other political subdivision in its creation. A copy of the resolution, duly certified by the clerk of the governing body of the town which adopted it, shall be admissible in evidence in any suit, action, or proceeding. (2005, c. 680; 2010, c. 150)

§ 2. The Lake Country Airport Commission, hereinafter referred to as the "Commission," shall consist of members from the participating localities, the membership being composed of three members appointed by the Town of Clarksville, two members by the Town of Boydton, and three members by Mecklenburg County. Each member shall be appointed by the governing bodies thereof. Original appointments of members shall be for terms as follows: from the Town of Clarksville, one member for two years, one member for three years, and one member for four years; from the Town of Boydton, one member for one year and one member for two years; from Mecklenburg County, one member for two years, one member for three years, and one member for four years. Thereafter all appointments shall be for three-year terms, except appointments to fill vacancies which shall be for the unexpired terms.

The governing body appointing any member may remove that member at any time and appoint his successor. The Commission shall have power to elect its chairman and to adopt rules and regulations for its own procedures and government. The members of the Commission so appointed shall constitute the Commission, and the powers of such Commission shall be vested in and exercised by the members in office from time to time. A majority of the members in office shall constitute a quorum. (2005, c. 680; 2010, c. 150)

§ 3. The Commission established hereunder shall have all powers necessary or convenient to carry out the general purposes of this act, including the following powers in addition to others herein granted:

A. To sue and be sued; to adopt a seal and alter the same at pleasure; to have perpetual succession; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

B. To employ technical experts and other officers, agents, and employees as it may require, and to fix their qualifications and duties, and to fix their compensation within the limits of available funds.

C. To accept gifts and make application for and receive grants from the Commonwealth of Virginia or any political subdivision thereof, and from the United States and any of its agencies.

D. To acquire within the territorial limits of the region for which it is formed, by purchase, lease, gift, condemnation or otherwise, whatever land may be reasonably necessary for the purpose of establishing, constructing, enlarging, maintaining, and operating one or more airports or landing fields.

E. To acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate the use of any airports, air landing fields, structures, air navigation facilities, and other property incidental thereto, within the area for which it is created; provided, however, that no such airport shall be established or operated without the permission of the Virginia Department of Aviation.

F. To construct, install, maintain, and operate facilities for the servicing of aircraft, and for the accommodation of cargo, freight, mail, express, etc., and comfort of air travelers, and to purchase and sell equipment and supplies as an incident to the operation of its airport facilities.

G. To determine rates and charges for the use of its airport and other facilities.

H. To enforce all rules, regulations, and statutes relating to its airports, including airport zoning regulations.

I. To exercise within its area such powers and authority with respect to airports and air navigation facilities as may be conferred by law upon the governing bodies of the towns of the Commonwealth.

J. To make and enforce rules and regulations for the management and regulation of its business and affairs and for the use, maintenance, and operation of its facilities and properties.

K. To engage directly or through its agents or employees in the operation for profit of concessions in connection with its airports or other facilities, including the sale of airplanes and aircraft fuel, or to grant such privileges and concessions to others.

L. To comply with the provisions of the laws of the United States and the Commonwealth of Virginia and any rules and regulations made thereunder for the expenditure of state or federal moneys in connection with airports, landing fields, and air navigation facilities, and to accept, receive, and receipt for federal moneys granted the commission, or granted any of the political subdivisions by which it is formed, for airport purposes.

M. To borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues. (2005, c. 680; 2008, c. 421)

§ 4. The Commission established hereunder is hereby granted full power to exercise within its area the right of eminent domain in the acquisition of any lands, easements and privileges that are necessary for airport and landing field purposes, including the right to acquire, by eminent domain, avigation easements over lands or water outside the boundaries of its airport or landing fields where necessary or desirable in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport and landing fields even though such aviation easement may be inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation, and renewal of any structure or any tree or other vegetation standing or growing on the land at the time of acquisition; provided, however, that the power of eminent domain shall not extend to the taking of any radio or television towers or installation in existence on the effective date of this act. Proceedings for the acquisition of land, easements, and privileges by condemnation may be instituted and conducted in the name of the Commission, and the procedure shall be the same as in the acquisition of land by condemnation proceedings instituted by councils of towns; provided, that the provisions of § 25.1-102 of the Code of Virginia, shall apply to any property owned by a corporation possessing the power of eminent domain that may be sought to be taken by condemnation. (2005, c. 680)

§ 5. The localities for which the Commission is formed are hereby authorized to appropriate to the Commission from available funds, or from funds provided for the purpose by bond issues, such funds as may be necessary for the acquisition, construction, maintenance, and operation of airports, air landing fields, and other air navigation facilities. The basis of financial participation by the localities shall be determined by agreement between their governing bodies. (2005, c. 680; 2010, c. 150)

§ 6. The Commission shall prepare annually and submit to the governing bodies of the respective localities for which it is formed for their approval, a budget showing the estimated revenues it may reasonably expect to receive for such year, and its estimated expenses for all purposes for such period. After the approval of such budget, the Commission shall be limited in its expenditures for such year to the estimated expenses shown therein, and shall not commit the participating subdivisions beyond appropriations actually made. If the estimated expenditures exceed the estimated revenue from the operation of the Commission for such year the governing bodies of the participating local subdivisions may appropriate, in any amount the particular locality determines it can contribute, the

funds necessary to supply the deficiency. If the actual revenue received shall be less than the estimated revenue as approved in the budget, the governing bodies of the participating local subdivisions may appropriate, in the same manner, the funds necessary to supply the deficiency. (2005, c. 680; 2010, c. 150)

§ 7. If the funds received by the Commission in any year including money appropriated for its use by the participating subdivisions, shall exceed its expenditures for such year, the surplus shall be set aside in a separate fund for capital improvements and extensions. Such fund shall be used for this purpose only with the approval of both the participating subdivisions. Whenever such surplus fund shall amount to $100,000, any additional revenue received in any year in excess of operating costs shall be applied towards repaying the participating localities' contributions to the Commission in amounts proportionate to each locality's financial interest in the Commission. The financial interest of a locality shall consist of the proportionate share of the total financial contributions, including those made for capital outlay and for any other reason whatsoever, each participating locality has made to the Commission. Thereafter any profits derived from the operations of the Commission shall be distributed to the participating subdivisions in proportion to their financial interest in the Commission. (2005, c. 680; 2010, c. 150)

§ 8. The Commission shall be an independent body corporate, invested with the rights, powers, and authority and charged with the duties set forth in this act, and the political subdivisions which created it shall not be responsible for its acts. No pecuniary liability of any kind shall be imposed upon any locality creating the Commission because of any act, agreement, contract, tort, malfeasance or misfeasance by or on the part of the Commission or any member thereof, or its agents, servants or employees, except as otherwise provided in this act with respect to contracts and agreements between the Commission and any such locality. (2005, c. 680; 2010, c. 150)

§ 9. Except in cases of emergency, all contracts of more than $5,000 that the Commission may let for construction or materials shall be let after public advertising for at least 30 days, stating the place where bidders may examine the plans and specifications and the time and place where bids for such work or materials will be opened. Reasonable deposits may be required of all bidders, and the contract shall be let to the lowest responsible bidder, who shall give bond or other security for the faithful performance of the contract. (2005, c. 680)

§ 10. No member, agent, or employee of the Commission shall contract with the Commission or be interested, either directly or indirectly, in any contract with the Commission, or in the sale of any property to the Commission. (2005, c. 680)

§ 11. The Commission shall keep and preserve complete records of its operations, dealings, and transactions, which records shall be open to inspection by the participating political subdivisions at all

times. It shall make reports to the subdivisions annually and at such other times as they may require. (2005, c. 680)

§ 12. Any participating locality of the Commission may withdraw therefrom upon giving one year's notice to the action, due regard being had for existing contracts and obligations. Upon the cessation of its activities all of the assets of the Commission shall be distributed to the localities participating therein at the time of liquidation in the proportion equal to their financial interest in the Commission as defined in § 7 herein. (2005, c. 680; 2010, c. 150)

§ 13. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby. (2005, c. 680)

§ 14. The provisions of this act and all rules and regulations adopted hereunder shall not apply to any airport, air landing field, structure, air navigation facilities and other property incidental thereto, created or set aside for such purposes prior to the effective date of this act. (2005, c. 680)

§ 15. Commission to issue bonds.

The Commission shall have power and is hereby authorized to issue bonds from time to time in its discretion for any of its purposes, including the payment of all or any part of the cost of any of its facilities and the refunding of any bonds previously issued by it.

The Commission shall not issue bonds unless and until the maximum amount of each issue and the general purposes thereof have been approved by the governing body of each participating political subdivision. Subject to the foregoing, bonds may be issued under this act notwithstanding any debt or other limitation prescribed in any other statute and without obtaining the consent of any city, town, or county government or any commission, board, bureau, or agency of the Commonwealth or of any of the foregoing, and without any other proceedings or the happening of other conditions or things other than those proceedings, conditions, or things that are specifically required by this act.

The Commission may issue such types of bonds as it may determine, specifically bonds payable as to principal and interest: (i) from its revenue generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, as such participating political subdivision, or other entities may be authorized to make under general law or by pledge of any income or revenues of the Commission, or where such mortgage has been approved by the participating political subdivisions, a mortgage of any facilities of the Commission.

Bonds of the Commission shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates and shall bear interest at such rate or rates as may be determined by the Commission, and may be made redeemable before maturity at the option of the Commission at such price or prices and under such terms and conditions as may be fixed by the Commission prior to the issuance of the bonds. The Commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act, or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the conversion and reconversion into coupon bonds of any bonds registered as to both principal and interest and vice versa. The Commission may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Commission.

Prior to the preparation of definitive bonds, the Commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. (2008, c. 421)

§ 16. Resolution or trust indenture to secure bonds.

In connection with the issuance of bonds and in order to secure the payment of such bonds, the Commission shall have power:

1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents, or revenues;

2. To covenant to impose and maintain such schedule of fees, rents and charges as will produce funds sufficient to pay operating costs and debt service;

3. To covenant against pledging all or any part of its fees, rents and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and powers in the fees, rents and revenues that are subject to a pledge;

5. To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or facilities of the Commission or any part thereof or with respect to limitations on its right to undertake additional projects;

6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

7. To covenant as to what other, or additional, debt may be incurred by it;

8. To provide for the terms, forms, registration, exchange, execution, and authentication of bonds;

9. To provide for the replacement of lost, destroyed, or mutilated bonds;

10. To covenant as to the use of any or all of its property, real or personal, subject to the continued use of such property for airport purposes;

11. To create or to authorize the creation of special funds in which there may be segregated: (i) the proceeds of any loan or grant; (ii) all of the fees, rents and revenues of any facility or facilities or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as reserve for such payments; (v) any moneys held for any other reserve or contingencies; and (vi) to covenant as to the use and disposal of the moneys held in such funds;

12. To redeem its bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

15. To covenant as to the maintenance of its facilities, the insurance to be carried thereon and the use and disposition of insurance moneys;

16. To vest in a bondholder the right, in the event of the failure of the Commission to observe or perform any covenant on its part to be kept or performed, to cure any such default, and, subject to the limitation on total indebtedness expressed in this act, to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the

Commission with such interest, security and priority as may be provided in any trust indenture, lease or contract of the Commission with reference thereto;

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

18. To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition or obligation;

19. To covenant to surrender possession of all or any part of any facility or facilities acquired or constructed from bond proceeds, the revenues from which have been pledged upon the happening of any event of default, as defined in the contract, and to vest in a bondholder the right without judicial proceeding to take possession and to use, operate, manage, and control such facility or any part thereof, and to collect and receive all fees, rents, and revenues arising therefrom in the same manner as the Commission itself might do and to dispose of the moneys collected in accordance with the agreement of the Commission with such obligee, subject to the continued use of such facilities for airport purposes;

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as any purchaser of the bonds of the Commission may reasonably require; and

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the Commission that tend to make the bonds more marketable; notwithstanding that such covenant, acts or things may not be enumerated herein, it being the intention hereof to give the Commission power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of Virginia or this act. (2008, c. 421)

§ 17. Fees, rents and charges.

The Commission is hereby authorized to and shall fix, revise, charge, and collect fees, rents and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed

and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and other charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Commission, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary, be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest of such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Commission shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Commission irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need to be filed or recorded except in the records of the Commission. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. (2008, c. 421)

§ 18. Credit of Commonwealth and political subdivisions not pledged.

The bonds of the Commission shall not be a debt of the Commonwealth or any political subdivision thereof, other than the Commission, and neither the Commonwealth nor any political subdivision thereof, other than the Commission, shall be liable thereon, nor shall such bonds be payable out of any funds or properties other than those of the Commission. All bonds of the Commission shall contain on the face thereof a statement to such effect. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. (2008, c. 421)

§ 19. Members and persons executing bonds not liable thereon.

Neither the Commission nor any person executing the bonds shall be liable personally on the Commission's bonds by reasons of the issuance thereof. (2008, c. 421)

§ 20. Remedies of bondholder.

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust indenture agreement or the resolution

authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such trust indenture or agreement or resolution to be performed by the Commission or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges. Any resolution authorizing the issuance of the Commission's bonds or trust indenture or agreement securing the same may limit or abrogate the individual right of action by the holders of such bonds or coupons appertaining thereto. (2008, c. 421)

§ 21. Taxation.

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience and prosperity, and as the operation and maintenance of any project that the Commission is authorized to undertake will constitute the performance of an essential governmental function, the Commission shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act and the bonds issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations and organizations leasing property of the Commission or doing business on property of the Commission shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to, any leasehold tax on real property and taxes on tangible personal property and machinery and tools, taxes for admission, taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling and taxes upon consumers of gas, electricity, telephone and other public utility services. (2008, c. 421)

§ 22. Bonds as legal investments.

Bonds issued by the Commission under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (2008, c. 421)

Luray-Page County Airport Authority

Created

2004 Acts of Assembly, c. 39.

§ 1. Short title.

This act shall be known and may be cited as the Luray-Page County Airport Authority Act. (2004, c. 39)

§ 2. Creation; public purpose.

If the governing bodies by resolution declare that operating an airport for such participating political subdivisions would be in the public interest, and that they should unite in its formation, an airport authority to be known as the Luray-Page County Airport Authority shall thereupon exist for such participating county and town and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Luray-Page County Airport Authority, such authority shall be established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such county and town declaring that there is a need for such authority and that they should unite in its formation. A copy of such resolution duly certified by the clerks of the county and town by which it is adopted shall be admissible as evidence in any suit, action or proceedings. Any political subdivision of the Commonwealth, all or part of which is located within 60 miles of an Authority facility, is authorized to join such Authority pursuant to the terms and conditions of this act.

It is hereby declared that the ownership and operation by the Authority of modern and efficient air transportation and related facilities and the exercise of powers conferred by this act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. It is also declared that contract obligations of a town to provide payments over a period of more than one year to the Authority shall be excluded from existing indebtedness of such town for purposes of calculating debt limit pursuant to Section 10 (a) of Article VII of the Constitution of Virginia. It is further declared that the Authority is an entity of government by or on behalf of which debt may be contracted by or on behalf of any county pursuant to Section 10 (b) of Article VII of the Constitution of Virginia. (2004, c. 39)

§ 3. Definitions.

As used in this act the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means this Luray-Page County Airport Authority Act.

"Authority" means the Luray-Page County Airport created by this act.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by this Authority pursuant to this act.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all airports, terminals, runways, hangars, loading facilities, repair shops, parking areas, facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies and airlines, and industrial and commercial facilities, purchased, constructed or otherwise acquired or operated by the Authority pursuant to the provisions of this act. Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, avigation rights, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

"Participating political subdivision" means any of the County Page or the Town of Luray, Virginia, or any other political subdivision that may join or has joined the Authority pursuant to §§ 4 and 5 of this act.

"Political subdivision" means a county, municipality or other public body of this Commonwealth.

"Board of Directors" means the governing body of the Authority.

"Luray-Page County Airport" means the airport facilities located north of U.S. Route 340 in Page County, adjacent to the Town of Luray, and any other facilities necessary, incidental, or convenient to the operation of the facilities. (2004, c. 39)

§ 4. Participating political subdivision.

Prior to becoming a participating subdivision, each political subdivision shall enter into a contract with the authority and other participating political subdivisions setting forth the financial contribution to be made by such political subdivision to the Authority.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any other political subdivision. (2004, c. 39)

§ 5. Appointment and tenure of a Board of Directors.

The powers of the Authority shall be vested in the directors thereof in office from time to time. The governing body of each participating political subdivision shall appoint the number of directors, who may be members of the appointing governing body, set forth opposite its name below:

At-large 1

Each other participating political subdivision 1

The initial Board of Directors shall be composed of five members and shall be appointed for the following terms: Town of Luray: one member for one year, one member for four years; Page County: one member for two years, one member for three years. One at-large member shall be appointed by agreement of the town and county. Thereafter, each director shall be appointed for a four-year term or until his successor is appointed and qualified. No member of the Board of Directors may be an employee of a participating political subdivision. Directors appointed by any additional participating political subdivision or directors appointed by existing political subdivisions shall also be appointed for four-year terms. The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term.

Each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties. (2004, c. 39)

§ 6. Organization.

A majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws. Special meetings of the Authority may be called by any director or the Executive Director upon at least 48-hours' written notice to each director served personally or left at his usual place business or residence.

The Board of Directors shall annually elect a chairman and a vice-chairman from their membership, a secretary and a treasurer or a secretary-treasurer from their membership or not as they deem appropriate, and such other officers as they may deem appropriate. The Board of Directors may appoint an executive director, who shall not be a director, who shall exercise such powers and duties as may be delegated to him by the Board of Directors, including powers and duties involving the exercise of discretion.

The Board of Directors may make and from time to time amend and repeal bylaws, not inconsistent with this act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The Board of Directors may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees. (2004, c. 39)

§ 7. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including, for purposes of illustration, the following:

1. To sue and be sued in its own name;

2. To have perpetual succession;

3. To adopt a corporate seal and alter the same at its pleasure;

4. To maintain offices at such places as it may designate in the Town of Luray, Virginia, a Virginia Municipal Corporation, and Page County, Virginia;

5. To acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate any airport, air landing fields, structures, avigation facilities and other property incidental thereto within the territorial limits of the participating political subdivisions subject to the limitation that such power shall be limited to such items as may be necessary for the operation of the Luray-Page County Airport;

6. To construct, install, maintain and operate facilities for the servicing and storage of aircraft and for the accommodation of cargo, freight, mail, express, etc., and for the accommodation and comfort of air travelers, and for lease or sale to industrial or commercial users, and to purchase and sell equipment and supplies incidental to the operation of its airport facilities;

7. To grant to others the privilege to operate for-profit concessions, leases, and franchises, including but not limited to the sale of airplanes, fuel, parts and equipment, maintenance of aircraft, the accommodation and comfort of persons using its facilities and the providing of ground transportation and parking facilities for such persons, and such concessions, leases and franchises shall be exclusive or limited when deemed by the Authority necessary to further the public safety, improve the quality of air service, avoid duplication of service or conserve airport property and the airport operation;

8. To determine fees, rates, and charges for the use of its facilities;

9. To apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United State of America and agencies and instrumentalities thereof, this Commonwealth and political subdivisions, agencies and instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the Authority's facilities or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

10. To establish, operate, and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce;

11. To appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

12. To contract with a participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 14 hereof, accounting services, including the annual independent audit required by § 24 hereof, procurement of goods and services, and to act as fiscal agent for the Authority. In the event of a contract for a participating political subdivision to act as fiscal agent, the Authority's employees shall be compensated, shall receive the same benefits, including pensions, and shall be subject to the personnel rules of said subdivision;

13. To establish personnel rules;

14. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

15. Subject to the provisions of any deed or deeds from the Town of Luray, Virginia, a Virginia Municipal Corporation, and Page County, Virginia, to the Authority and any agreement or agreements among or between the Authority and any participating political subdivision, to sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein, if such disposition is in the public interest and in furthermore of the purposes of this act or if such property is not necessary for the purposes of the Authority;

16. To make, assume and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

17. (a) To borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues; (b) the total indebtedness of the Authority at no time shall exceed the amount of $500,000, in principal, whether by purchase of encumbered property, direct loan, bonded indebtedness, or debt in any other form except as agreed to by each participating political subdivision by resolution of the governing body thereof, in which case the total amount of indebtedness shall be expressed in the resolution of each such governing body; (c) notwithstanding any other provision of law, no interest or right in the real property conveyed, in any form, to the Authority by a participating political subdivision, shall be conveyed, pledged, or otherwise transferred by the Authority for the purpose of obtaining or securing any indebtedness, nor shall any such property be encumbered by the Authority unless and until such subdivision has

approved the nature of, terms of, and amount of such conveyance, pledge, transfer or encumbrance, by resolution of the governing body of said subdivision;

18. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. To pay pensions and establish pension plans, pension trusts, and other compensation plans for any of its employees;

20. To purchase and maintain insurance or to provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such; and

21. To do all things necessary or convenient to the purposes of this act. However, the powers of the Authority expressed in this act shall be limited to those powers necessary for the operation of the Luray-Page County Airport. To that end, property acquired, owned, or conveyed to the Authority, contracts entered into, financial assistance, indebtedness, rules and regulations adopted by the Authority and any other actions thereof may only pertain to said airport.

The grant of regulatory authority by this act, including regulations that displace, eliminate or limit competition by or among persons or entities, is based on the policy of the Commonwealth to provide for the safe, adequate, economical and efficient provision of air transportation and related facilities and services to the public. (2004, c. 39)

§ 8. Name of airport.

The name of the airport operated by the Authority within the boundaries of Page County shall be Luray-Page County Airport. The name of the airport may be changed upon approval of the governing bodies of the participating political subdivisions. (2004, c. 39)

§ 9. Rules and regulations.

The Authority shall have the power to adopt, amend, and repeal rules and regulations for the use, maintenance and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the Board of Directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

1. Make such rule, regulation, alteration, amendment or modification in convenient form available for public inspection in the office of the Authority for at least 10 days; and

2. Post in a public place a notice declaring the Board of Directors' intention to consider adopting such rule, regulation, alteration, amendment or modification and informing the public that the Authority will at a public meeting consider the adoption of such rule or regulation or such alterations, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least 10 days from the first day of the posting of the notice thereof.

The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to: (i) traffic, including but not limited to motor vehicle speed limits and the location of and payment of public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) aircraft operation and maintenance shall have the force of law, as shall any other rule or regulation of the Authority, which shall contain a determination by the Authority that it is necessary to accord the same the force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the traffic engineer or comparable official of the political subdivision in which such rules and regulations are to be enforced. The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

All ordinances, rules and regulations duly adopted for the regulation, administration and operation of the Luray-Page County Airport, in force at the effective date of this act, shall remain in full force insofar as they or any part thereof are not inconsistent with the provisions of this act until amended or repealed in accordance with this act. (2004, c. 39)

§ 10. Police powers.

Authority employees meeting the minimum requirements of the Department of Criminal Justice Services shall be given special police power by the circuit court of any participating political subdivision. The authority conferred upon such special policemen shall be exercised only upon Authority facilities located within such participating political subdivision, and shall be in all terms consistent with the requirements of Chapter 17 (§ 15.2-1700 et seq) of Title 15.2 of the Code of Virginia.

Such special policeman shall have all powers vested in police officers under Chapter 17 (§ 15.2-1700 et seq) of Title 15.2 of the Code of Virginia and shall be responsible upon Authority facilities for enforcing Authority rules and regulations and all other applicable statutes, ordinances, rules, and regulations of the United States of America and agencies and instrumentalities thereof and this Commonwealth and political subdivisions, agencies and instrumentalities thereof.

Such special policemen may issue summons to appear, or arrest on view or on information without warrant as permitted by law, and conduct before any court of competent jurisdiction any person violating any rule or regulation of the Authority or other applicable statute, ordinance, rule or regulation.

For the purpose of enforcing such statutes, ordinances, rules and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the participating political subdivision wherein the offense was committed shall have jurisdiction to try a person charged with the violation of any such statutes, ordinances, rules or regulations. (2004, c. 39)

§ 11. Eminent domain.

The Authority is hereby granted full power to exercise the right of eminent domain within the participating political subdivisions in the acquisition of any land, easements, privileges or other property interests that are necessary for airport purposes, including, where necessary to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport, avigation easements over lands or water outside the boundaries of its airport, even though such avigation easement may be either inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition. Proceedings for the acquisition of such land, easements and privileges by condemnation may be instituted and conducted in the name of the Authority in accordance with Title 25.1 of the Code of Virginia. (2004, c. 39)

§ 12. Reports.

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. (2004, c. 39)

§ 13. Procurement.

All contracts that the Authority may let for construction or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq) of the Code of Virginia. (2004, c. 39)

§ 14. Deposit and investment of funds.

Except as herein provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth of national

banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq) of the Code of Virginia.

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for fiduciaries. (2004, c. 39)

§ 15. Authority to issue bonds.

The Authority shall have power and is hereby authorized to issue bonds from time to time in its discretion for any of its purposes, including the payment of all or any part of the cost of any of its facilities and the refunding of any bonds previously issued by it.

The Authority shall not issue bonds unless and until the maximum amount of each issue and the general purposes thereof have been approved by the governing body of each participating political subdivision. Subject to the foregoing, bonds may be issued under this act notwithstanding any debt or other limitation prescribed in any other statute and without obtaining the consent of any city, town, or county government or any commission, board, bureau, or agency of the Commonwealth or of any of the foregoing, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things that are specifically required by this act.

The Authority may issue such types of bonds as it may determine, specifically bonds payable as to principal and interest: (i) from its revenue generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds. Subject to the limitations set forth in § 7 of this act, any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, as such participating political subdivision, or other entities may be authorized to make under general law or by pledge of any income or revenues or the Authority, or where such mortgage has been approved by the participating political subdivisions, a mortgage of any facilities of the Authority.

Bonds of the Authority shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates and shall bear interest at such rate or rates as may be determined by the Authority, and may be made redeemable before maturity at the option of the Authority at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and

the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act, or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the conversion and reconversion into coupon bonds of any bonds registered as to both principal and interest and vice versa. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. (2004, c. 39)

§ 16. Resolution or trust indenture to secure bonds.

In connection with the issuance of bonds and in order to secure the payment of such bonds, the Authority shall have power:

1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents, or revenues;

2. To covenant to impose and maintain such schedule of fees, rents and charges as will produce funds sufficient to pay operating costs and debt service;

3. To covenant against pledging all or any part of its fees, rents and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and powers in the fees, rents and revenues that are subject to a pledge;

5. To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or facilities of the Authority or any part thereof or with respect to limitations on its right to undertake additional projects;

6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

7. To covenant as to what other, or additional, debt may be incurred by it;

8. To provide for the terms, forms, registration, exchange, execution, and authentication of bonds;

9. To provide for the replacement of lost, destroyed, or mutilated bonds;

10. To covenant as to the use of any or all of its property, real or personal, subject to the continued use of such property for airport purposes;

11. To create or to authorize the creation of special funds in which there may be segregated: (i) the proceeds of any loan or grant; (ii) all of the fees, rents and revenues of any facility or facilities or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as reserve for such payments; (v) any moneys held for any other reserve or contingencies; and (vi) to covenant as to the use and disposal of the moneys held in such funds;

12. To redeem its bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

15. To covenant as to the maintenance of its facilities, the insurance to be carried thereon and the use and disposition of insurance moneys;

16. To vest in a bondholder the right, in the event of the failure of the Authority to observe or perform any covenant on its part to be kept or performed, to cure any such default, and, subject to the limitation on total indebtedness expressed in this act, to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the Authority with such interest, security and priority as may be provided in any trust indenture, lease or contract of the Authority with reference thereto;

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

18. To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition or obligation;

19. To covenant to surrender possession of all or any part of any facility or facilities acquired or constructed from bond proceeds, the revenues from which have been pledged upon the happening of any event of default, as defined in the contract, and to vest in a bondholder the right without judicial proceeding to take possession and to use, operate, manage, and control such facility or any part thereof, and to collect and receive all fees, rents, and revenues arising therefrom in the same manner as the Authority itself might do and to dispose of the moneys collected in accordance with the agreement of the Authority with such obligee, subject to the continued use of such facilities for airport purposes;

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers an duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as any purchaser of the bonds of the Authority may reasonably require; and

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the Authority which tend to make the bonds more marketable; notwithstanding that such covenant, acts or things may not be enumerated herein, it being the intention hereof to give the Authority power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of the Commonwealth or this act. (2004, c. 39)

§ 17. Fees, rents and charges.

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and other charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same,

shall to the extent necessary, be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest of such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need to be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. (2004, c. 39)

§ 18. Credit of Commonwealth and political subdivisions not pledged.

The bonds of the Authority shall not be a debt of the Commonwealth or any political subdivision thereof, other than the Authority, and neither the Commonwealth nor any political subdivision thereof, other than the Authority, shall be liable thereon, nor shall such bonds be payable out of any funds or properties other than those of the Authority. All bonds of the Authority shall contain on the face thereof a statement to such effect. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. (2004, c. 39)

§ 19. Directors and persons executing bonds not liable thereon.

Neither the Board of Directors nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof. (2004, c. 39)

§ 20. Remedies of bondholder.

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust indenture agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such trust indenture or agreement or resolution to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges. Any resolution authorizing the issuance of the Authority's bonds or trust indenture or agreement securing the same may limit or abrogate the individual right of action by the holders of such bonds or coupons appertaining thereto. (2004, c. 39)

§ 21. Taxation.

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act and the bonds issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to, any leasehold tax on real property and taxes on tangible personal property and machinery and tools, taxes for admission, taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling and taxes upon consumers of gas, electricity, telephone and other public utility services. (2004, c. 39)

§ 22. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (2004, c. 39)

§ 23. Appropriation by political subdivision.

Any participating political subdivision, or other political subdivision of the Commonwealth all or a part of which is located within 60 miles of an Authority facility, is authorized to provide services, to donate real or personal property and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issues its bonds, including general obligation bonds, in the manner provided in the Public Finance Act (§ 15.2-2600 et seq) of the Code of Virginia or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority. (2004, c. 39)

§ 24. Authority budget.

A. The Authority shall annually prepare and submit to the participating political subdivision (i) a proposed operating budget showing its estimated general fund revenues and expenses on an accrual basis for the forthcoming fiscal year, and if such estimated expenses exceed such estimated revenues, the portion of the deficit proposed to be borne by each participating political subdivision, and (ii) a proposed capital budget showing its estimated expenditures for such fiscal year for assets costing more than $20,000 (or such higher amount as the Authority and the participating political subdivisions may determine) and having an estimated useful life of 20 years or more and the source of funds for such expenditures, including any amount requested from the participating political subdivisions. No depreciation shall be included in the Authority's operating budget with respect to assets purchased by the Authority with funds appropriated to it for such purpose by a participating political subdivision and, for this determination, it shall be assumed that any appropriation so made is for the purchase of assets set forth in the applicable Authority budget to the extent such purchase price is included in the approved budget. Assets purchased by the Authority with bond proceeds shall be depreciated over the term of the bond issue in proportion to the maturities, including sinking fund installments, of the bond issue.

B. If the governing body of a participating political subdivision shall approve the Authority's proposed operating budget, it shall appropriate to the Authority such political subdivision's portion of such budget.

C. If the governing body of a participating political subdivision shall approve the Authority's proposed capital budget, it shall appropriate to the Authority such participating political subdivision's portion of the expenditures set forth therein. Any such appropriation may be reduced by the participating political subdivision's proportionate share of any grant funds received by the Authority for the purchase of assets included in the Authority's approved capital budget in excess of the grant funds shown in such capital budget as a source of funds for such expenditure, unless prohibited by the basic provider of the grant funds.

D. The Authority may expend any and all moneys within its control without obtaining the approval of the participating political subdivisions, but, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any political subdivision, the Authority shall not commit any participating political subdivision in an amount in excess of that appropriated to the Authority by the governing body of such political subdivision.

E. If at any time during any fiscal year it shall appear that the cash disbursements of the Authority will exceed its cash receipts for such fiscal year, including amounts appropriated to it by the participating political subdivisions, the Authority may request supplemental appropriations from the participating political subdivision and any other political subdivision. (2004, c. 39)

§ 25. Allocation of deficit; denial of voting privileges.

A. Any deficit budgeted by the Authority in any fiscal year, i.e., any excess of its estimated general fund expenses over its estimated general fund revenues, and the cost of any budgeted capital expenditures in excess of the amount shown as available therefor, as shown on Authority's operating and capital budgets approved by the participating subdivisions, shall be allocated among the participating political subdivisions in the following manner:

1. During the five fiscal years beginning July 1, 2004, the Town of Luray, Virginia, a Virginia Municipal Corporation, and Page County, Virginia, shall each contribute half of the amount budgeted annually by the Authority for capital expenditures in excess of the amounts shown as available therefor after subtracting from such amount the annual contribution of the other participating political subdivision.

2. No later than the fifth fiscal year, the participating political subdivisions shall evaluate the division of capital contributions made by each such subdivision and shall agree as to the division of such contributions for the fiscal year beginning July 1, 2009, and thereafter.

3. In the event the appropriation of any participating political subdivision is insufficient to pay its portion of the deficit incurred in any fiscal year, the allocation of any deficit for any succeeding fiscal year shall take into account the cumulative deficiency attributable to such participating political subdivision; however, no participating political subdivision shall be required to pay the Authority in any fiscal year any amount in excess of that appropriated to the Authority by the governing body of such participating political subdivision.

B. Any participating political subdivision not contributing its proportionate share of any deficit as determined by the Authority pursuant to § 25 of this act, either of the Authority's operating budget or capital budget in accordance with a schedule established by the Authority, shall automatically be denied voting privileges. The denial of voting privileges shall terminate upon the delivery of its proportionate share by such political subdivision. (2004, c. 39)

§ 26. Contract with political subdivisions.

The Authority is authorized to enter into contracts with any one or more political subdivisions, which contracts may restrict the powers of the Authority otherwise granted by this act. Any participating political subdivision, or other political subdivision of the Commonwealth all or part of which is located within 60 miles of an Authority facility, is authorized to enter into contracts with the Authority, pursuant to which the Authority undertakes to provide the facilities and render the services specified therein. Any such contract or agreement may provide that the political subdivision will make payments to the Authority based on the services rendered by the Authority to the residents of such political subdivision, determined in such reasonable manner as the Authority and the political subdivision may mutually agree. Each political subdivision entering into such a service contract with the Authority is authorized to do everything necessary or proper to carry out and perform such contract and to provide

for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations. (2004, c. 39)

§ 27. Retirement benefits for certain employees by a participating political subdivision.
When a local political subdivision joins the Authority, any employee of such local political subdivision who then becomes an employee of the Authority, if such employee is a member of a local retirement system, may elect to and may continue to be eligible to remain a member of such local retirement system in lieu of becoming a member of any retirement system with which the Authority may affiliate. Such election to remain a member of a local retirement system shall be made in writing within 120 days of such employee's political subdivision becoming a member of the Authority. In such event, service of such employee with the Authority shall be creditable as service with the participating political subdivision and shall be pursuant to all duly adopted ordinances and rules and regulations governing such retirement system. Any employee so electing shall not be entitled to any benefit under the Authority's retirement system, and the Authority shall pay the employer share of benefits provided the Authority's employees by such political subdivision. Nothing herein shall apply to any health and accident insurance plan or to the Federal Old-Age and Survivors' Insurance System. (2004, c. 39)

§ 28. Dissolution of Authority.
Whenever it shall appear to the Authority, or to any participating political subdivision that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia. (2004, c. 39)

§ 29. Agreement with Commonwealth and participating political subdivisions.
The Commonwealth and, by participating in the Authority, each participating political subdivision pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the

rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds. (2004, c. 39)

§ 30. Liberal construction.

Neither this act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of this Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds, notes, or other obligations. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is expressly provided in this act. The provisions of this act are severable, and if any of its provision shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act. (2004, c. 39)

§ 31. Application of local ordinances, service charges and taxes upon leaseholds.

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom. (2004, c. 39)

§ 32. Existing contracts, leases, franchises, etc., not impaired.

No provisions of this act shall relieve, impair or affect any right, duty, liability or obligation arising out of any contract, concession, lease or franchise now in existence except to the extent that such contract, concession, lease or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of or otherwise modify at any time any contract, concession, lease or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease or franchise consents to said renegotiations, renewal, extension or modification. (2004, c. 39)

§ 33. That the Luray-Page County Airport Authority, as provided for in this act, shall in all respects be the successor in interest to the Luray-Page County Airport Commission created by the Town of Luray, Virginia, a Virginia Municipal Corporation, and Page County, Virginia. (2004, c. 39)

Lynchburg Parking Authority

Created
1974 Acts of Assembly, c. 76.

Amendments
1995, c. 289 (§§ 3, 5, 6, 7, 9, 11, 12, 13-a)

§ 1. Short title.
This act shall be known and be cited as the "Lynchburg Parking Authority Act." (1974, c. 76)

§ 2. Declaration of public necessity.
It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the city of Lynchburg in the Commonwealth is necessary to the health, safety and general welfare of the public, whether residing in the municipality or traveling to, through or from such municipality in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of the municipality; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the present time a public nuisance; that such parking prevents the free circulation of traffic in, through and from the municipality and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions for sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided; and that the enactment of the provisions of this act is hereby declared to be a public necessity. (1974, c. 76)

§ 3. Definitions.
As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Authority created under the provisions of this act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the Authority shall be given by law.

(b) The word "bonds" or the words "revenue bonds" shall mean revenue bonds, revenue refunding bonds or notes of the Authority issued under the provisions of this act.

(c) The word "cost" as applied to parking facilities or to extensions or additions thereto shall include the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all the lands, property, rights, easements and interests acquired by the Authority for such construction or reconstruction or the operation thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of issuance of bonds, financing charges, interest prior to and during construction, and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal

services, cost of plans and specifications, surveys and estimates of cost and of revenues, administrative expense and such other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof and the placing of the parking facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(d) The words "governing body" shall mean the board, commission, council or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.

(e) The word "municipality" shall mean the city of Lynchburg in the Commonwealth of Virginia.

(f) The words "parking facilities" shall mean and shall include lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to the public use for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and busses, waiting rooms, lockers, and offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the construction or operation thereof; provided, however, the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles. (1974, c. 76; 1995, c. 289)

§ 4. Creation of the Authority.

(a) The governing body of the municipality may by resolution signify its determination to organize an Authority under the provisions of this act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than ten days prior to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereon. Such municipality shall not be required to make any other publication of such resolution under the provisions of any other law.

(b) Such resolution shall include articles of incorporation which shall set forth:

(1) the name of the Authority;

(2) a statement that such Authority is organized under this act;

(3) the name of the organizing municipality; and

(4) the names and addresses of the first members of the Authority appointed by the organizing municipality.

(c) Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the Commonwealth of Virginia. (1974, c. 76)

§ 5. Membership of the Authority.

The Authority organized under the provisions of this act shall consist of seven members selected by the governing body of the organizing municipality who shall serve staggered five-year terms, and the initial terms for each director shall be five years or less to provide for staggered membership. The successor of each member of the Authority shall be appointed for a term of five years but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Authority before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitutions of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Authority.

The Authority shall select one of its members as Chairman and another as Vice-Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice-Chairman, Secretary and Treasurer shall be as provided in the bylaws of the Authority.

A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of all of the members of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. (1974, c. 76; 1995, c. 289)

§ 6. General grant of powers.

The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such Authority is hereby authorized and empowered:

(a) to adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to maintain an office at such place or places as it may designate;

(d) to sue and be sued in its own name, plead and be impleaded;

(e) to construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of the organizing municipality;

(f) to issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;

(g) to issue revenue refunding bonds of the Authority as hereinafter provided;

(h) to fix and revise from time to time and to charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time regulations in respect to the use, operation and occupancy of such parking facilities or part thereof;

(i) to acquire in the name of the Authority by gift, or purchase, any lands or rights in lands and interest therein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facilities;

(j) to lease (as lessor or lessee) all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this act; provided, however, that no enterprise involving the sale or dispension of any product or commodity used in or for the servicing of motor vehicles shall be conducted on any space thereon;

(k) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this act; and

(l) to do all acts and things necessary or convenient to carry out the powers granted by this act. (1974, c. 76; 1995, c. 289)

§ 7. Revenue bonds.

The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving, extending or enlarging any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any

officer whose signature or a facsimile of whose signature shall appear on any bonds shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Any bond may bear the facsimile signature of, or may be signed by, the person who at the actual time of the execution of the bond is the proper officer to sign the bond although at the date of the bond the person may not have been such officer. When all signatures on bonds are facsimiles, the bonds shall be authenticated by an agent appointed by the Authority or in such manner as the Authority may provide. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in registered form as the Authority may determine. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth or of any municipality or other political subdivision of the Commonwealth, or a pledge

of the faith and credit of the Commonwealth or of any municipality or other political subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds. (1974, c. 76; 1995, c. 289)

§ 8. Revenues.

The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by any parking facilities or parts thereof owned or operated by the Authority. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all times (a) to pay the cost of maintaining, repairing and operating the parking facilities or parts thereof owned or operated by the Authority, including reserves for such purposes, and (b) to pay the principal of and the interest on all bonds issued by the Authority under the provisions of this act as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the Authority may enter into contracts relating to use of the services and facilities of the parking facilities on such terms as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms. (1974, c. 76)

§ 9. Trust Agreement.

In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received. In connection with the issuance of such bonds or in order to secure the payment thereof, the Authority shall have power under such agreement to mortgage all or any part of its property, real or personal then owned or thereafter acquired, to vest in the trustee thereunder the right to foreclose such mortgage and to provide the terms and conditions upon which such trustee or the holders of bonds or any proportion thereof may exercise the right of foreclosure. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to

pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustees, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this act otherwise provided, the Authority may provide for the payment of the proceeds of the sale of bonds and the revenues of any parking facilities or part thereof to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this act shall be valid and binding from the time when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledges without any physical delivery thereof or filing with respect thereto or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. (1974, c. 76; 1995, c. 289)

§ 10. Trust funds.

All moneys received pursuant to the authority of this act shall be deemed to be trust funds, to be held and applied solely as provided in this act. Any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes thereof, subject to such regulations as this act and the resolution authorizing the issuance of bonds or trust agreement securing such bonds may provide. (1974, c. 76)

§ 11. Remedies.

Any holder of revenue bonds issued under the provisions of this act and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of rates, rentals, fees and charges for the use of or for the services and facilities furnished by any parking facilities. (1974, c. 76; 1995, c. 289)

§ 12. Exemption from taxation.

As adequate off-street parking facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this act to effect such purposes constitute the performance of essential municipal functions, and as parking facilities constructed under the

provisions of this act constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation by the Commonwealth or by any political subdivision thereof. (1974, c. 76; 1995, c. 289)

§ 13. Revenue refunding bonds.

The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (a) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions or enlargements of any parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the foregoing provisions of this act insofar as the same may be applicable. (1974, c. 76)

§ 13-a. Competing parking facilities.

So long as any bonds issued under the provisions of this act are outstanding, the municipality shall not construct, operate or maintain any parking facilities, other than such parking facilities as may be operated or maintained by the municipality on the date of passage by the municipality of a resolution organizing the Authority, which competes with parking facilities of the Authority. The prohibition against competing parking facilities shall not apply to parking facilities that are constructed as part of a municipal building or facility. (1974, c. 76; 1995, c. 289)

§ 14. Contributions.

The municipality is hereby authorized to make contributions or advances to an Authority which it organizes under the provisions of this act from any available moneys for any purpose of the Authority, including payment of principal and interest on its bonds. The municipality is hereby further authorized to enter into agreements with the Authority obligating the municipality to pay to the Authority any part or all of the receipts from the operation of on-street parking meters and making such covenants as may be deemed necessary or desirable to assure the successful and profitable operation of the on-street parking meters for so long as any bonds of the Authority remain outstanding. (1974, c. 76)

§ 15. Actions taken by Authority.

Any action taken by the Authority under the provisions of this act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately and need not be published or posted. (1974, c. 76)

§ 16. Additional method.

This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however , that the issuance of revenue bonds or revenue refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds. (1974, c. 76)

§ 17. Construction.

This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof. (1974, c. 76)

Manassas Airport Authority

Created

1966 Acts of Assembly, c. 288.

§ 1. Definitions.

As used in this act the following words and term shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Manassas Airport Authority hereinafter created or, if the Authority shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof or upon whom the powers given by this act to the Authority shall be conferred by law.

(b) The word "project" shall mean an airport and appurtenant facilities for general, governmental, commercial and private use, constructed by or acquired by the Authority under the provisions of this act, together with all necessary and convenient approaches, roads and streets used in connection with such airport.

(c) The term "Cost of the project" shall embrace the cost of construction, expansion, landscaping and conservation, the cost of acquisition of all land, rights of way, property, rights, easements and interests acquired by the Authority for the construction, expansion and operation of the project, the cost to demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved; the cost of all machinery and equipment; financing charges; interest prior to and during construction; and, if deemed

advisable by the Authority for a period not exceeding one year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, provision for working capital and a reserve for interest, other expenses necessary or incident to determining the feasibility or practicability of constructing the project, administrative expenses, and such other expenses as may be necessary or incident to the construction of the project, the financing of such construction and the placing of the project in operation.

(d) The word "bonds" or the words "revenue bonds" shall mean revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this act.

(e) The word "owner" shall include all individuals, copartnerships, associations or corporations and also municipalities, political subdivisions and all public agencies and instrumentalities having any title or interest in any property, rights, easements and interests authorized to be acquired by this act. (1966, c. 288)

§ 2. Credit of Commonwealth and political subdivisions not pledged.

Revenue bonds issued under the provisions of the act shall not be deemed to constitute a debt of the Commonwealth of Virginia or of any county, city, town, district or political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any county, city, town, district or political subdivision thereof, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues. The issuance of revenue bonds under the provisions of this act shall not directly or indirectly or contingently obligate the Commonwealth or any county, city, town or district therein or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the provisions of this act and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this act. (1966, c. 288)

§ 3. "Manassas Airport Authority."

If the governing body of the town of Manassas shall by resolution declare that there is need for an airport authority to be created for the purpose of establishing and operating one or more airports or landing fields for such political subdivision, an airport authority shall upon adoption of such resolution, be created and constituted a political subdivision of the Commonwealth to be known as the "Manassas Airport Authority". The governing body of Prince William County may by resolution declare that there is need for its participation in the Manassas Airport Authority and may participate therein if the terms of its participation be approved by the Authority and the governing body of the town of Manassas. The exercise by the Authority of the powers conferred by this act in the purchase,

construction, expansion, operation and maintenance of the project authorized by this act shall be deemed and held to be the performance of an essential governmental function.

The Authority shall consist of not more than six members, all of whom shall be appointed by the governing body of the town of Manassas, unless the county of Prince William becomes a participant therein, in which event one-half of the members shall be appointed by the governing body of the town of Manassas and one-half by the governing body of Prince William County. Two of the members of the Authority first appointed shall continue in office for terms expiring one year from the date that this act shall have become effective, two for terms expiring two years from the date that this act shall have become effective, and two for a term expiring three years from the date that this act shall have become effective, as appropriate, the term of each such member to be designated by said governing body, or bodies, and to continue until his successor shall be duly appointed and qualified. The successor of each such member shall be appointed for a term of four years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Authority shall be eligible for reappointment. Members of the Authority shall be subject to removal from office in like manner as are State, county, town and district officers under the provisions of §§ 15.1-63 to 15.1-66, inclusive, of the Code of Virginia. The Authority shall annually elect one of its members as chairman and another as vice chairman and shall also elect annually a secretary-treasurer, who may or may not be a member of the Authority.

The secretary-treasurer shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such.

A quorum shall be a majority of the members appointed to the Authority and affirmative vote of a majority present shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

Before the issuance of any revenue bonds under the provisions of this act the secretary-treasurer of the Authority shall execute a surety bond in the penal sum of fifty thousand dollars, such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the Commonwealth as surety and to be approved by the Attorney General and filed in the office of the Secretary of the Commonwealth.

The members of the Authority may be reimbursed for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties. Each member

may also be paid an amount as determined by the governing body or bodies participating. (1966, c. 288)

§ 4. General grant of powers.

The Authority is hereby authorized and empowered:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To adopt an official seal and alter the same at pleasure;

(c) To determine the location of the project, to determine, in its discretion, the design standards and the materials of construction, and to construct, expand, maintain, repair and operate the project;

(d) to issue revenue bonds of the Authority for any of its purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

(e) to fix and revise from time to time and charge and collect tolls, rates, fees, rentals and other charges for the use of the project;

(f) to acquire, accept, hold and dispose of real and personal property including gifts and contributions from political subdivisions, persons or corporations, in the exercise of its powers and the performance of its duties under this act;

(g) to employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(h) to enter upon any lands and premises for the purpose of making such surveys, soundings, borings and examinations as the Authority may deem necessary or convenient for its purposes, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings; provided, however, the Authority shall pay any actual damage resulting to such lands and premises as a result of such entry and activities as a part of the cost of the project;

(i) to sue and be sued in its own name, plead and be impleaded;

(j) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, and to enter into grant agreements with the United States government and the Commonwealth of Virginia for airport planning, development and operation under the Federal Airport Act and other appropriate federal laws; and/or State laws;

(k) to do all acts and things necessary or convenient to carry out the powers expressly granted in this act; and

(l) to borrow money and to issue bonds, refunding bonds, notes, certificates or other evidence of indebtedness of the Authority. (1966, c. 288)

§ 4.-a. In addition to the powers conferred by the preceding section, the Authority is hereby empowered to lease, sell or encumber any real property owned by the Authority. (1966, c. 288)

§ 5. Acquisition of property.

(a) The Authority is hereby authorized and empowered to acquire by purchase solely from funds provided under the provisions of this act, such lands, structures, property, rights, rights of way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and the commissions of the Commonwealth, with the approval of the Governor, and the town of Manassas, and the county of Prince William, notwithstanding any contrary provisions of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court or other action or formality, any real property or personal property, tangible or intangible, which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public highways and other real property already devoted to public use. The town of Manassas and the county of Prince William are hereby authorized to appropriate, from available funds, such funds as either may deem necessary to effectuate the authorized purposes of the Authority.

(b) The Authority is authorized and empowered to acquire by the exercise of the power of eminent domain limited to the definition of "project" as set forth herein, any lands, property, rights, rights of way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways or parts thereof or rights therein of any person, copartnership, association, public service, public utility or other corporation, or of the county, deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration, replacement or relocation of public or private property damaged or destroyed, whenever a reasonable price cannot be agreed upon or whenever the Authority cannot agree on the terms of purchase or settlement with the owner or owners because of the incapacity of such owner or owners or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because such owner or owners are nonresidents of the Commonwealth, or are unknown, or are unable to convey valid title to such property. Such proceedings shall be in accordance with and subject to the provisions of any and all laws of the Commonwealth applicable to the exercise of the power of eminent domain in the name of the State Highway Commissioner and subject to the provisions of § 25-233 of the Code of Virginia, as fully as if the Authority were a corporation possessing the power of eminent domain; provided, however, that title to any property condemned by the Authority shall immediately vest in the Authority, and the Authority shall be entitled to the immediate possession of such property upon the deposit with the clerk of the court in which such condemnation proceedings

are originated, of the total amount of the appraised price of the property and court costs and fees as provided by said laws, notwithstanding that any of the parties to such proceedings shall appeal from any decision in such condemnation proceedings. Whenever the Authority shall make such deposit in connection with any" condemnation proceeding, the making of such deposit shall not preclude the Authority from appealing any decision rendered in such proceedings. Upon the deposit with the clerk of the court of the appraised price, any person or persons entitled thereto may, upon petition to the court, be paid his or their lawful share of such appraised price. The acceptance of such payment shall not preclude such person or persons from appealing any decision rendered in such proceedings. If the appraisement is greater or less than the amount finally determined by the decision in such proceeding or by an appeal, the amount of the increase or decrease shall be paid by or refunded to the Authority.

The terms "appraised price" and "appraisement" as used in this section mean the value determined by two competent real estate appraisers appointed by the Authority for such purposes.

The acquisition of any such property by condemnation or by the exercise of the power of eminent domain shall be and is hereby declared to be a public use of such property.

(c) Title to any property acquired by the Authority shall be taken in the name of the Authority.

(d) In any eminent domain proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the Authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security nor any act or obligation of the Authority shall impose any liability upon the Commonwealth or upon any county, or other political subdivision of the Commonwealth.

(e) If the owner, lessee or occupier of any property to be condemned or otherwise acquired shall refuse to remove his property therefrom or give up possession thereof, the Authority may proceed to obtain possession in any manner provided by law.

(f) The Commonwealth, with the written approval of the Governor of Virginia first obtained, hereby consents to the use of any lands or property owned by the Commonwealth which are deemed by the Authority to be necessary for the construction or operation of the project. (1966, c. 288)

§ 6. Revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding six per centum (6%) per annum, shall mature at such time or times not exceeding

forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this act.

The proceeds of the bonds shall be used solely for the payment of the cost of the project, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this act. (1966, c. 288)

§ 7. Trust agreement.

In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the Powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not conveyor mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project, the rates of toll or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust Company incorporated under the laws of the Commonwealth, which may act as depository of the proceeds of bonds or of revenues, to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project. (1966, c. 288)

§ 8. Revenues.

The Authority is hereby authorized to fix, revise, charge and collect tolls or other charges for the use of the project and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right of way adjoining the airport for placing thereon telephone, telegraph, electric light or power lines, and to fix the terms, conditions, rents and rates of charges for such use. Such to or other charges shall be so fixed and adjusted in respect of the aggregate of tolls or other charges from the project as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such project and (b) the principal of and interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. The tolls and all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such

pledge shall be valid and binding from the time when the pledge is made; the tolls and other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1966, c. 288)

§ 9. Trust funds.

All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. (1966, c. 288)

§ 10. Remedies.

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of tolls or other charges. (1966, c. 288)

§ 11. Exemption from taxation.

The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom; and the bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county, or other political subdivision thereof. (1966, c. 288)

§ 12. Revenue refunding bonds.

The Authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this act in so far as the same may be applicable. (1966, c. 288)

§ 13. Act liberally construed.
This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1966, c. 288)

§ 14. Constitutional construction.
The provisions of this act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decisions of such court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein. (1966, c. 288)

§ 15. Inconsistent laws inapplicable.
All other general or special laws inconsistent with any provisions of this act are hereby declared to be inapplicable to the provisions of this act. (1966, c. 288)

Mecklenburg-Brunswick Airport Commission

Created
1975 Acts of Assembly, c. 271 (includes Mecklenburg, La Crosse, Hill, Brunswick).

Amendments
1982, c. 42 (§§ 2, 7, 9)

§ 1. If the governing bodies of each of the counties of Mecklenburg and Brunswick, and the towns of South Hill and LaCrosse, or any two or more of them, shall by resolution declare that there is a need for an airport commission to be created for the purpose of establishing and operating one or more airports or landing fields for all such political subdivisions, an airport commission, to be known as "The Mecklenburg-Brunswick Airport Commission", shall thereupon exist for such counties and towns, and shall exercise its powers and functions therein.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of The Mecklenburg-Brunswick Airport Commission, such commission shall be conclusively deemed to have become created as a body corporate, and to have become established and authorized to

transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body of each of the counties and towns creating the airport commission declaring that there is need for such commission and that it unites with the other political subdivisions in its creation. A copy of such resolution duly certified by the clerk of the governing body of the county or town by which it is adopted, shall be admissible in evidence in any suit, action or proceeding. (1975, c. 271)

§ 2. The Mecklenburg-Brunswick Airport Commission, hereinafter referred to as the "Commission", shall consist of members from the participating counties and towns, the membership being composed of one member from the county of Mecklenburg, one from the town of LaCrosse, two from the town of South Hill, and three from the county of Brunswick, one of whom shall be a resident of the Town of Brodnax. Each member shall be appointed by the governing bodies thereof, except the Brunswick County member from the Town of Brodnax shall be appointed by the Brodnax town council. Original appointments of members shall be for terms as follows: From the county of Mecklenburg, one year; from the town of La Crosse, two years; from the county of Brunswick, one, two and three years; from the town of South Hill, two and four years. Thereafter all appointments shall be for four-year terms, except appointments to fill vacancies which shall be for the unexpired terms. The Brodnax member shall be appointed to the first Brunswick County vacancy arising after calendar year 1981.

The governing body appointing any member may remove such member at any time and appoint his successor. The Commission shall have power to elect its chairman, and to adopt rules and regulations for its own procedure and government. The members of the Commission so appointed shall constitute the Commission, and the powers of such Commission shall be vested in and exercised by the members in office from time to time. A majority of the members in office shall constitute a quorum. (1975, c. 271; 1982, c. 42)

§ 3. The Commission established hereunder shall have all powers necessary or convenient to carry out the general purposes of this act, including the following powers in addition to others herein granted:

A. To sue and be sued; to adopt a seal and alter the same at pleasure; to have perpetual succession; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

B. To employ such technical experts, and such other officers, agents and employees as it may require, and to fix their qualifications and duties, and their compensation within the limits of available funds.

C. To accept gifts and make application for and receive grants from the State of Virginia or any political subdivision thereof, and from the United States and any of its agencies.

D. To acquire within the territorial limits of the region for which it is formed, by purchase, lease, gift, condemnation or otherwise, whatever land may be reasonably necessary for the purpose of

establishing, constructing, enlarging, maintaining and operating one or more airports or landing fields.

E. To acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate the use of any airports, air landing fields, structures, air navigation facilities and other property incidental thereto, within the area for which it is created; provided, however, that no such airport shall be established or operated without the permission of the State Corporation Commission first had and obtained as now or hereafter provided by law.

F. To construct, install, maintain and operate facilities for the servicing of aircraft, and for the accommodation of cargo, freight, mail, express, etc., and comfort of air travelers, and to purchase and sell equipment and supplies as an incident to the operation of its airport facilities.

G. To determine rates and charges for the use of its airport and other facilities.

H. To enforce all rules, regulations and statutes relating to its airports, including airport zoning regulations

I. To exercise within its area such powers and authority with respect to airports and air navigation facilities as may be conferred by law upon the governing bodies of the counties and towns of the Commonwealth.

J. To make and enforce rules and regulations for the management and regulation of its business and affairs and for the use, maintenance and operation of its facilities and properties.

K. To engage directly or through its agents or employees in the operation for profit of concessions in connection with its airports or other facilities, including the sale of airplanes and aircraft fuel, or to grant such privileges and concessions to others.

L. To comply with the provisions of the laws of the United States and the Commonwealth of Virginia and any rules and regulations made thereunder for the expenditure of federal moneys in connection with airports, landing fields and air navigation facilities, and to accept, receive and receipt for federal moneys granted the commission, or granted any of the political subdivisions by which it is formed, for airport purposes. (1975, c. 271)

§ 4. The Commission established hereunder is hereby granted full power to exercise within its area the right of eminent domain in the acquisition of any lands, easements and privileges which are necessary for airport and landing field purposes, including the right to acquire, by eminent domain, avigation easements over lands or water outside the boundaries of its airport or landing fields where necessary or desirable in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport and landing fields even though such avigation easement be inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation and renewal of

any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition; provided, however, such power of eminent domain shall not extend to the taking of any radio or television towers or installation in existence on the effective date of this act. Proceedings for the acquisition of such lands, easements and privileges by condemnation may be instituted and conducted in the name of the Commission, and the procedure shall be the same as in the acquisition of land by condemnation proceedings instituted by councils of counties and towns; provided, that the provisions of § 25-233 of the Code of Virginia, 1950, shall apply to any property owned by a corporation possessing the power of eminent domain that may be sought to be taken by condemnation. (1975, c. 271)

§ 5. The counties and towns for which the Commission is formed are hereby authorized to appropriate to the Commission from available funds, or from funds provided for the purpose by bond issues, such funds as may be necessary for the acquisition, constructing, maintenance and operation of airports, air landing fields and other air navigation facilities. The basis of financial participation by the counties and towns shall be determined by agreement between their governing bodies. (1975, c. 271)

§ 6. The Commission shall prepare annually and submit to the governing bodies of the respective counties and towns for which it is formed for their approval, a budget showing the estimated revenues it may reasonably expect to receive for such year, and its estimated expenses for all purposes for such period. After the approval of such budget the Commission shall be limited in its expenditures for such year to the estimated expenses shown therein, and shall not commit the participating subdivisions beyond appropriations actually made. If the estimated expenditures exceed the estimated revenue from the operation of the Commission for such year the governing bodies of the participating local subdivisions may appropriate, in any amount the particular county or town determines it can contribute, the funds necessary to supply the deficiency. If the actual revenue received shall be less than the estimated revenue as approved in the budget, the governing bodies of the participating local subdivisions may appropriate, in the same manner, the funds necessary to supply the deficiency. (1975, c. 271)

§ 7. If the funds received by the Commission in any year, including money appropriated for its use by the participating subdivisions, shall exceed its expenditures for such year, the surplus shall be set aside in a separate fund for capital improvements and extensions. Such fund shall be used for such purpose only with the approval of all the participating subdivisions. Whenever such surplus fund shall amount to $100,000, any additional revenue received in any year in excess of operating costs shall be applied towards repaying the participating counties' and towns' contributions to the Commission in amounts proportionate to each county's and town's financial interest in the Commission. The financial interest of a county or town shall consist of the proportionate share of the total financial contributions, including those made for capital outlay and for any other reason whatsoever, each participating county or town has made to the Commission. Thereafter any profits derived from the operations of the

Commission shall be distributed to the participating subdivisions in proportion to their financial interest in the Commission. (1975, c. 271; 1982, c. 42)

§ 8. The Commission shall be an independent body corporate, invested with the rights, powers and authority and charged with the duties set forth in this act, and the political subdivisions by which it is created shall not be responsible for its acts. No pecuniary liability of any kind shall be imposed upon any county or town creating the Commission because of any act, agreement, contract, tort, malfeasance or misfeasance by or on the part of the Commission or any member thereof, or its agents, servants or employees, except as otherwise provided in this act with respect to contracts and agreements between the Commission and any such county or town. (1975, c. 271)

§ 9. Except in cases of emergency, all contracts of more than $5,000 that the Commission may let for construction or materials shall be let after public advertising for at least thirty days, stating the place where bidders may examine the plans and specifications and the time and place where bids for such work or materials will be opened. Reasonable deposits may be required of all bidders, and the contract shall be let to the lowest responsible bidder, who shall give bond or other security for the faithful performance of the contract. (1975, c. 271; 1982, c. 42)

§ 10. No member, agent or employee of the Commission shall contract with the Commission or be interested, either directly or indirectly, in any contract with the Commission, or in the sale of any property to the Commission. (1975, c. 271)

§ 11. The Commission shall keep and preserve complete records of its operations, dealings and transactions, which records shall be open to inspection by the participating subdivisions at all times. It shall make reports to such subdivisions annually, and at such other times as they may require. (1975, c. 271)

§ 12. Any county or town creating the Commission may withdraw therefrom upon giving one year's notice to the Commission and to all other participating counties and towns. The political subdivision so withdrawing shall forfeit its rights to any further revenue from the operations of the Commission, and to the repayment of any of its financial interest in the Commission. The operations of the Commission may be discontinued at any time and its property disposed of by the unanimous action of all counties and towns participating therein at the time of the action, due regard being had for existing contracts and obligations. Upon the cessation of its activities all of the assets of the Commission shall be distributed to the counties and towns participating therein at the time of liquidation in the proportion equal to their financial interest in the Commission as defined in § 7 herein. (1975, c. 271)

§ 13. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby. (1975, c. 271)

§ 14. Existing facilities.--The provisions of this act and all rules and regulations adopted hereunder shall not apply to any airport, air landing field, structure, air navigation facilities and other property incidental thereto, created or set aside for such purposes prior to the effective date of this act. (1975, c. 271)

Metropolitan Washington Airports Authority

§ 5.1-152.Definitions

For the purposes of this act, the following terms and phrases shall mean:

"Authority" shall mean the Metropolitan Washington Airports Authority created by this act and by similar enactment by the District of Columbia or, if the Authority shall be abolished, the board, body, or commission or agency succeeding to the principal functions thereof or upon whom the powers given by this act to the Authority shall be conferred by law;

"Authority Facilities" shall mean any or all airport facilities now existing or hereafter acquired or constructed or caused to be constructed by the Authority under this act, and together with any or all buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, water rights, air rights, franchises, machinery, equipment, furnishings, landscaping, easements, utilities, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, including the existing Dulles Airport Access Road and its right-of-way, acquired or constructed by the Authority;

"Bonds" or "revenue bonds" shall mean bonds and notes or refunding bonds and notes or bond anticipation notes or other obligations of the Authority issued under the provisions of this act.

"Cost" shall mean, as applied to Authority Facilities, the cost of acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interests, the cost of lease payments, the cost of construction, the cost of demolishing, removing or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of any extensions, enlargements, additions and improvements, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to and during construction and, if deemed advisable by the Authority, for a period not exceeding one year after completion of such construction, the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing the Authority Facilities, administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions and improvements, the cost of bond issuance and other devices designed to enhance the creditworthiness of the bonds, and such other expenses as may be necessary or incidental to the construction of the Authority Facilities, the financing of such construction and the placing of the Authority Facilities in operation. Any obligation or expenses

incurred by the Commonwealth or any agency thereof, with the approval of the Authority, for studies, surveys, borings, preparation of plans and specifications or other work or materials in connection with the construction of the Authority Facilities may be regarded as part of the cost of the Authority Facilities and may be reimbursed to the Commonwealth or such agency out of any funds available therefor or the proceeds of the revenue bonds issued for such Authority Facilities as hereinafter authorized.

2001, c. 342.

§ 5.1-153.Metropolitan Washington Airports Authority created

There is hereby created the Metropolitan Washington Airports Authority, hereafter referred to as the Authority, a public body corporate and politic and independent of all other bodies, having the powers and jurisdiction hereinafter enumerated, and such other and additional powers as shall be conferred upon it by the legislative authorities of both the Commonwealth of Virginia and the District of Columbia.

2001, c. 342.

§ 5.1-154.Acquisition of airports; approval

The Metropolitan Washington Airports Authority created by this act is hereby authorized, when similarly authorized by the District of Columbia, to acquire from the United States of America, by lease or otherwise, the two airports known as Ronald Reagan Washington National Airport and Washington Dulles International Airport and all related properties now administered by the Metropolitan Washington Airports, an agency of the Federal Aviation Administration of the United States Department of Transportation, but only with the approval of the Governor of Virginia. Subject to such gubernatorial approval, general consent is hereby given to conditions imposed by the Congress of the United States on such acquisitions that are not inconsistent with this act.

2001, c. 342.

§ 5.1-155.Membership; terms; officers

A. The Authority shall consist of 17 members: seven appointed by the Governor of the Commonwealth of Virginia, four appointed by the Mayor of the District of Columbia, three appointed by the Governor of the State of Maryland, and three appointed by the President of the United States. Members representing the Commonwealth of Virginia shall be subject to confirmation by the Virginia General Assembly. For the purposes of doing business, nine members shall constitute a quorum. The failure of a single appointing official to appoint one or more members, as herein provided, shall not impair the Authority's creation when the other conditions thereof have been met.

B. Members shall (i) not hold elective or appointive public office, (ii) serve without compensation, and (iii) reside within the Washington Standard Metropolitan Statistical Area, except that the members appointed by the President of the United States shall be registered voters of states other than

Maryland, Virginia, or the District of Columbia. The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties.

C. Appointments to the Authority shall be for a period of six years. However, initial appointments shall be made as follows: each jurisdiction shall appoint one member for a full six-year term, a second member for a four-year term, and, in the case of the Commonwealth and the District of Columbia, a third member for a two-year term. The Governor of Virginia shall make the final two Virginia initial appointments for one two-year and one four-year term. The President shall make subsequent appointments for six-year terms. The President shall make one of the initial appointments pursuant to the Metropolitan Washington Airports Amendments Act of 1996 for a four-year term.

D. Ten affirmative votes shall be required to approve bond issues and the annual budget of the Authority.

E. Each member may be removed or suspended from office only for cause, and in accordance with the laws of the jurisdiction from which he is appointed.

F. The Authority shall annually elect one of its members as chairman and another as vice-chairman and shall also elect annually a secretary and a treasurer, or a secretary-treasurer, who may or may not be members of the Authority, and prescribe their powers and duties. The Authority may also appoint from its staff an assistant secretary and an assistant treasurer, or an assistant secretary-treasurer, who shall, in addition to other duties, discharge such functions of the secretary and the treasurer.

G. Any person appointed to fill a vacancy shall serve for the unexpired term. Any member of the Authority shall be eligible for reappointment for one term. A member shall not serve after the expiration of the member's term or terms.

H. The members of the Authority, including any nonvoting members, shall not be personally liable for any act done or action taken in their capacities as members of the Authority, nor shall they be personally liable for any bond, note or other evidence of indebtedness issued by the Authority.

2001, c. 342; 2012, cc. 549, 712.

§ 5.1-156. Powers and duties of the Authority

A. For the purpose of acquiring, operating, maintaining, developing, promoting and protecting Ronald Reagan Washington National Airport and Washington Dulles International Airport together as primary airports for public purposes serving the metropolitan Washington area, the Authority shall have all necessary or convenient powers including, but not limited to, the power:

1. To adopt and amend bylaws for the regulation of its affairs and the conduct of its business;

2. To plan, establish, operate, develop, construct, enlarge, maintain, equip and protect the airports;

3. To adopt and amend regulations to carry out the powers granted by this section;

4. To adopt an official seal and alter the same at its pleasure;

5. To appoint one or more advisory committees;

6. To issue revenue bonds of the Authority for any of its purposes, payable solely from the fees and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

7. To borrow money on a short-term basis and issue from time to time its notes therefor payable on such terms, conditions or provisions as it may deem advisable;

8. To fix, revise, charge, and collect rates, fees, rentals and other charges for the use of the airports;

9. To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

10. To employ, in its discretion, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary, and to fix their compensation and benefits. Employees of the Authority shall not participate in any strike or assert any right to strike against the Authority, and any employment agreement entered into by the Authority shall contain an explicit prohibition against strikes by the employee or employees covered by such agreement. The Authority shall comply with any act of Congress concerning former employees of the Federal Aviation Administration and Metropolitan Washington Airports;

11. To sue and be sued in its own name, plead and be impleaded;

12. To construct or permit the construction of commercial and other facilities consistent with the purposes of this act upon the airport property on terms established by the Authority;

13. To make and enter into all contracts and agreements necessary or desirable to the performance of its duties, the proper operation of the airports and the furnishing of services to the travelling public and airport users, including contracts for normal governmental services on a reimbursable basis with local political subdivisions where the Authority Facilities are situated and with the District of Columbia government; and any such contracts shall be exclusive or limited when it is necessary to further the public safety, improve the quality of service, avoid duplication of services, or conserve airport property and the airport environment;

14. To apply for, receive and accept such payments, appropriations, grants, gifts, loans, advances, and other funds, properties, and services as may be transferred or made available to it by the United States government or any other public or private entity or individual;

15. To make payments to reimburse the local political subdivisions where the Authority Facilities are situated for extraordinary law-enforcement costs incurred by such localities; and

16. To do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

B. Pursuant to Section 6007 (b) of the Metropolitan Washington Airports Act of 1986, the Authority is established solely to operate and improve both metropolitan Washington airports as primary airports serving the metropolitan Washington area and shall be independent of the Commonwealth and its local political subdivisions, the District of Columbia and the federal government in the performance and exercise of the airport-related duties and powers enumerated in subdivisions 1 through 16 of subsection A of this section. Any conflict between the exercise of these enumerated powers by the Authority and the powers of any local political subdivision within which Authority Facilities are situated shall be resolved in favor of the Authority.

2001, c. 342.

§ 5.1-157.Authority rules and regulations; penalty

A. The Authority shall have the power to adopt, amend, and repeal rules and regulations pertaining to use, maintenance and operation of its facilities and governing the conduct of persons and organizations using its facilities.

B. Unless the Authority shall by unanimous vote of all members present determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

1. Make such rule, regulation, alteration, amendment, or modification in convenient form available for public inspection in the office of the Authority for at least ten days;

2. Publish a notice in a newspaper or newspapers of general circulation in the District of Columbia and in the local political subdivisions of the Commonwealth where the Authority Facilities are located declaring the Authority's intention to consider adopting such rule, regulation, alteration, amendment, or modification and informing the public that the Authority will hold a public hearing at which any person may appear and be heard for or against the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least ten days from the day of the publication thereof; and

3. Hold the public hearing on the day and at the time specified in such notice or any adjournment thereof, and hear persons appearing for or against such rule, regulation, alteration, amendment or modification.

C. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

D. The Authority's rules and regulations relating to:

(i) Air operations and motor vehicle traffic, including but not limited to, motor vehicle speed limits and the location of and payment for public parking;

(ii) Access to and use of Authority Facilities, including but not limited to, solicitation, handbilling, picketing and the conduct of commercial activities; and

(iii) Aircraft operation and maintenance; shall have the force and effect of law, as shall any other rule or regulation of the Authority which shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the public interest; provided, however, that with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the traffic engineer or comparable official of the local political subdivision in which such rules or regulations are to be enforced.

E. The violation of any rule or regulation of the Authority establishing a noise limitation on aircraft that operate at the Authority Facilities shall subject the violator, in the discretion of the circuit court of any political subdivision where the facility is located, to a civil penalty not to exceed $5,000 for each violation. Such penalty shall be paid to the Authority. With the consent of the violator or the accused violator of a rule establishing aircraft noise limits, the Authority may provide, in an order issued against the violator or accused violator, for the payment of civil charges in specific sums not to exceed the limit that could be imposed by the court. Such civil charge when paid shall be in lieu of any civil penalty which could be imposed by the court. Any court proceeding shall be within the exclusive jurisdiction of the circuit court and shall be a civil proceeding at law brought by the Authority.

F. The violation of any Authority rule or regulation, having the force and effect of law, shall be a Class 1 misdemeanor unless otherwise specified by this chapter or unless a lesser penalty is set by the Authority in the rule or regulation. The rules of criminal procedure and evidence that apply throughout the Commonwealth shall apply to the adjudication of any case involving the violation of any Authority rule or regulation having the force and effect of law.

G. The courts of this Commonwealth shall take judicial notice of the Authority's regularly adopted rules and regulations. For the convenience of the courts which may regularly hear cases arising under the Authority's rules and regulations, the Authority may certify to the clerk of such court a copy of its rules and regulations. Any such certification, when signed by the chairman of the Metropolitan Washington Airports Authority, shall be accepted as evidence of the facts therein stated.

H. With respect to the violation of any statute of the Commonwealth, local ordinance or Authority rule or regulation having the force and effect of law occurring at the Authority Facilities:

1. The matter shall be within the jurisdiction of the state courts of the political subdivision where the violation occurred; violations occurring at Ronald Reagan Washington National Airport shall be within the jurisdiction of the courts for Arlington County;

2. The attorney for the Commonwealth shall have authority to prosecute those offenses in the name of the Commonwealth or local government as appropriate; and the county or city attorney, if otherwise

authorized to prosecute offenses in the name of the county or city, shall have authority to prosecute those offenses in the name of the county or city; and

3. Sheriffs and clerks of the court shall provide those same services and exercise those same powers with respect to the Authority Facilities within their jurisdiction as for their political subdivisions.

2001, c. 342.

§ 5.1-158.Police

A. The Commonwealth hereby grants, accepts and agrees to concurrent police power authority over the Metropolitan Washington Airports as provided in Section 6009 (c) of the Metropolitan Washington Airports Act of 1986.

B. The Authority is authorized to establish and maintain a regular police force and to confer police powers to be exercised with respect to offenses occurring on the Authority Facilities upon its employees meeting the minimum requirements of the Department of Criminal Justice Services.

Such police officers shall have all powers vested in police officers under Chapter 17 of Title 15.2, Chapter 11 of Title 16.1, Title 18.2, Title 19.2, and Title 46.2 of the Code of Virginia as those titles may be amended from time to time and shall be responsible upon the Authority Facilities and within 300 yards of the Facilities for enforcing the laws of the Commonwealth, the Authority's rules and regulations and all other applicable ordinances, rules, and regulations.

Such police officers may issue summons to appear, or arrest on view or on information without warrant as permitted by law, and conduct before any judicial officer of competent jurisdiction any person violating, upon Authority Facilities, any rule or regulation of the Authority, any ordinance or regulation of any local political subdivision, or any other law of the Commonwealth.

C. The Department of State Police shall exercise the same powers upon Authority Facilities as elsewhere in the Commonwealth.

D. The Authority may enter into reciprocal or mutual aid agreements with the local political subdivisions in the National Capital Region as defined in § 2674(f)(2) of title 10 of the United States Code, those counties with a border abutting that area, and any municipalities therein; any agency of the Commonwealth, the District of Columbia, the State of Maryland; the federal government; or any combination of the foregoing for cooperation in the furnishing of services during a public service event, an emergency, or planned training, including law-enforcement, fire, rescue, emergency health, and medical services, transportation, communications, public works and engineering, mass care, and resource support. When responding to a request under such an agreement, Authority employees may

go outside Authority facilities, and the Authority and its employees shall enjoy the same immunities from liability as localities and their employees do in responding under similar circumstances.

E. The police force of Arlington County shall have concurrent jurisdiction with the police force established herein at Ronald Reagan Washington National Airport. The Authority shall enter into an agreement with Arlington County regarding the exercise of police authority.

F. The sheriffs and police forces of Loudoun and Fairfax Counties shall continue to exercise concurrent jurisdiction with the police force established herein over the Authority Facilities situated within their respective counties.

2001, c. 342; 2007, cc. 729, 742.

§ 5.1-159.Operation of foreign trade zone

The Authority is authorized and empowered to establish, operate and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce.

2001, c. 342.

§ 5.1-160.Acquisition of property; eminent domain

A. The Authority is hereby authorized to acquire by purchase, lease or grant such additional lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for construction and operation of the airports, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

B. Any political subdivision of the Commonwealth, all or a part of which is located within 60 miles of Authority Facilities, is authorized to provide services, to donate real or personal property and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority Facilities. Any such political subdivision is hereby authorized to issue its bonds in the manner provided in the Public Finance Act or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority. The Authority may agree to assume, or reimburse such a political subdivision for, any indebtedness incurred by such political subdivision with respect to facilities conveyed by it to the Authority. With the consent of the governing body of the political subdivision, any such agreement may be made subordinate to the Authority's indebtedness to others.

C. The Authority established hereunder is hereby granted full power to exercise the right of eminent domain in the acquisition of any lands, easements, privileges or other property interests that are necessary for airport and landing field purposes, including the right to acquire, by eminent domain, aviation easements over lands or water outside the boundaries of its airports or landing fields where necessary in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airports and landing fields even though such aviation easement be

inconsistent with the continued use of such land, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on the land at the time of such acquisition. Proceedings for the acquisition of such lands, easements and privileges by condemnation may be instituted and conducted in the name of the Authority in accordance with Chapter 2 (§ 25.1-200 et seq.) of Title 25.1.

2001, c. 342; 2003, c. 940.

§ 5.1-161.Revenue bonds

The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of Authority Facilities, including the refunding of federal appropriations not reimbursed to the United States Treasury by the Metropolitan Washington Airports. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be subject to redemption or repurchase before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The bonds may bear interest payable at such time or times and at such rate or rates as determined by the Authority or as determined in such manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by it. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth of Virginia. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this act or any recitals in any bonds issued under the provisions of this section, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth of Virginia. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this section.

The proceeds of the bonds shall be used solely for the payment of the cost of Authority Facilities, including improvements, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this section without obtaining the consent of any agency of the Commonwealth of Virginia, and without any other proceedings, conditions or things not specifically required by this section.

2001, c. 342.

§ 5.1-162.Refunding bonds

The Authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and if deemed advisable by the Authority, for either or both of the following additional purposes: constructing improvements, extensions or enlargement of the Authority Facilities in connection with which the bonds to be refunded shall have been issued, and paying all or any part of the cost of any additional Authority Facilities. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect to the same, shall be governed by the provisions of this act insofar as the same may be applicable. Revenue refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this act and, if sold, the proceeds thereof may be applied to the purchase, redemption or payment of such outstanding bonds.

2001, c. 342.

§ 5.1-163.Pledge of funds

All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds, as revenues, or as grants, appropriations or other funds provided by federal, state or local governments, may be pledged to the payment of bonds issued by the Authority and, if so pledged, shall be deemed to be trust funds to be held and applied solely as provided in this act.

2001, c. 342.

§ 5.1-164.Marketability of bonds

The Authority is authorized and empowered to exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; and to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the absolute discretion of the Authority, as will tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein.

2001, c. 342.

§ 5.1-165.Bonds as legal investments and security for public deposits

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

2001, c. 342.

§ 5.1-166.Credit of Commonwealth and political subdivisions not pledged

Revenue bonds issued under the provisions of this act shall not constitute a debt of the Commonwealth of Virginia or of any other political subdivision thereof nor a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof. Such bonds shall be payable solely from funds provided therefor from revenues. The issuance of revenue bonds under the provisions of this act shall not directly, indirectly, or contingently obligate the Commonwealth or any political subdivision thereof to the payment thereof or to the levy or pledge of any form of taxation whatever therefor. All such revenue bonds shall contain a statement on their face substantially to this effect.

2001, c. 342.

§ 5.1-167.Trust agreement

In the discretion of the Authority, any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without the Commonwealth of Virginia. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the fees and other revenues to be received, but shall not convey or mortgage the airports or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the airports, the rates or fees or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth of Virginia which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the airports.

2001, c. 342.

§ 5.1-168.Revenues

The Authority is hereby authorized to fix, revise, charge and collect fees or other charges for the use of the airports and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the airports for placing thereon telephone, telegraph, electric light or power lines, and to fix the terms, conditions, rents and fees or other charges for such use. Such fees or other charges shall be so fixed and adjusted in respect of the aggregate of fees or other charges from the airports as to provide a fund sufficient with other revenues, if any, (i) to pay the cost of maintaining, repairing and operating the airports, (ii) to pay the principal of and interest on such bonds as the same shall become due and payable, and (iii) to create reserves for such purposes. The fees and other charges and all other revenues derived from the airports, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and provide such reserves as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The fees

and other charges and other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

2001, c. 342.

§ 5.1-169.Trust funds

All proceeds from the sale of bonds and revenues derived therefrom received pursuant to the provisions of this act shall be deemed to be trust funds to be held and applied solely as provided in this act. The Authority may, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues of the Authority to a trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth of Virginia, which shall act as trustee of the funds, and hold and apply the same to the purposes of this act, subject to such regulations as this act and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds.

2001, c. 342.

§ 5.1-170.Annual audit

The Authority shall keep suitable records of all its financial transactions and shall have the same audited annually. Copies of such audit shall be furnished to the Governor of the Commonwealth of Virginia and to the Mayor of the District of Columbia and shall be open to public inspection.

2001, c. 342.

§ 5.1-171.Remedies

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth of Virginia, or granted by this act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act

or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of fees or other charges.

2001, c. 342.

§ 5.1-172.Exemption from taxation

The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth of Virginia, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the airports by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the airports or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom; and the bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth of Virginia and by any municipality, county or other political subdivision thereof.

2001, c. 342.

§ 5.1-173.Jurisdiction of courts; liability for contracts and torts

A. The courts of the Commonwealth of Virginia shall have original jurisdiction of all actions brought by or against the Authority, which courts shall in all cases apply the law of the Commonwealth of Virginia.

B. The Authority shall be liable for its contracts and for its torts and those of its members, officers, employees, and agents committed in the conduct of any proprietary function, in accordance with the law of the Commonwealth of Virginia but shall not be liable for any torts occurring in the performance of a governmental function. The exclusive remedy for such breach of contracts and torts for which the Authority shall be liable, as herein provided, shall be by suit against the Authority. Nothing in this act shall be construed as a waiver by the Commonwealth of Virginia or the District of Columbia or of their political subdivisions of any immunity from suit.

C. The Authority shall be responsible for all executory contracts entered into by the United States with respect to the former Metropolitan Washington Airports before the date of acquisition of those airports, except that the procedure for disputes resolution contained in any such contract shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract.

D. The Authority shall not be responsible for any tort claims arising before the date of transfer.

2001, c. 342.

§ 5.1-174.Procurement Act exemption

In light of the multijurisdictional nature of the Authority, an exemption is hereby provided to the Authority from the provisions of the Virginia Public Procurement Act.

2001, c. 342.

§ 5.1-175.Act liberally construed

This act, being necessary for the welfare of the Commonwealth of Virginia and its inhabitants, shall be liberally construed to effect the purposes thereof.

2001, c. 342.

§ 5.1-176.Repealed

Repealed by Acts 2015, c. 709, cl. 2.

§ 5.1-177.Inconsistent laws inapplicable

All other general or special laws inconsistent with any provision of this act are hereby declared to be inapplicable to the provisions of this act.

2001, c. 342.

§ 5.1-178.Not Set Out

Not set out.

2001, c. 342.

Middle Peninsula Chesapeake Bay Public Access Authority Act

§ 15.2-6600.Title

This act shall be known and may be cited as the Middle Peninsula Chesapeake Bay Public Access Authority Act.

2002, c. 766.

§ 15.2-6601.Creation; public purpose

If any of the governing bodies of the Counties of Essex, Gloucester, King William, King and Queen, Mathews, Middlesex, and the Towns of West Point, Tappahannock and Urbanna by resolution declare that there is a need for a public access authority to be created and an operating agreement is developed for the purpose of establishing or operating a public access authority for any such participating political subdivisions and that they should unite in the formation of an authority to be known as the Middle Peninsula Chesapeake Bay Public Access Authority (hereinafter the "Authority"), which shall thereupon exist for such participating counties and town and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions. The Authority shall be charged with the following duties:

1. Identify land, either owned by the Commonwealth or private holdings that can be secured for use by the general public as a public access site;

2. Research and determine ownership of all identified sites;

3. Determine appropriate public use levels of identified access sites;

4. Develop appropriate mechanisms for transferring title of Commonwealth or private holdings to the Authority;

5. Develop appropriate acquisition and site management plans for public access usage;

6. Determine which holdings should be sold to advance the mission of the Authority;

7. Receive and expend public funds and private donations in order to restore or create tidal wetlands within the region for which the Authority exists; provided that any tidal mitigation credits resulting from such restoration or creation projects shall be held by the Authority for the benefit and use of participating political subdivisions and shall not be sold or conveyed to any private party by the Authority or any participating political subdivision;

8. Receive and expend public funds and private donations and apply for permits in order to perform dredging projects on waterways and construct facilities and infrastructure within the region for which the Authority exists. Such projects shall enhance recreational or commercial public access; and

9. Perform other duties required to fulfill the mission of the Middle Peninsula Chesapeake Bay Public Access Authority.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Middle Peninsula Chesapeake Bay Public Access Authority, the Authority shall be deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the participating political subdivisions declaring that there is a need for such Authority. A copy of such resolution duly certified by the clerks of the counties and towns by which it is adopted shall be admissible as evidence in any suit, action, or proceeding. Any political subdivision of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this act.

The ownership and operation by the Authority of any public access sites and related facilities and the exercise of powers conferred by this act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired. The Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county or town pursuant to Section 10(a) of Article VII of the Constitution of Virginia.

2002, c. 766; 2009, c. 429; 2018, c. 326.

§ 15.2-6602.Definitions

As used in this act the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the Middle Peninsula Chesapeake Bay Public Access Authority Act.

"Authority" means the Middle Peninsula Chesapeake Bay Public Access Authority created by this act.

"Board of Directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by this Authority pursuant to this act.

"Commonwealth" means the Commonwealth of Virginia.

"Participating political subdivision" means any of the counties of the Middle Peninsula Planning District Commission or any other subdivision that may join the Authority pursuant to the act.

"Political subdivision" means a county, municipality or other public body of the Commonwealth.

"Site" means any land holding that can improve public access to waters of the Commonwealth.

2002, c. 766.

§ 15.2-6603.Participating political subdivision

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any other political subdivision.

2002, c. 766.

§ 15.2-6604.Appointment of a board of directors

The powers of the Authority shall be vested in the directors of the Authority. The governing body of each participating political subdivision shall appoint either one or two directors, one of whom shall be a member of the appointing governing body or its chief operating officer. In the event there are two or fewer participating jurisdictions in the Authority, each participating jurisdiction shall appoint two directors.

The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term.

If financial funds are available, each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties.

2002, c. 766.

§ 15.2-6605.Organization

A simple majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws duly adopted and published at the organizational meeting of that body.

The board of directors shall annually elect a chairman and a vice-chairman from their membership, a secretary and a treasurer or a secretary-treasurer from their membership or not as they deem appropriate, and such other officers as they may deem appropriate.

The board of directors may make and from time to time amend and repeal bylaws, not inconsistent with this act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The board of directors may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees.

2002, c. 766.

§ 15.2-6606.Powers

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Sue and be sued in its own name;

3. Have perpetual succession;

4. Adopt a corporate seal and alter the same at its pleasure;

5. Maintain offices at such places as it may designate;

6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate public access sites that are owned or managed by the authority within the territorial limits of the participating political subdivisions;

7. Construct, install, maintain, and operate facilities for managing access sites;

8. Determine fees, rates, and charges for the use of its facilities;

9. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

10. Receive and expend public funds and private donations for dredging or construction; apply for permits in order to perform dredging projects on waterways or to construct facilities and infrastructure within the region for which the Authority exists, provided that such projects enhance recreational and commercial public access; and perform such dredging projects or construct such facilities and infrastructure;

11. In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA), created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Northern Neck Chesapeake Bay Public Access Authority (the NNCBPAA), created pursuant to the provisions of Chapter 66.1 (§ 15.2-6626 et seq.), receive and expend public funds and private donations for dredging, apply for permits in order to perform dredging projects, and perform such dredging projects on waterways within the region for which any or all of the Authority, the ESWAA, or the NNCBPAA exists;

12. Appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

13. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 15.2-6612 hereof, accounting services, including the annual independent audit required by § 15.2-6609 hereof, procurement of goods and services, and to act as fiscal agent for the Authority;

14. Establish personnel rules;

15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

20. Request and accept legal advice and assistance from the Office of the Attorney General;

21. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

22. Whenever it shall appear to the Authority, or to a simple majority of participating political subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia.

2002, c. 766; 2016, c. 395; 2018, c. 327.

§ 15.2-6607.Name of authority

The name of the Authority shall be the Middle Peninsula Chesapeake Bay Public Access Authority. The name of this authority may be changed upon approval of a simple majority of the directors of the Authority.

2002, c. 766.

§ 15.2-6608.Rules, regulations, and minimum standards

The Authority shall have the power to adopt, amend, and repeal rules, regulations, and minimum standards, for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the board of directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

1. Make such rule, regulation, alteration, amendment or modification in convenient form available for public inspection in the office of the Authority for at least ten days; and

2. Post in a public place a notice declaring the board of directors' intention to consider adopting such rule, regulation, alteration, amendment or modification and informing the public that the Authority will at a public meeting consider the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least ten days from the first day of the posting of the notice thereof. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to: (i) traffic, including but not limited to motor vehicle speed limits and the location of and charges for public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) site management and maintenance shall have the force of law, as shall any other rule or regulation of the Authority, which

shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the appropriate official of the political subdivision in which such rules or regulations are to be enforced. The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

2002, c. 766.

§ 15.2-6609.Reports

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection.

2002, c. 766.

§ 15.2-6610.Procurement

All contracts that the Authority may let for professional services, nonprofessional services, or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

2002, c. 766.

§ 15.2-6611.Deposit and investment of funds

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for fiduciaries.

2002, c. 766.

§ 15.2-6612.Authority to issue bonds

The Authority shall have the power to issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority facilities and including the payment or retirement of bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest: (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts of certain designated facilities or loans whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, co-partnership, association, or individual, as such participating political subdivision, or other entities, may be authorized to make under general law or by pledge of any income or revenues of the Authority or by mortgage or encumbrance of any property or facilities of the Authority. Unless otherwise provided in the proceeding authorizing the issuance of the bonds, or in the trust indenture securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the Authority at any time and from time to time may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding 40 years from the date thereof, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times and at such places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the board of directors in authorizing each particular bond issue.

If deemed advisable by the board of directors, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors of the Authority to be most advantageous, and the Authority may pay all costs, premiums, and commissions that its board of directors may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount

as the board of directors may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

All bonds shall be signed by the chairman or vice-chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature, or such facsimile, shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division,

commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this act; provided, however, that nothing contained in this act shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia (§ 8.1A-101 et seq.), subject only to provisions respecting registration of the bonds.

In addition to all other powers granted to the Authority by this act, the Authority is authorized to provide for the issuance, from time to time of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this act that relate to bonds or revenue bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate.

2002, c. 766; 2003, c. 353.

§ 15.2-6613.Fees, rents, and charges

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents, and other charges for the use and services of any facilities or access site. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit

of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement.

2002, c. 766.

§ 15.2-6614.Credit of Commonwealth and political subdivisions not pledged

Bonds issued pursuant to the provisions of this act shall not be deemed to constitute a debt of the Commonwealth, or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefor as herein authorized. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the Authority, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

All expenses incurred in carrying out the provisions of this act shall be payable solely from the funds of the Authority and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall be available to the Authority.

Bonds issued pursuant to the provisions of this act shall not constitute an indebtedness within the meaning of any debt limitation or restriction.

2002, c. 766.

§ 15.2-6615.Directors and persons executing bonds not liable thereon

Neither the board of directors nor any person executing the bonds shall be liable personally for the Authority's bonds by reasons of the issuance thereof.

2002, c. 766.

§ 15.2-6616.Security for payment of bonds; default

The principal of and interest on any bonds issued by the Authority shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture covering all or any part of the Authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the board of directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement, and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue effective until the principal of and interest on the bonds for the

benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any trust indenture executed as security therefor, may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the directors, officers, agents, or employees thereof to perform each and every term, provision and covenant contained in any trust indenture of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of said remedies.

2002, c. 766.

§ 15.2-6617.Taxation

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act and the bonds issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations, and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted including, but not limited to, any leasehold tax on real property and taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling, and taxes upon consumers of gas, electricity, telephone, and other public utility services.

2002, c. 766.

§ 15.2-6618.Bonds as legal investments

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital, in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

2002, c. 766.

§ 15.2-6619.Appropriation by political subdivision

Any participating political subdivision, or other political subdivision of the Commonwealth, is authorized to provide services, to donate real or personal property and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume, or reimburse a participating political subdivision for any indebtedness incurred by, such participating political subdivision with respect to facilities conveyed by it to the Authority.

2002, c. 766.

§ 15.2-6620.Contracts with political subdivisions

The Authority is authorized to enter into contracts with any one or more political subdivisions.

2002, c. 766.

§ 15.2-6621.Agreement with Commonwealth and participating political subdivisions

The Commonwealth and, by participating in the Authority, each participating political subdivision, pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds.

2002, c. 766.

§ 15.2-6622.Liberal construction

Neither this act nor anything contained herein is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws.

2002, c. 766; 2015, c. 709.

§ 15.2-6623.Application of local ordinances, service charges, and taxes upon leaseholds

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom.

2002, c. 766.

§ 15.2-6624.Existing contracts, leases, franchises, etc., not impaired

No provisions of this act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession, lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification.

2002, c. 766.

§ 15.2-6625.Withdrawal of membership

Any member jurisdiction may withdraw from membership in the Authority by resolution or ordinance of its governing body. However, no member jurisdiction shall be permitted to withdraw from the Authority after any obligation has been incurred except by unanimous vote of all member jurisdictions.

2002, c. 766.

Middle Peninsula Regional Airport Authority

Created

1997 Acts of Assembly, c. 871 (includes the Counties of Gloucester, King William, King and Queen, Mathews, Middlesex, and New Kent and the Town of West Point).

§ 1. Title.

This act shall be known and may be cited as the Middle Peninsula Regional Airport Authority Act. (1997, c. 871)

§ 2. Creation; public purpose.

If the Town of West Point, or the governing bodies of any the Counties of Gloucester, King William, King and Queen, Mathews, Middlesex, and New Kent, and the Town of West Point, by resolution declare that there is a need for an airport authority to be created, and an operating agreement is

developed for the purpose of establishing or operating airport facilities for any such participating political subdivisions, and that they should unite in its formation, an airport authority to be known as the Middle Peninsula Regional Airport Authority (hereinafter the "Authority") shall thereupon exist for such participating counties and town and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Middle Peninsula Regional Airport Authority, the Authority shall be deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such counties and town declaring that there is a need for such Authority and that they should unite in its formation. A copy of such resolution duly certified by the clerks of the counties and town by which it is adopted shall be admissible as evidence in any suit, action, or proceedings. Any political subdivision of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this Act.

The ownership and operation by the Authority of modern and efficient air transportation and related facilities and the exercise of powers conferred by this Act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. Contract obligations of a county or town to provide payments over a period of more than one year to the Authority shall be excluded from existing indebtedness of such county or town for purposes of calculating debt limit pursuant to Section 10 (a) of Article VII of the Constitution of Virginia. The Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county or town pursuant to Section 10 (a) of Article VII of the Constitution of Virginia. (1997, c. 871)

§ 3. Definitions.

As used in this act the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the Middle Peninsula Regional Airport Authority Act.

"Authority" means the Middle Peninsula Regional Airport Authority created by this Act.

"Board of Directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by this Authority pursuant to this Act.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all airports, terminals, runways, hangars, loading facilities, repair shops, parking areas, facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies and airlines, and industrial and commercial facilities, purchased, constructed or otherwise acquired or operated by the Authority pursuant to the provisions of this Act. Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, aviation rights, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

"Middle Peninsula Regional Airport" means the airport facilities located south of State Route 33 and west of State Route 605 in King and Queen County, approximately one mile from the Town of West Point, and any other facilities necessary, incidental, or convenient to the operation of the facilities.

"Participating political subdivision" means any of the Counties of Gloucester, King William, King and Queen, Mathews, Middlesex, New Kent or the Town of West Point or any other subdivision which may join or has joined the Authority pursuant to §§ 4 and 5 of this Act.

"Political subdivision" means a county, municipality or other public body of this Commonwealth. (1997, c. 871)

§ 4. Participating political subdivision.

Prior to becoming a participating political subdivision, each political subdivision shall enter into a contract with the Authority and other participating political subdivisions setting forth the financial contribution to be made by such political subdivision to the Authority.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this Act with respect to contracts and agreements between the Authority and any other political subdivision. (1997, c. 871)

§ 5. Appointment of a board of directors.

The powers of the Authority shall be vested in the directors of the Authority. The governing body of each participating political subdivision shall appoint a director, who may be a member of the appointing governing body. In the event there are two or fewer participating jurisdictions in the Authority, each participating jurisdiction shall appoint three directors. The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term.

Each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties. (1997, c. 871)

§ 6. Organization.

A simple majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws duly adopted and published at the organizational meeting of that body.

The board of directors shall annually elect a chairman and a vice-chairman from their membership, a secretary and a treasurer or a secretary-treasurer from their membership or not as they deem appropriate, and such other officers as they may deem appropriate.

The board of directors may make and from time to time amend and repeal bylaws, not inconsistent with this Act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The board of directors may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees. (1997, c. 871)

§ 7. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this Act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Sue and be sued in its own name;

3. Have perpetual succession;

4. Adopt a corporate seal and alter the same at its pleasure;

5. Maintain offices at such places as it may designate;

6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate any airport, air landing fields, structures, aviation facilities, and other property incidental thereto within the territorial limits of the participating political subdivisions;

7. Construct, install, maintain, and operate facilities for the servicing and storage of aircraft and for the accommodation of cargo, freight, mail, express, etc., and for the accommodation and comfort of air travelers, and for lease or sale to industrial or commercial users, and to purchase and sell equipment and supplies incidental to the operation of its airport facilities;

8. Grant to others the privilege to operate for profit concessions, leases, and franchises, including, but not limited to, the sale of airplanes, fuel, parts and equipment, maintenance of aircraft, the accommodation and comfort of persons using its facilities and the providing of ground

transportation and parking facilities for such persons, and such concessions, leases, and franchises shall be exclusive or limited when deemed by the Authority necessary to further the public safety, improve the quality of air service, avoid duplication of service or conserve airport property and the airport operation;

9. Determine fees, rates, and charges for the use of its facilities;

10. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the Authority's facilities or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

11. Establish, operate, and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce;

12. Appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

13. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 14 hereof, accounting services, including the annual independent audit required by § 11 hereof, procurement of goods and services, and to act as fiscal agent for the Authority;

14. Establish personnel rules;

15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

16. Subject to the provisions of any deed or deeds from the Town of West Point to the Authority and any agreement or agreements among or between the Authority and any participating political subdivision, to sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein if such disposition is in the public interest and in furtherance of the purposes of this Act or if such property is not necessary for the purposes of the Authority; and to mortgage, pledge, or otherwise encumber such real or personal property for furtherance of any purposes of the Authority;

17. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

18. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

19. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statues relating to its facilities, all as hereinafter provided;

20. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

21. Do all things necessary or convenient to the purposes of this Act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations;

22. Whenever it shall appear to the Authority, or to a simple majority of participating political subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this Act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia. (1997, c. 871)

§ 8. Name of airport.

The name of the airport operated by the Authority within the boundaries of King and Queen County shall be the Middle Peninsula Regional Airport. The name of this airport, or any other airport owned

and/or operated by the Authority, may be changed upon approval of a simple majority of the directors of the Authority. (1997, c. 871)

§ 9. Rules, regulations, and minimum standards.

The Authority shall have the power to adopt, amend, and repeal rules, regulations, and minimum standards, for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the board of directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

1. Make such rule, regulation, alteration, amendment or modification in convenient form available for public inspection in the office of the Authority for at least ten days; and

2. Post in a public place a notice declaring the board of directors' intention to consider adopting such rule, regulation, alteration, amendment or modification and informing the public that the Authority will at a public meeting consider the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least ten days from the first day of the posting of the notice thereof. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to: (i) traffic, including but not limited to motor vehicle speed limits and the location of and charges for public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) aircraft operation and maintenance shall have the force of law, as shall any other rule or regulation of the Authority which shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the appropriate official of the political subdivision in which such rules or regulations are to be enforced. The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

All ordinances, rules, regulations, and minimum standards duly adopted for the regulation, administration and operation of Middle Peninsula Regional Airport, in force at the effective date of this Act, shall remain in full force insofar as they or any part thereof are not inconsistent with the provisions of this Act until amended or repealed in accordance with this Act. (1997, c. 871)

§ 10. Eminent domain.

The Authority is hereby granted full power to exercise the right of eminent domain within the participating political subdivisions in the acquisition of any lands, easements, privileges, or other property interests which are necessary for airport purposes, including, where necessary to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport, aviation easements over lands or water outside the boundaries of its airport, even though such aviation easement may be either inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation, and renewal of any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition. Proceedings for the acquisition of such land, easements, and privileges by condemnation may be instituted and conducted in the name of the Authority in accordance with Title 25 of the Code of Virginia. (1997, c. 871)

§ 11. Reports.

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. (1997, c. 871)

§ 12. Procurement.

All contracts that the Authority may let for professional services, nonprofessional services, or materials shall be subject to the Virginia Public Procurement Act (§ 11-35 et seq) of the Code of Virginia. (1997, c. 871)

§ 13. Deposit and investment of funds.

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this Act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act (§ 2.1-359 et seq).

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities which are considered lawful investments for fiduciaries. (1997, c. 871)

§ 14. Authority to issue bonds.

The Authority shall have the power to issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority facilities and including the

payment or retirement of bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest: (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts of certain designated facilities or loans whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, and federal agency or any unit, private corporation, co-partnership, association, or individual, as such participating political subdivision, or other entities may be authorized to make under general law or by pledge of any income or revenues of the Authority or by mortgage or encumbrance of any property or facilities of the Authority. Unless otherwise provided in the proceeding authorizing the issuance of the bonds, or in the trust indenture securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the Authority at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding forty years from the date thereof, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times and at such places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the board of directors in authorizing each particular bond issue.

If deemed advisable by the board of directors, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors of the Authority to be most advantageous, and the Authority may pay all costs, premiums, and commissions which its board of directors may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the board of directors may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs,

premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

All bonds shall be signed by the chairman or vice-chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature, or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things

which are specifically required by this Act; provided, however, that nothing contained in this Act shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

All bonds issued under the provisions of this Act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia (§ 8.1-101 et seq), subject only to provisions respecting registration of the bonds.

In addition to all other powers granted to the Authority by this Act, the Authority is authorized to provide for the issuance, from time to time of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this Act which relate to bonds or revenue bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate. (1997, c. 871)

§ 15. Fees, rents, and charges.

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents, and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary, be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. (1997, c. 871)

§ 16. Credit of Commonwealth and political subdivisions not pledged.

Bonds issued pursuant to the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth, or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefor as herein authorized. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the Authority shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

All expenses incurred in carrying out the provisions of this Act shall be payable solely from the funds of the Authority and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall be available to the Authority.

Bonds issued pursuant to the provisions of this Act shall not constitute an indebtedness within the meaning of any debt limitation or restriction. (1997, c. 871)

§ 17. Directors and persons executing bonds not liable thereon.

Neither the board of directors nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof. (1997, c. 871)

§ 18. Security for payment of bonds; default.

The principal of and interest on any bonds issued by the Authority shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture covering all or any part of the Authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the board of directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement, and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any trust indenture executed as security therefor, may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the directors, officers, agents, or employees thereof to perform each and every term, provision and covenant contained in any trust indenture of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of said remedies. (1997, c. 871)

§ 19. Taxation.

The exercise of the powers granted by this Act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience and prosperity, and as the operation and maintenance of any project which the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this Act and the bonds issued under the provisions of this Act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations, and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted including, but not limited to, any leasehold tax on real property and taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling, and taxes upon consumers of gas, electricity, telephone, and other public utility services. (1997, c. 871)

§ 20. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1997, c. 871)

§ 21. Appropriation by political subdivision.

Any participating political subdivision, or other political subdivision of the Commonwealth, is authorized to provide services, to donate real or personal property and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act (§ 15.1-227.1 et seq) or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume, or reimburse a participating political subdivision for any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority. (1997, c. 871)

§ 22. Contracts with political subdivisions.
The Authority is authorized to enter into contracts with any one or more political subdivisions. (1997, c. 871)

§ 23. Agreement with Commonwealth and participating political subdivisions.
The Commonwealth and, by participating in the Authority, each participating political subdivision pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds. (1997, c. 871)

§ 24. Liberal construction.
Neither this Act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the Authority might otherwise have under any laws of the Commonwealth, and this Act is cumulative to any such powers. This Act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this Act. (1997, c. 871)

§ 25. Application of local ordinances, service charges, and taxes upon leaseholds.
Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom. (1997, c. 871)

§ 26. Existing contracts, leases, franchises, etc., not impaired.
No provisions of this Act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provision of this

section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession, lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification. (1997, c. 871)

§ 27. Withdrawal of membership.

Any member jurisdiction may withdraw from membership in the Authority by resolution or ordinance of its governing body; however, no member jurisdiction shall be permitted to withdraw from the Authority after any obligation has been incurred except by unanimous vote of all member jurisdictions. (1997, c. 871)

Mosquito Control Districts

§ 32.1-187.Counties, cities and towns may create mosquito control districts

The governing body of any county, city or town, either alone or jointly with one or more other counties, cities or towns, may create one or more mosquito control districts. A mosquito control district may comprise the whole or any part of the county, city or town or combination thereof creating such district, except that no mosquito control district in a county shall include the territory within an incorporated town within such county except by agreement with such town.

Code 1950, § 32-379; 1950, p. 87; 1979, c. 711.

§ 32.1-188.Consolidation of districts

The governing body of any city which has established more than one mosquito control district pursuant to § 32.1-187 may, by ordinance, consolidate such districts under a single commission which may function under the appropriate city department or other agency as determined by the local governing body.

Code 1950, § 32-379.1; 1973, c. 501; 1979, c. 711; 1981, c. 354; 2002, cc. 224, 233.

§ 32.1-189.Mosquito control commission; composition; appointment of members

A. Each mosquito control district shall be administered by a commission of three members, one of whom shall be the Commissioner or his designee, except as provided for a consolidated city mosquito control commission in subsection B. The Commissioner or his designee shall serve as chairman of each such commission. Where a mosquito control district consists of territory wholly within one political subdivision, the governing body of that political subdivision shall appoint the other two members of the commission; where a mosquito control district shall consist of territory in two political subdivisions, the governing body of each such political subdivision shall appoint one member; and where any mosquito control district shall, by agreement between political subdivisions, consist of territory lying within more than two political subdivisions, the remaining two members of the commission for that district shall be appointed by the Commissioner from the residents of such district.

B. Notwithstanding the provisions of subsection A, in the event of consolidation of city mosquito control districts and commissions pursuant to § 32.1-188, such consolidated commission may consist of no more than fifteen commissioners, one of whom shall be the Commissioner or his designee who shall serve as the chairman of the consolidated city mosquito control commission.

Code 1950, § 32-380; 1979, c. 711; 2002, cc. 224, 233.

§ 32.1-190.Powers of commission; oath and terms of members; vacancies

Each mosquito control commission district shall be a body politic and corporate and shall have all the powers necessary to carry into effect all of the provisions of this article. Each member of any such commission shall take and subscribe to the oath prescribed by § 49-1. The term of each commission

member other than the Commissioner or his designee shall be four years and thereafter until his successor has been duly appointed and qualified. A vacancy other than by expiration of term shall be filled for the unexpired term by the authority originally making the appointment.

Code 1950, § 32-381; 1979, c. 711.

§ 32.1-191.Secretary of commission

A mosquito control commission shall appoint its secretary either from the membership of such commission or otherwise and shall fix his compensation. The commission may require bond of its secretary in excess of the funds which may come into his hands and conditioned upon the faithful application of such funds.

Code 1950, § 32-382; 1979, c. 711.

§ 32.1-192.Further powers of commission

Each mosquito control commission is empowered to employ all necessary personnel and to perform all acts necessary to control and eliminate mosquitoes in the district but such actions shall be subject to private property rights in the areas in which the work of the commission is performed.

Code 1950, § 32-383; 1979, c. 711.

§ 32.1-193.Eminent domain

Each mosquito control commission is vested with the power of eminent domain to the extent necessary to carry out the provisions of this article. Condemnation proceedings shall be instituted and conducted in the name of the mosquito control commission for the district in which such property is located or the district for which its acquisition is deemed necessary and shall be conducted as prescribed by Chapter 2 (§ 25.1-200 et seq.) of Title 25.1.

Code 1950, § 32-384; 1979, c. 711; 2003, c. 940.

§ 32.1-194.Special tax authorized

The governing body of any county, city or town, the whole or a part of whose territory is contained within a mosquito control district, is hereby authorized and empowered to levy annually a special tax upon all real and personal property subject to local taxation within the territory located within such county, city or town which is a part of such mosquito control district of not exceeding 25¢ per $100 of assessed valuation thereof, and all funds received from any tax levy so made shall be paid to the mosquito control commission for the mosquito control district in which the property subject to such levy is, and shall be expended by such mosquito control commission for the purposes authorized by this article.

Code 1950, § 32-385; 1979, c. 711.

§ 32.1-195.Contributions from Board

The Board is hereby authorized to contribute annually to any mosquito control commission a sum not more than 25 percent of the gross amount obtained by such commission annually from any special tax levy authorized by this article or contributed to such commission annually by direct appropriation of any county, city, town or combination thereof, but any such amount so contributed by the Board shall not exceed $10,000 in any 1 year; except that where separate mosquito control commissions have been consolidated pursuant to § 32.1-188, such maximum amount shall be computed so as to allow a contribution to that consolidated district in an amount not less than was received prior to such consolidation by all of the separate districts.

Code 1950, § 32-386; 1974, c. 475; 1979, c. 711.

§ 32.1-196. Disposition of funds not needed for mosquito control

Whenever funds accumulated by a mosquito control district are determined by the commission for such district to be no longer needed for the control of mosquitoes, such commission may transfer such funds as follows: (1) funds contributed by the Board, to the state treasury, (2) funds contributed by a county, city or town, to the treasury of such county, city or town, and (3) funds contributed by levy of a special tax upon property, to the treasury of the county, city or town wherein such property lies.

Code 1950, § 32-386.1; 1970, c. 391; 1979, c. 711.

§ 32.1-197. Compensation and expenses of members of commission

The members of any mosquito control commission shall receive no salary for their services as such but shall receive necessary expenses incurred while actually engaged in discharge of their duties, to be paid out of the funds under the control of such commission; provided, however, that if any member shall be appointed secretary for his commission, he may be paid, and shall be entitled to receive, such compensation as the commission may determine.

Code 1950, § 32-387; 1979, c. 711.

Municipal and County Airports and Other Air Navigation Facilities

§ 5.1-31.Authority to acquire, construct, maintain and operate; permission of Department required

All cities, incorporated towns and counties of the Commonwealth may acquire, by purchase, lease, gift, condemnation or otherwise, within or without the limits of any such city, town or county, whatever land may be reasonably necessary for the purpose of establishing, constructing, owning, controlling, leasing, equipping, improving, maintaining and operating airports for the use of airplanes; may acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate the use of such airports or landing fields, structures, air navigation facilities and other property incident thereto; may make, prior to such acquisition, investigation, surveys and plans and enter upon any lands or waters for such purposes; may construct, install, maintain and operate facilities for the servicing of aircraft, and for the accommodation and comfort of air travelers; may purchase and sell equipment and supplies as an incident to the operation of its airport properties; provided, that in the case of any county, the exercise of such authority beyond its territorial boundaries shall be only with the consent of the governing body of the political subdivision in which the power is sought to be exercised; provided, however, that no such city, town or county shall establish or operate any airport without first obtaining the permission of the Board, as now or hereafter provided by law.

The governing body of a county, city, or town may create an airport authority that shall be empowered on behalf of such county, city, or town to have and exercise the powers and rights set out in this section.

Code 1950, §§ 5-20, 5-29; 1966, c. 576; 1979, c. 272; 1995, c. 453.

§ 5.1-32.Easements and privileges outside of airport or landing field boundaries

Where necessary to provide unobstructed airspace for the landing and taking off of aircraft utilizing airports or landing fields acquired or operated by any county, city or town under the provisions of this article, any such county, city or town may acquire, in the same manner as is provided for the acquisition of land for airport purposes, easements through or other interests or privileges with respect to lands or waters outside the boundaries of such airports or landing fields which are necessary to insure safe approaches to such airports or landing fields and the safe and efficient operation thereof; and may also acquire in like manner, for a term of years or perpetually, the right of easement to place and maintain suitable signs or markers or lights to adequately locate and mark objects or structures or uses of lands which are hazardous to aircraft using such airports or landing fields, including the right of ingress and egress to and from such airport hazards for the purpose of maintaining and repairing such signs, markers and lights.

Code 1950, § 5-21; 1966, c. 576.

§ 5.1-33.Public purpose declared

Any lands, easements or privileges acquired, owned, controlled or occupied by any cities, incorporated towns and counties of the Commonwealth under the provisions of this article are hereby declared to be acquired, owned, controlled or occupied for a public purpose, and as a matter of public necessity; and such lands, easements and privileges so acquired, owned, controlled or occupied are hereby declared to be acquired, owned, controlled or occupied for public, governmental and municipal purposes, and to be within the definition of property acquired for public uses as such term is used in Article I, Section 11 of the Constitution of Virginia.

Code 1950, §§ 5-22, 5-30; 1966, c. 576; 1971, Ex. Sess., c. 26.

§ 5.1-34.Acquisition of property; exercise of right of eminent domain

Private property needed by any city, incorporated town or county for an airport or landing field shall be acquired by purchase, if the city, town or county is able to agree with the owners on the terms thereof. The cities, incorporated towns or counties are hereby granted full power to exercise the right of eminent domain in the acquisition of any lands, easements and privileges that are necessary for airport and landing field purposes. Proceedings for the acquisition of such lands, easements and privileges by condemnation may be instituted and conducted in the name of such county, city or town, and the procedure shall be mutatis mutandis the same as in the acquisition of land by condemnation proceedings instituted by railroads and may acquire in like manner, for a term of years or perpetually, the right of easement to remove and control the growth of any tree or vegetation standing or growing in said land outside the boundaries of any airport or landing field and the right of easement to place and maintain suitable signs or markers or lights to adequately locate and mark objects or structures that are hazardous to aircraft using such airports or landing fields, of ingress and egress to and from such airport hazards for the purpose of maintaining and repairing such signs, markers and lights and cutting of trees or other growing vegetation penetrating the approach and departure slope easement. The right of condemnation granted herein shall be subject to the same provisions as are provided in § 25.1-102 concerning the condemnation of property belonging to a corporation possessing the power of eminent domain by another public service corporation.

Code 1950, §§ 5-23, 5-31; 1966, c. 576; 2003, c. 940.

§ 5.1-35.Powers may be exercised jointly by two or more political subdivisions

All powers, rights, and authority granted to counties, cities, and towns under this article may be exercised and enjoyed jointly by any two or more of such political subdivisions within or without the territorial limits of either or any of them, or if one or more of such political subdivisions is a county, then within such county or one of such counties, and the political subdivisions so acting jointly may enter into such agreements with each other as may be necessary or proper for the exercise and enjoyment of the joint powers hereby granted, and for joint action in carrying out the general purposes of this article. The powers granted by this section shall include the power to seek and obtain loans for the purpose of capital improvements to any airport or landing field established pursuant to this article.

Code 1950, § 5-24; 1966, c. 576; 1989, c. 234.

§ 5.1-36.Agreement for joint exercise of powers; governing board, etc., to act on behalf of political subdivisions; powers of board, etc

The agreement provided for in § 5.1-35 may provide for the creation of a governing board, commission, authority or body empowered to have and exercise, on behalf of the several political subdivisions which are parties to such agreement, the powers, rights and authority conferred on such political subdivisions by this article. Members of the governing bodies of the several political subdivisions may serve as a member of a board, commission, authority or body formed pursuant to § 5.1-35. Such agreement shall specify the name of the board, commission, authority or body and its composition and prescribe its powers and duties which may include powers to establish, construct, manage, and operate an airport, acquire, hold and dispose of property but on behalf of the several political subdivisions, including the exercise on their behalf of the power of eminent domain. If any such board, commission, authority or body is created, all proceedings in connection with the establishment, construction, management and operation of the airport, including application for and issuance of any license required therefor, shall be in its name. The intent of § 5.1-35 and this section is that any such board, commission, authority or body established by two or more political subdivisions or through action of the General Assembly may have the same powers granted to a city, town and county but in no case will such powers be greater than those granted to a city, town or county. Any joint airport authority created pursuant to this chapter and in existence on July 1, 1994, shall be continued in lawful existence under the terms and provisions of this chapter even though all the political subdivisions except one withdraw from the joint airport authority.

Code 1950, § 5-24.1; 1958, c. 523; 1966, c. 576; 1970, c. 717; 1993, c. 81; 1995, c. 453.

§ 5.1-36.1.Contributions by counties to construction of certain airports

The governing body of any county is authorized to make appropriations of public funds to contribute to the initial construction of an airport by a city or town adjoining such county or by a city or town within a county adjoining such county.

Code 1950, § 5-24.2; 1966, c. 415.

§ 5.1-37.Public waters and submerged lands

The powers herein granted to counties, cities and towns include the power to establish, maintain and operate airports and landing areas and other air navigation facilities in, over and upon any public waters of this Commonwealth, or any submerged land under such public waters, within the limits or jurisdiction of or bordering on such counties, cities or towns.

Code 1950, § 5-26; 1966, c. 576.

§ 5.1-38.Right to zone property not limited

The rights of any counties, cities or towns to zone property shall not be limited by the provisions of this article.

Code 1950, § 5-27; 1966, c. 576.

§ 5.1-39.Use, disposal and termination of rights acquired

No easements, rights or privileges acquired under the terms of this article by any county, city or town shall be employed or disposed of except to accomplish the purposes for which they were originally acquired; except that when such easements, rights, or privileges have been transferred to the Virginia Aviation Board, they may be held, used, and disposed of in accordance with §§ 5.1-2.2 and 5.1-2.2:1. Upon the abandonment of any airport or landing field acquired pursuant to this article all easements, rights and privileges which shall have been so acquired over or with respect to adjacent lands shall thereupon terminate and revert back to the person from whom the easement, right or privilege was obtained or his successor in interest.

Code 1950, § 5-28; 1966, c. 576; 1980, c. 721.

§ 5.1-39.1.Use of airport property for industrial development purposes

Notwithstanding § 5.1-39, any county, city, town, or airport commission may use, lease or convey for any industrial development purposes any airport property described in § 5.1-39 with the written approval of the Director of Aviation on such terms and conditions as the Director may require. When any easement, rights, or privileges have been pledged as a sponsor's share to secure funds from the Federal Aviation Administration, written approval of the Federal Aviation Administration shall also be required.

1980, c. 59.

§ 5.1-40.Lease of land acquired; approval by Department

Any political subdivision or privately owned, licensed public use airport acquiring land under the provisions of this article may individually, or jointly where so operated, lease the same, or any part thereof, to any individual or corporation desiring to use the same for the purpose of operating an airport or landing field, or for the purpose of landing or starting airplanes therefrom or for other aviation purposes, and on such terms and subject to such conditions and regulations as may be provided; and any political subdivision or privately owned, licensed public use airport may enter into a contract in the form of a lease providing for the use of such land, or any part thereof, by the government of the United States for the use by the government of such land for aviation, mail delivery or other aviation purposes upon nominal or other rental or without consideration, provided the political subdivision or privately owned, licensed public use airport certifies that the lease meets the terms and provisions of any and all state and federal grants.

Code 1950, § 5-38; 1966, c. 576; 1979, c. 272; 2012, cc. 28, 805, 836.

§ 5.1-41.Operation by local governing body or special officer or board

The governing body, or other proper authority, of a county, city, or town which has established an airport or landing field and acquired, leased, or set apart property for such purpose, may construct, improve, equip, maintain and operate the same, or may vest jurisdiction for the construction, improvement, equipment, maintenance and operation thereof in any suitable officer, board or body of such county, city, or town. A member of the governing body of any such county, city, or town may also serve as a member of any board or body established to manage an airport or landing field. No such city, town or county, however, shall operate an airport without first obtaining the permission of the Board as now or hereafter provided by law. In addition to other powers conferred by this section, any such governing body or other authority of a county, city, or town shall have the power to seek and obtain loans for the purpose of capital improvements to any airport or landing field established pursuant to this article.

Code 1950, § 5-34; 1966, c. 576; 1979, c. 272; 1989, c. 234; 1993, c. 81.

§ 5.1-41.1.Local governing bodies authorized to require boarding fee

The governing body of any county, city or town which operates an airport or an airport authority, after approval of its governing bodies, shall have the power by ordinance or by bylaw to require a boarding fee on passengers boarding aircraft at local airports, where the trip of such passenger originates at such airport. Such fee shall be in such amount and on such terms as the governing body of the locality or airport authority may by ordinance or by bylaw prescribe, not to exceed two dollars per person. Nothing herein contained shall affect any authority heretofore granted to any local government or airport authority to require a boarding fee.

1973, c. 536.

§ 5.1-42.Payment of purchase price or award for land acquired; issuance of bonds

The purchase price or award for real property acquired for an airport or landing field may be paid for by the appropriation of moneys available therefor or wholly or partly paid from the proceeds of the sale of bonds of the city, town or county as the governing body of the city, town or county shall determine. Such city, town or county is hereby authorized to issue bonds for such purpose or purposes, subject, however, to the approval of such bond issue at a referendum thereon, if such approval is a prerequisite to the issuance of bonds by any such political subdivision of the Commonwealth for public purposes generally.

Code 1950, § 5-33; 1966, c. 576.

§ 5.1-43.Expenses of construction, operation, etc., to be paid by political subdivision

The expenses of such construction, improvement, equipment, maintenance and operation shall be paid by such political subdivision, from available funds, subject to all applicable constitutional provisions.

Code 1950, § 5-35; 1966, c. 576.

§ 5.1-44.Rules and regulations; fees and charges

The governing body of such city, town or county, or a board, commission, authority or body created under § 5.1-36, may adopt regulations not in conflict with the rules and regulations adopted and promulgated by the Board from time to time and establish fees or other charges for the use of such airport or landing field or may authorize an officer representing such city, town, county, board, commission, authority or body to adopt such regulations and establish such fees and charges.

Code 1950, § 5-36; 1966, c. 576; 1970, c. 717; 1979, c. 272.

§ 5.1-45.Appropriations by local authorities

The governing body of any city, town or county to which this chapter is applicable may appropriate or cause to be raised by taxation in such city, town or county a sum sufficient to carry out the provisions of this chapter.

Code 1950, § 5-39; 1966, c. 576.

§ 5.1-46.Receipt and handling of federal and other funds

Any county, city or town in Virginia may accept, receive and receipt for federal moneys, and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance and operation of airports and landing fields and other air navigation facilities, and is authorized and empowered to comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys in connection with such airports, landing fields and air navigation facilities.

Code 1950, § 5-25; 1966, c. 576; 1979, c. 272; 1988, c. 70.

§ 5.1-47.Project and application to be approved by Department

Notwithstanding any other provision of law, no county, city or town, whether acting alone or jointly with another county, city or town or with the Commonwealth, shall submit to the Federal Aviation Administration of the United States any project application under the provisions of any act of Congress which provides airport construction, planning and development funds for the expansion and improvement of the airport system insofar as such act shall pertain to the Commonwealth of Virginia, unless the project and the project application have been first approved by the Department.

Code 1950, § 5-39.1; 1966, c. 576; 1972, c. 374; 1979, c. 272.

Virginia Naval Museum Authority

Created

1975 Acts of Assembly, c. 488.

Amendments

1980, c. 334 (§ 2)

§ 1. Short title.
This may be cited as the "Virginia Naval Museum Authority Act." (1975, c. 488)

§ 2. Virginia Naval Museum Authority.
There is hereby created and constituted a political subdivision of the Commonwealth to be known as the Virginia Naval Museum Authority. The exercise by the Authority of the powers conferred by this act in the construction, operation and maintenance of a project authorized by this act shall be deemed and held to be the performance of an essential governmental function.

The Authority shall consist of the nine members, three of whom shall be appointed by the Speaker of the House of Delegates from the membership of the House of Delegates, two of whom shall be appointed by the Committee on Privileges and Elections of the Senate from the membership of the Senate, and four of whom shall be appointed by the Governor. At least three of those appointed by the Governor shall be residents of the city of Newport News. All vacancies in the membership of the Authority, whether caused by expiration of term of office, death, resignation, or otherwise, shall be filled in the same manner in which the position was originally filled. The legislative members of the Authority shall serve for terms concurrent with the terms for which they have been elected to office. The terms of those members appointed by the Governor shall be for four years each. Any member of the Authority may be appointed to succeed himself. All members, duly appointed, shall hold office until his or her successor shall be appointed and duly qualified. Any member, appointed to fill an unexpired term, shall serve only for the term of the member he or she replaced.

The members shall elect a chairman and vice-chairman of the Authority to serve for such terms as the membership shall decide. The Authority shall also elect a secretary and treasurer who does not necessarily have to be a member of the Authority and, if not a member, he or she shall have no voting rights and shall be elected to serve for such term as may be determined by the Authority. If a member of the Authority is elected to serve as secretary and treasurer he or she shall be elected in the same manner and for the same term as the chairman and vice-chairman. No member of the Authority shall hold more than one office except that of secretary and treasurer. Five members of the Authority eligible to vote shall constitute a quorum. A majority of the quorum is empowered to exercise all the rights and perform all the duties of the Authority and no vacancy on the Authority shall impair the right of the quorum to act. The members of the Authority shall serve without compensation except that they shall be reimbursed for actual expenses incurred in the performance of their duties. The Authority shall make rules and regulations for its own government. It shall have perpetual existence. The Authority shall meet as soon as possible after the effective date of this act, and thereafter as often as necessary to perform its purpose as defined under this act, but shall in no event meet less than once in a twelve month period. (1975, c. 488; 1980, c. 334)

§ 3. Definitions.
As used in this act, the following words and terms shall have the following meanings:

(a) The word "Authority" shall mean the Virginia Naval Museum Authority created in § 2 of this act.

(b) The word "project" shall be deemed to mean and include the acquisition, reconditioning, equipping, maintenance, operation, transporting and berthing of the heavy cruiser Newport News, or other suitable vessel, and the selection and improvement of an appropriate viewing site within the Commonwealth, and the usual and convenient facilities appertaining to such undertakings, and extensions and improvements of such facilities, acquiring the necessary property therefor, both real and personal, and the lease and sale of any part or all of such facilities, including real and personal property, so as to assure the efficient and proper development, maintenance and operation of such facilities and areas, deemed by the Authority to be necessary, convenient or desirable.

(c) The term "cost of the project" shall embrace the cost of acquisition, transporting, construction, the cost of all lands, properties, rights, easements and franchises acquired and the cost of all conveyances in fee simple of the Authority's title thereto and leases thereof, the cost of preparing the land, including the installation of storm and sanitary sewers, the cost of all machinery, equipment and furnishings related to the operation of any project, financing charges, interest prior to and during acquisition and construction, and for six months after completion of construction, cost engineering, architectural, fiscal and legal expenses, and other expenses necessary or incident to determining the feasibility or practicability of the project, administrative expenses and such other expenses as may be necessary or incident to the financing herein authorized, and the cost of placing any project in operation. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the "cost of the project" and may be paid or reimbursed as such out of any funds of the Authority, including the proceeds of any revenue bonds issued under the provisions of this act for any such project or projects.

(d) The word "bonds" or the words "revenue bonds" shall mean revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this act.

(e) The word "owner" shall include all individuals, copartnerships, associations or corporations and also municipalities, political subdivisions and all public agencies and instrumentalities having any title or interest in any property, rights, easements and interests authorized to be acquired by this act.

(f) Any project shall be deemed "self-liquidating" if, in the judgment of the Authority, the revenues and earnings to be derived by the Authority therefrom and all properties used, leased and sold in connection therewith will be sufficient to pay the principal and interest of the revenue bonds which may be issued to finance, in whole or in part, the cost of such project or projects. (1975, c. 488)

§ 4. Powers.

The Authority shall have powers:

(a) To have a seal and alter the same at pleasure;

(b) To acquire by gift, purchase, lease or otherwise, and to hold, lease and dispose of real and personal property of every kind and character for its corporate purposes;

(c) To appoint, select and employ officers, agents and employees, including engineering, architectural and construction experts, fiscal agents and attorneys, and fix their respective compensations;

(d) To make contracts, leases and to execute all instruments necessary or convenient, including contracts for construction of projects and leases of projects or contracts with respect to the use of projects which it causes to be erected or acquired, and to dispose by conveyance of its title in fee simple of real and personal property of every kind and character, and any and all persons, firms and corporations, all cities, towns and counties, and any and all political subdivisions, departments, institutions or agencies of the State are hereby authorized to enter into contracts, leases or agreements with the Authority upon such terms and for such purposes as they deem advisable;

(e) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, furnish, operate and manage projects, as hereinabove defined, the cost of any such project to be paid in whole or in part from the proceeds of revenue bonds or other funds of the Authority or from such proceeds or other funds made available to the Authority;

(f) To accept loans and/or grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof, upon such terms and conditions as the United States of America or such agency or instrumentality, may impose;

(g) To accept loans and/or grants of money or materials or property of any kind from the State of Virginia or any agency or instrumentality or political subdivision thereof, upon such terms and conditions as the State of Virginia or such agency or instrumentality or political subdivision may impose;

(h) To borrow money for any of its corporate purposes and to execute evidences of such indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from funds pledged for that purpose, and to provide for the payment of the same and for the rights of the holders thereof;

(i) To exercise any power usually possessed by private corporations performing similar functions, which is not in conflict with the Constitution and laws of this State;

(j) The Authority and any trustee acting under any trust indenture, are specifically authorized from time to time to sell, lease, grant, exchange or otherwise dispose of any surplus property, both real and personal, or interest therein not required in the normal operation of and usable in the furtherance of the purpose for which the Authority was created, except as such right and power may be limited as provided in § 10 hereof;

(k) To do all things necessary or convenient to carry out the powers expressly given in this act. (1975, c. 488)

§ 5. Acquisition of property.

(a) The Authority is hereby authorized and empowered to acquire by purchase solely from funds provided under the provisions of this act, such lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and the commissions of the Commonwealth, with the approval of the Governor, notwithstanding any contrary provisions of law, are hereby authorized and empowered to donate funds and to lease, lend, grant or convey to the Authority at its request upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court or other action or formality, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public highways and other real property already devoted to public use. (1975, c. 488)

§ 6. Revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bond and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds

in such manner, either at public or negotiated sale, and for such price, as it may determine will best effect the purposes of this act.

The proceeds of the bonds shall be used solely for the payment of the cost of the project, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this act. (1975, c. 488)

§ 7. Trust agreement.

In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project, the rates of toll or other charges to be charged, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In

addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project. (1975, c. 488)

§ 8. Revenues.

The Authority is hereby authorized to fix, revise, charge and collect tolls or other charges for the use of and admission to the project and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the project for placing thereon telephone, telegraph, electric light or power lines, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls or other charges shall be so fixed and adjusted in respect of the aggregate of tolls or other charges from the project as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such project and (b) the principal of and interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. The tolls and all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls and other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution or any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1975, c. 488)

§ 9. Trust funds.

All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. The Authority shall, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues to be

received by a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this act, subject to such regulations as this act and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds. (1975, c. 488)

§ 10. Remedies.

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging and collection of tolls or other charges. (1975, c. 488)

§ 11. Exemption from taxation.

The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this act or upon the income therefrom; and the bonds issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof. (1975, c. 488)

§ 12. Revenue refunding bonds.

The Authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this act, including the payment of any redemption premium thereon and any interest accrued to or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same, shall be governed by the provisions of this act insofar as the same may be applicable. (1975, c. 488)

§ 13. Purpose of the Authority.

Without limiting the generality of any provisions of this act, the general purpose of the Authority is declared to be that of acquiring, transporting, reconditioning, equipping, maintaining and operating the heavy cruiser Newport News, or other suitable vessel, and the selection, improvement and construction of a suitable viewing site within the Commonwealth, and acquiring, constructing, equipping, maintaining and operating parking facilities and parking areas in connection therewith; and the usual and convenient facilities appertaining to such undertakings; the extension and improvement of such facilities; acquiring the necessary property therefor, both real and personal, with the right to contract for the use of or to lease or sell any or all of such facilities, including real property, and to do any and all things deemed by the Authority necessary, convenient and desirable for and incident to the efficient and proper development and operation of such types of undertakings. (1975, c. 488)

§ 14. Rules and regulations for operation of projects.
It shall be the duty of the Authority to prescribe rules and regulations for the operation of the project or projects constructed under the provisions of this act. (1975, c. 488)

§ 15. Powers declared supplemental and additional.
The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing. (1975, c. 488)

§ 16. Act Liberally construed.
This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1975, c. 488)

§ 17. Constitutional construction.
The provisions of this act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein. (1975, c. 488)

§ 18. Inconsistent laws inapplicable.
All other general or special laws inconsistent with any provision of this act are hereby declared to be inapplicable to the provisions of this act. (1975, c. 488)

New River Valley Emergency Communications Regional Authority

Created
2010 Acts of Assembly, c. 638; memorandum of understanding signed by Towns of Blacksburg and Christiansburg, County of Montgomery, Virginia Tech, November 2010.

Amendments

2018, cc. 472, 473 (§§ 3, 20, 28, 29)

§ 1. Title.

This Act shall be known and may be cited as the New River Valley Emergency Communications Regional Authority Act. (2010, c. 638)

§ 2. Creation; public purpose.

If the governing bodies of the Towns of Blacksburg and Christiansburg, the County of Montgomery, and the Board of Visitors for Virginia Polytechnic Institute and State University (Virginia Tech) by resolution support the formation of a regional authority to provide 911 dispatch and emergency communications services to the people of each jurisdiction and campus, an authority known as the New River Valley Emergency Communications Regional Authority Act (hereinafter the Authority) shall thereupon exist for such participating entities and shall exercise its powers and functions as prescribed herein.

In any suit, action, or proceeding relating to or involving the validity or enforcement of any contract of the Authority, the Authority shall be deemed to have been created as a political subdivision and body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such towns, county, and university supporting the formation of such Authority. A copy of such resolution duly certified by the clerk or secretary of the governing body of the towns, county, and university by which it is adopted shall be admissible as evidence in any suit, action, or proceedings. Any political subdivision of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this Act.

The ownership and operation by the Authority of emergency communications services and the exercise of powers conferred by this Act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. The purposes of such Authority shall be to develop a consolidated system for the receipt of and response to 911 emergency calls and communications that will improve response time, quality of service, and coordination of available resources for the citizens of the affected localities.

The Authority and its members, officers, employees, and agents shall all enjoy sovereign immunity for torts committed in exercise of its governmental and proprietary functions. Nothing in this Act shall be construed as a waiver of the sovereign immunity enjoyed by any of the participating political subdivisions.

The courts of the Commonwealth of Virginia shall have original jurisdiction of all actions brought by or against the Authority, which courts shall in all cases apply the law of the Commonwealth of Virginia. (2010, c. 638)

§ 3. Definitions.

As used in this act, the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the New River Valley Emergency Communications Regional Authority Act.

"Annual budget" means the amount of budgeted expenditures necessary each fiscal year for the payment of operations or capital budgets.

"Annual contribution" means the portion of the annual budget attributable to each participating political subdivision for each fiscal year.

"Authority" means the New River Valley Emergency Communications Regional Authority created by this Act.

"Board" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, grant obligations, or other evidence of financial indebtedness issued by this Authority pursuant to this Act.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all buildings, structures, or facilities purchased, constructed, or otherwise acquired or operated by the Authority pursuant to the provisions of this Act. Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, water rights, franchises, furnishings, landscaping, utilities, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

"Participating political subdivisions" means the Towns of Blacksburg and Christiansburg, the County of Montgomery, and Virginia Polytechnic Institute and State University or any other political subdivision that may join or has joined the Authority pursuant to §§ 4 and 5 of this Act.

"Political subdivision" means a county, city, town, public body, public authority, institution (including an institution of higher education), or commission of the Commonwealth.

"University" means Virginia Polytechnic Institute and State University. (2010, c. 638; 2018, cc. 472, 473)

§ 4. Participating political subdivision.

At the time of creation of the Authority, each participating political subdivision shall have entered or shall enter into a memorandum of understanding by and among each of the participating political subdivisions setting forth the terms and conditions of the intended formation of the Authority.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this Act with respect to contracts and agreements between the Authority and any other political subdivision. (2010, c. 638)

§ 5. Joinder.

Membership in the Authority may be expanded only in accordance with the terms of a joinder agreement adopted by the governing bodies of all participating political subdivisions. Only another political subdivision may become a participating political subdivision of the Authority. The governing body of any locality wishing to become a member of the Authority shall by concurrent resolutions or ordinances and by agreement provide for the joinder of such locality. The agreement creating the expanded Authority shall specify the number and terms of office of members of the Board of the expanded Authority that are to be appointed by each of the participating political subdivisions and the names, addresses, and terms of office of initial appointments to Board membership. (2010, c. 638)

§ 6. Appointment of members of the Board.

The powers of the Authority shall be vested in the members of the Board. The Board shall consist of five persons. Each participating political subdivision shall have the right to appoint one member of the Board and all participating political subdivisions shall jointly appoint the fifth member of the Board by unanimous approval of the participating political subdivisions. Each member of the Board shall be appointed for a term of four years, except that the initial members of the Board representing the participating political subdivisions shall be appointed for the following staggered terms to be selected by lot by the members of the Board at its initial meeting: one member shall be appointed for a term of one year; one member shall be appointed for a term of two years; one member shall be appointed for a term of three years; and one member shall be appointed for a term of four years. The jointly appointed member shall be appointed for an initial term of four years. Upon the expiration of the original term of office of a member of the Board, that member may continue to exercise all powers as a member of the Board until that person's successor is duly appointed and qualified.

Any vacancy in the membership of the Board other than by expiration of term shall be filled by the governing body that appointed the member or, in the case of the jointly appointed member, by approval of the governing bodies. The person appointed to fill such vacancy shall serve for the unexpired term only. Each participating political subdivision shall have the absolute right to remove its appointee to the Board, with or without cause, at any time. The participating political subdivisions shall have the absolute right to remove their joint appointee to the Board, with or without cause, at any time by resolution adopted by a majority of the governing bodies of the participating political subdivisions. Except as may be prohibited by the Constitution of Virginia, members of the Board may

include elected or appointed officials, employees, managers, administrators, or officers of any participating political subdivision.

Each member of the Board may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties in addition to such other salary or benefit, or both, to be determined by the Authority. (2010, c. 638)

§ 7. Organization.

A majority of the members of the Board shall constitute a quorum, and the vote of a majority of members of the Board shall be necessary for any action taken by the Board. Each member of the Board shall be entitled to one vote except as otherwise set forth herein. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The Board shall elect from its membership a chairman, vice-chairman, and secretary-treasurer of the Board, such officers to serve in these capacities for terms of two years, except that an initial member of the Board whose term on the Board is for one year may be elected to serve in such capacity for a term of one year and if reappointed to the Board may thereupon be reelected to the Board to serve in such capacity.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws.

The Board may make and from time to time amend and repeal bylaws, not inconsistent with this Act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The Board may appoint such committees as it may deem advisable and fix the duties and responsibilities of such committees. (2010, c. 638)

§ 8. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this Act, including the powers to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;
2. Sue and be sued in its own name;
3. Have perpetual succession;
4. Adopt a corporate seal and alter the same;
5. Maintain offices at such places as it may designate;
6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate any structures, facilities, and other property incidental thereto;
7. Construct, renovate, install, maintain, and operate facilities for the location of dispatching services, necessary equipment, and administration space;

8. Apply for and accept gifts, grants of money, grants or loans of other property, or other financial assistance from, or borrow money from or issue bonds to, the United States of America and agencies and instrumentalities thereof; the Commonwealth and political subdivisions, agencies, and instrumentalities thereof; or any other person or entity, whether public or private, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the Authority's facilities (whether or not such facilities are then in existence) or for the payment of the principal of any indebtedness of the Authority, interest thereon, or other costs incident thereto and to borrow money on such terms as the Authority deems advisable. To this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient, or desirable or imposed as a condition to such financial aid, loads, grants, or other assistance;

9. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate and fix their duties and compensation;

10. Establish personnel rules;

11. Own; purchase; lease; obtain options upon; acquire by gift, grant, or bequest; or otherwise acquire any property, real, personal or intangible, or any interest therein, and in connection therewith to create, assume, or take subject to any indebtedness secured by such property;

12. Sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein;

13. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

14. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities;

15. Purchase and maintain insurance and provide indemnification on behalf of any person who is or was a director, officer, employee, or agent of the Authority against any liability asserted against or incurred by him in any such capacity or arising out of his status as such;

16. Place a lien upon any or all of its property or otherwise secure its debts; and

17. Do all things necessary or convenient to the purposes of this Act. (2010, c. 638)

§ 9. Rules, regulations, and minimum standards.

The Authority shall have the power to adopt, amend, and repeal rules, regulations, and minimum standards for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities.

The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations shall have the force of law, as shall any other rule or regulation of the Authority that shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the interest of the public safety. (2010, c. 638)

§ 10. Reports.

The Authority shall keep minutes of its proceedings, which shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. The Authority shall be deemed a local governmental agency subject to the requirements of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) of the Code of Virginia. (2010, c. 638)

§ 11. Procurement.

All contracts that the Authority may let for professional services, nonprofessional services, or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of the Code of Virginia. (2010, c. 638)

§ 12. Deposit and investment of funds.

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this Act. All moneys of the Authority shall be deposited in a qualified public depository and secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.) of the Code of Virginia.

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for public sinking funds or other public funds as set forth in the Investment of Public Funds Act (§ 2.2-4500 et seq.) of the Code of Virginia. (2010, c. 638)

§ 13. Authority to issue bonds.

The Authority shall have the power to issue bonds in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority facilities and including the payment or retirement of bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and

interest (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts of certain designated facilities or loans, whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth, or any political subdivision, agency, or instrumentality thereof; any federal agency; or any unit, private corporation, copartnership, association, or individual as such participating political subdivision or other entities may be authorized to make under general law or by pledge of any income or revenues of the Authority or by mortgage or encumbrance of any property or facilities of the Authority. Unless otherwise provided in the proceeding authorizing the issuance of the bonds or in the trust indenture or agreement securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the Authority at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding 40 years from the date thereof, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times and at such places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the Authority in authorizing each particular bond issue.

If deemed advisable by the Authority, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the Authority to be most advantageous and the Authority may pay all costs, premiums, and commissions that it may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the Authority may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the

proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

All bonds shall be signed by the chairman or vice-chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature, or such facsimile, shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall except such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this Act; provided that nothing contained in this Act shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

All bonds issued under the provisions of this Act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code (§ 8.1A-101 et seq.) of the Code of Virginia, subject only to provisions respecting registration of the bonds.

In addition to all other powers granted to the Authority by this Act, the Authority is authorized to provide for the issuance from time to time of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this Act that relate to bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate. (2010, c. 638)

§ 14. Credit of Commonwealth and political subdivisions not pledged.

Bonds issued pursuant to the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefore as herein authorized. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the Authority, except as may be otherwise stated, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and money pledged therefore and that neither the faith and credit nor the taxing power of the Commonwealth, nor any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

Bonds issued pursuant to the provisions of this Act shall not constitute indebtedness within the meaning of any debt limitation or restriction. (2010, c. 638)

§ 15. Members of the Board and persons executing bonds not liable thereon.

Neither the members of the Board nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof. (2010, c. 638)

§ 16. Security for payment of bonds; default.

The principal of and interest on any bonds issued by the Authority may be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture or agreement covering all or any part of the Authority facilities from which revenues or receipts so pledged may be derived, including any enlargements or any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture or agreement may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues, and the rights and remedies available in the event of default, all as the Authority shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement, and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue to be effective until the principal of and

interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceeding authorizing the bonds or in any trust indenture or agreement executed as security therefor, may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the members, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any trust indenture or agreement of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of said remedies. (2010, c. 638)

§ 17. Taxation.

The exercise of the powers granted by this Act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience, and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this Act and the bonds issued under the provisions of this Act, their transfer and the income therefrom, including any profit made on the same thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. (2010, c. 638)

§ 18. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (2010, c. 638)

§ 19. Appropriation by political subdivision.

Any participating political subdivision or other political subdivision of the Commonwealth is authorized to provide services, to donate real or personal property, and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including, but not limited to, general obligation bonds, in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) of the Code of Virginia or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume or reimburse a participating political subdivision for any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority. (2010, c. 638)

§ 20. Annual budget.

A. The Board shall have full authority to adopt its annual budget on an annual fiscal year (July 1 through June 30) basis and to amend the same from time to time.

B. The Board shall have the full authority to develop and adopt a formula for allocating to the participating political subdivisions the responsibility to pay for the annual budget. Such allocation formula shall be presented to the participating political subdivisions on or before February 1, 2019. The participating political subdivisions shall consider and make a decision as to the approval of the allocation formula on or before May 1, 2019. If each of the participating political subdivisions approves the allocation formula, each shall pay its annual contribution as allocated by the formula. If all participating political subdivisions do not approve the allocation formula by July 1, 2019, each participating political subdivision's annual contribution shall be equal to the Authority's annual budget for fiscal year 2019 divided by the number of participating political subdivisions and shall continue to be so calculated for each fiscal year thereafter unless and until an allocation formula is approved by each participating political subdivision. Once approved by each participating political subdivision, the Board shall use the allocation formula to determine each political subdivision's annual contribution. The Board shall have full authority to amend the allocation formula, but any amendment shall be submitted to each participating political subdivision on or before the next February 1 after the amendment is adopted by the Board and shall be approved by each political subdivision by the May 1 preceding the fiscal year in which the amendment is to go into effect.

C. Each participating political subdivision shall contribute its annual contribution each year and otherwise as required; however, such obligation shall be subject to and dependent upon annual appropriations being made from time to time by the governing body of each such respective participating political subdivision, and as to the university by normal approval of appropriations, and shall not be deemed to constitute a debt of such participating political subdivisions within the meaning of Article VII, Section 10 of the Constitution of Virginia, and as to the university, within the meaning of Article X, Section 9 of the Constitution of Virginia, or any applicable statutory debt limitation. Should any participating political subdivision fail to contribute in full its annual contribution, it shall remain a member of the Authority, but its representative on the Board shall not be entitled to cast a vote on any Authority matter until that participating political subdivision's annual contribution has been paid in full. Further, should any participating political subdivision fail to contribute in full its annual contribution, the Authority shall have a lien on any share of the Authority's profit or surplus revenues otherwise entitled to be distributed to the participating political subdivision. A participating political subdivision

may contribute a portion or all of its annual contribution through "in-kind" contributions, subject to the approval of such contribution and valuation by the Authority. (2010, c. 638; 2018, cc. 472, 473)

§ 21. Contracts with political subdivisions.

The Authority is authorized to enter into contracts with any one or more political subdivisions. (2010, c. 638)

§ 22. Authority as political subdivision.

The Authority is a political subdivision whose actions are exempt from the Commonwealth's rules and regulations on its agencies and commissions as to demolition, alteration, capital outlay requirements, temporary building use requirements, and like regulations and requirements. The Authority is subject to local building code requirements. (2010, c. 638)

§ 23. Fees for service.

The Authority is authorized to charge a fee for service to individuals who are not members of the participating political subdivisions and is, likewise, authorized to determine a fee schedule. (2010, c. 638)

§ 24. Liberal construction.

Neither this Act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this Act is cumulative to any such powers; however, the borrowing of money or issuance of bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds, notes, or other obligations. This Act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this Act. (2010, c. 638)

§ 25. Application of local ordinances, service charges, and taxes upon leaseholds.

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia. (2010, c. 638)

§ 26. Existing contracts; leases, franchises, etc., not impaired.

No provisions of this Act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provision of this

section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification. (2010, c. 638)

§ 27. Employees of the Authority.

A. Employees of the Authority shall be employed on such terms and conditions as are established by the Authority. The Board of the Authority shall develop and adopt personnel rules, policies, and procedures to give its employees grievance rights, ensure that the employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, religion, color, sex, or national origin.

B. In cooperation with the Board, each participating political subdivision shall determine which of its current positions will remain under their individual employ and which will be recreated as part of the Authority. Any employee of Virginia Tech who (i) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary or (ii) is not offered the opportunity to remain employed with Virginia Tech shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.) of the Code of Virginia. Any employee of Virginia Tech who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the Workforce Transition Act.

C. Notwithstanding any other provision of law to the contrary, any person whose employment is recreated in the Authority as a result of this Act and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2818 et seq.) of Title 2.2 of the Code of Virginia shall be eligible to continue to be a member of such health insurance plan. Notwithstanding subsection A of § 2.2-2818 of the Code of Virginia, the Authority shall pay the employer contribution, the amount of which is determined by negotiated agreement with the provider, of the costs of providing health insurance coverage to its employees who elect to continue to be members of the state employees' insurance plan. Alternatively, an employee may elect to become a member of any health insurance plan established by the Authority. The Authority is authorized to (i) establish a health insurance plan for the benefit of its employees and (ii) enter into agreements with the Department of Human Resources Management providing for the coverage of its employees under the state employees' health insurance plan, provided that such agreement shall require the Authority to pay the costs described above of providing health insurance coverage under such a plan.

D. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this Act and who is a member of the Virginia Retirement System, or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title

51.1 of the Code of Virginia, shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred. Alternatively, such employee may elect, during an open enrollment period, to become a member of the retirement program established by the Authority for the benefit of its employees by transferring assets equal to the value to the actuarially determined present value of the accrued basic benefit as of the transfer date. The Authority shall reimburse the Virginia Retirement System for the actual cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who elect to transfer to the Authority's retirement plan. The following rules shall apply:

1. With respect to any transferred employee who elects to remain a member of the Virginia Retirement System or other such authorized retirement plan, the Authority shall collect and remit any employer and employee contributions to the Virginia Retirement System or other such authorized retirement plan for retirement for such transferred employees.

2. Transferred employees who elect to become members of the retirement program established by the Authority for the benefits of its employees shall be given full credit for their creditable service as defined in § 51.1-124.3 of the Code of Virginia, vesting and benefit accrual under the retirement program established by the Authority. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or other retirement plan as authorized by Article 4 of Chapter 1 of Title 51.1 of the Code of Virginia.

3. For transferred employees who elect to become members of the retirement program established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Authority assets equal to the actuarially determined present value of the accrued basic benefits as of the transfer date. For purposes hereof, the basic benefits shall be the benefit accrued under the Virginia Retirement System or other such authorized retirement plan, based on creditable service and average final compensation as defined in § 51.1-124.3 of the Code of Virginia and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or other such authorized retirement plan, so that the transfer of assets to the retirement plan established by the Authority will have no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan. (2010, c. 638)

§ 28. Withdrawal of membership.

A participating political subdivision may withdraw its membership in the Authority at the end of any fiscal year if the withdrawing participating political subdivision has given notice to the Authority and all other participating political subdivisions of its intention to withdraw at least one year before the end of such fiscal year and the withdrawing participating political subdivision has paid in full its annual

contribution, if any, provided that no participating political subdivision may withdraw its membership in the Authority if the Authority has any outstanding debt without written approval of each participating political subdivision. As used in this section, the term "debt" shall mean a monetary obligation, whether general or limited in any way, to repay a loan or bond, or any long-term obligation, whether absolute or contingent in any way, to refund or reimburse any agency or entity for grant funds received by the Authority. (2010, c. 638; 2018, cc. 472, 473)

§ 29. Dissolution of Authority.
Whenever it shall appear to the Board or to all participating political subdivisions that the need for the Authority no longer exists, all participating political subdivisions may petition the Circuit Court of Montgomery County, Virginia, for the dissolution of the Authority. If the court determines that the need for the Authority as set forth in this Act no longer exists and that all debts and other obligations of any kind have been fully paid or provided for:

1. The Court shall enter an order dissolving the Authority; and
2. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective annual contributions less any amounts owed to the Authority by each such participating political subdivision.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. An appeal from the final judgment of the court shall lie to the Supreme Court of Virginia. (2010, c. 638; 2018, cc. 472, 473)

Newport News and Hampton Parking Authority

Created
1968 Acts of Assembly, c. 200.

Amendments
1983, c. 57 (§ 5, 7)
1983, c. 69 (§ 6)
1984, c. 596 (§ 6)

§ 1. Short title.
This act shall be known and may be cited as the "Newport News and Hampton Parking Authority Act." (1968, c. 200)

§ 2. Declaration of public necessity.
It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the cities of Newport News and Hampton in the Commonwealth is necessary to the health, safety and

general welfare of the public, whether residing in the municipality or traveling to, through or from such municipality in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of the municipality; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the present time a public nuisance; that such parking prevents the free circulation of traffic in, through and from the municipality, and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions for sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided; and that the enactment of the provisions of this act is hereby declared to be a public necessity. (1968, c. 200)

§ 3. Definitions.

As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Authority created under the provisions of this act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the Authority shall be given by law.

(a-1) The word "bonds" or the words "revenue bonds" shall mean revenue bonds, revenue refunding bonds or notes of the Authority issued under the provisions of this act.

(b) The word "cost" as applied to parking facilities or to extensions or additions thereto shall include the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and interests acquired by the Authority for such construction or reconstruction or the operation thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during construction, and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal services, cost of plans and specifications, surveys and estimates of cost and of revenues, administrative expense and such other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof and the placing of the parking facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(c) The words "governing body" shall mean the board, commission, council or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.

(d) The word "municipality" shall mean the city of Newport News or the city of Hampton in the Commonwealth of Virginia.

(e) The words "parking facilities" shall mean and shall include lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to public use for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and busses, waiting rooms, lockers, and offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the construction or operation thereof; provided, however, the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles. (1968, c. 200)

§ 4. Creation of the Authority.

(a) The governing body of the municipality may by resolution signify its determination to organize an Authority under the provisions of this act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereon. Such municipality shall not be required to make any other publication of such resolution under the provisions of any other law.

(b) Such resolution shall include articles of incorporation which shall set forth:

(1) the name of the Authority;

(2) a statement that such Authority is organized under this act;

(3) the name of the organizing municipality; and

(4) the names and addresses of the first members of the Authority appointed by the organizing municipality.

(c) Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the commonwealth of Virginia. (1968, c. 200)

§ 5. Membership of the Authority.

The Authority organized under the provisions of this act shall consist of five members selected by the governing body of the organizing municipality who shall serve for terms expiring one, two, three, four, and five years, respectively, from the date of appointment, the term of each such member to be designated by said governing body. The successor of each member of the Authority shall be appointed for a term of five years but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Authority before entering upon his duties shall take and subscribe an oath or affirmation to support the constitution of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Authority.

The Authority shall select one of its members as Chairman and another as Vice Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice Chairman, Secretary and Treasurer shall be as provided in the bylaws of the Authority.

A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of all of the members of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all of the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties.

The city manager of the organizing municipality shall serve as an ex-officio, nonvoting member of the Authority. (1968, c. 200; 1983, c. 57)

§ 6. General grant of powers.

The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such Authority is hereby authorized and empowered:

(a) to adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to maintain an office at such place or places as it may designate;

(d) to sue and be sued in its own name, plead and be impleaded;

(e) to construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of the organizing municipality;

(f) to issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;

(g) to issue revenue refunding bonds of the Authority as hereinafter provided;

(h) to fix and revise from time to time and to charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time regulations in respect of the use, operation and occupancy of such parking facilities or part thereof;

(i) to acquire in the name of the Authority by gift, or purchase, any lands or rights in lands and interest therein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facilities;

(j) to lease all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this act; provided, however, that no enterprise involving the sale or dispensing of any product or commodity used in or for the servicing of motor vehicles shall be conducted on any space thereon;

(k) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this act;

(l) to do all acts and things necessary or convenient to carry out the powers granted by this act;

(m) [Repealed.]

(n) to make and enter into all contracts without competition with respect to any item of cost of parking facilities, including parking structures; and

(o) to sell, exchange, donate, and convey any or all of its facilities or properties whenever its members shall find any such action to be in furtherance of the purposes for which the authority was organized. (1968, c. 200; 1983, c. 69; 1984, c. 596)

§ 7. Revenue bonds.

The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving, extending or enlarging any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates not exceeding the maximum rate allowed by law, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall

cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than the maximum rate allowed by law to be paid by public bodies, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth or of any municipality or other political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any municipality or other political subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds. (1968, c. 200; 1983, c. 57)

§ 8. Revenues.

The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by any parking facilities or parts thereof owned or operated by the Authority. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all times (a) to pay the cost of maintaining, repairing and operating the parking facilities or parts thereof owned or operated by the Authority, including reserves for such purposes, and (b) to pay the principal of and the interest on all bonds issued by the Authority under the provisions of this act as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the Authority may enter into contracts relating to use of the services and facilities of the parking facilities on such terms as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms. (1968, c. 200)

§ 9. Trust agreement.

In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received. In connection with the issuance of such bonds or in order to secure the payment thereof, the Authority shall have power under such agreement to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, to vest in the trustee thereunder the right to foreclose such mortgage and to provide the terms and conditions upon which such trustee or the holders of bonds or any proportion thereof may exercise the right of foreclosure. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust

company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this act otherwise provided, the Authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any parking facilities or part thereof to such officer board or depositary as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this act shall be valid and binding from the time when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. (1968, c. 200)

§ 10. Trust funds.

All moneys received pursuant to the authority of this act shall be deemed to be trust funds, to be held and applied solely as provided in this act. Any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and the resolution authorizing the issuance of bonds or trust agreement securing such bonds may provide. (1968, c. 200)

§ 11. Remedies.

Any holder of revenue bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of rates, rentals, fees and charges for the use of or for the services and facilities furnished by any parking facilities. (1968, c. 200)

§ 12. Exemption from taxation.

As adequate off-street parking facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this act to effect such purposes constitute the

performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the Commonwealth. (1968, c. 200)

§ 13. Revenue refunding bonds.

The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (a) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions or enlargements of any parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the foregoing provisions of this act insofar as the same may be applicable. (1968, c. 200)

§ 13-a. Competing parking facilities.

So long as any bonds issued under the provisions of this act are outstanding, the municipality shall not construct, operate or maintain any parking facilities competing with parking facilities of the Authority. (1968, c. 200)

§ 14. Contributions.

The municipality is hereby authorized to make contributions or advances to an Authority which it organizes under the provisions of this act from any available moneys for any purpose of the Authority, including payment of principal and interest on its bonds. The municipality is hereby further authorized to enter into agreements with the Authority obligating the municipality to pay to the Authority any part or all of the receipts from the operation of on-street parking meters and making such covenants as may be deemed necessary or desirable to assure the successful and profitable operation of the on-street parking meters for so long as any bonds of the Authority remain outstanding. (1968, c. 200)

§ 15. Actions taken by Authority.

Any action taken by the Authority under the provisions of this act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately and need not be published or posted. (1968, c. 200)

§ 16. Additional method.

This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds. (1968, c. 200)

§ 17. Construction.

This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof. (1968, c. 200)

Norfolk Parking Authority

Created

1964 Acts of Assembly, c. 208.

§ 1. Short title.

This Act shall be known and may be cited as the "Norfolk Parking Authority Act." (1964, c. 208)

§ 2. Declaration of public necessity.

It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the city of Norfolk in the Commonwealth is necessary to the health, safety and general welfare of the public, whether residing in the municipality or traveling to, through or from such municipality in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of the municipality; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the preset time a public nuisance; that such parking prevents the free circulation of traffic in, through and from the municipality, and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions for sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided and that the enactment of the provisions of this Act is hereby declared to be a public necessity. (1964, c. 208)

§ 3. Definitions.

As used in this Act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Authority created under the provisions of this Act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this Act to the Authority shall be given by law.

(b) The word "cost" as applied to Parking Facilities or to extensions or additions thereto shall include the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and interests acquired by the Authority for such construction or reconstruction or the operation thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during construction, and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal services, cost of plans and specifications, surveys and estimates of cost and of revenues, administrative expense and such other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof and the placing of the Parking Facilities in operation. Any obligations or expenses incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this Act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(c) The words "governing body" shall mean the board, commission, council or other body by whatever name it may be known in which the general legislative powers of the municipality or vested.

(d) The word "municipality" shall mean the city of Norfolk in the Commonwealth of Virginia.

(e) The words "Parking Facilities" shall mean and shall include lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to public use for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and buses, waiting rooms, lockers, and offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the construction or operation thereof; provided, however, the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles. (1964, c. 208)

§ 4. Creation of the Authority.

(a) The governing body of the municipality may by resolution signify its determination to organize an Authority under the provisions of this Act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereon. Such municipality shall not be required to make any other publication of such resolution under the provisions of any other law.

(b) Such resolution shall include articles of incorporation which shall set forth:

(1) the name of the Authority;

(2) a statement that such Authority is organized under this Act;

(3) the name of the organizing municipality; and

(4) the names and addresses of the first members of the Authority appointed by the organizing municipality.

(c) Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the Commonwealth of Virginia. (1964, c. 208)

§ 5. Membership of the Authority.

The Authority organized under the provisions of this Act shall consist of five members selected by the governing body of the organizing municipality who shall serve for terms expiring one, two, three, four, and five years, respectively, from the date of appointment, the term of each such member to be designated by said governing body. The successor of each member of the Authority shall be appointed for a term of five years but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Authority before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Authority.

The Authority shall select one of its members as Chairman and another as Vice-Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice-Chairman, Secretary and Treasurer shall be as provided in the by-laws of the Authority.

A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of all of the members of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all of the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. (1964, c. 208)

§ 6. General grant of powers.

The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such Authority is hereby authorized and empowered:

(a) to adopt by-laws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to maintain an office at such place or places as it may designate;

(d) to sue and be sued in its own name, plead and be impleaded;

(e) to construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of the organizing municipality;

(f) to issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;

(g) to issue revenue refunding bonds of the Authority as hereinafter provided;

(h) to fix and revise from time to time and to charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time regulations in respect of the use, operation and occupancy of such parking facilities or part thereof;

(i) to accept from any authorized agency of the Federal Government loans or grants for the planning, construction or acquisition of any parking facilities and to enter into agreements with such agency respecting any such loans or grants, and to receive and accept aid and contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants or contributions may be made;

(j) to acquire in the name of the Authority by gift or purchase, any lands or rights in lands and interest therein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facilities;

(k) to lease all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this Act; provided, however, that no enterprise involving the sale or dispensing of any product or commodity used in, or for the servicing of, motor vehicles shall be conducted on any space thereon;

(l) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this Act;

(m) to do all acts and things necessary or convenient to carry out the powers granted by this Act; and

(n) nothing in this Act shall be construed as authorizing the Authority or any lessee to furnish or dispense at, or in connection with, any parking lot or area authorized by this Act, any product or service other than the parking of vehicles, nor shall anything in this act operate to allow the Authority to exercise its powers outside that area of the municipality lying south of the southern line of Brambleton Avenue, and the prolongation westwardly of Camp Avenue to the eastern line of the property of the Elizabeth River Tunnel Authority. (1964, c. 208)

§ 7. Revenue bonds.

The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving, extending or enlarging any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates not exceeding five per centum (5%) per annum, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, .such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Act or any recitals in any bonds issued under the provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than five per centum (5%) per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust

agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this Act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this Act.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth or of any municipality or other political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any municipality or other political subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds. (1964, c. 208)

§ 8. Revenues.

The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by any parking facilities or parts thereof owned or operated by the Authority. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all times (a) to pay the cost of maintaining, repairing and operating the parking facilities or parts thereof owned or operated by the Authority, including reserves for such purposes, and (b) to pay the principal of and the interest on all bonds issued by the Authority under the provisions of this Act as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the Authority may enter into contracts relating to use of the services and facilities of the

parking facilities on such terms as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms. (1964, c. 208)

§ 9. Trust agreement.

(a) The Authority shall have no power to pledge its revenues to secure the payment of bonds without the prior approval of the governing body of the municipality. Such governing body may, but need not, require the Authority, under any trust agreement referred to in this act to which the Authority is a party, to provide in any such trust agreement that excess of revenues over the amount required to pay the principal and interest of its revenue bonds, operating costs and the expenses of the Authority as determined by such governing body, shall be paid from time to time to the city treasurer and deposited by him in such manner as the governing body may direct.

(b) Subject to the foregoing, in the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received, but shall not conveyor mortgage any parking facilities or any part thereof, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this Act otherwise provided the Authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any parking facilities or part thereof to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursements thereof, with. such safeguards and restrictions as it may determine. All expenses incurred ill carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this Act shall be valid and binding from the time when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledges without any physical delivery thereof or further

action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. (1964, c. 208)

§ 10. Trust funds.

All moneys received pursuant to the authority of this Act shall be deemed to be trust funds, to be held and applied solely as provided in this Act. Any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this Act and the resolution authorizing the issuance of bonds or trust agreement securing such bonds may provide. (1964, c. 208)

§ 11. Remedies.

Any holder of revenue bonds issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity , by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this Act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of rates, rentals, fees and charges for the use of or for the services and facilities furnished by any Parking Facilities. (1964, c. 208)

§ 12. Exemption from taxation.

As adequate off-street Parking Facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this Act to effect such purposes constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this Act constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this Act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this Act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the Commonwealth. (1964, c. 208)

§ 13. Revenue refunding bonds.

The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (a) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued

or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions or enlargements of any parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the foregoing provisions of this Act in so far as the same may be applicable. (1964, c. 208)

§ 14. Contributions.

The municipality is hereby authorized to make contributions or advances to an Authority which it organizes under the provisions of this Act, from any moneys which may be available for such purpose, to provide for the preliminary expenses of such Authority in carrying out the provisions of this Act or to pay any item of cost of any parking facilities. (1964, c. 208)

§ 15. Actions taken by Authority.

Any action taken by the Authority under the provisions of this Act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately and need not be published or posted. (1964, c. 208)

§ 16. Additional method.

This Act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds. (1964, c. 208)

§ 17. Provisions of act severable.

The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (1964, c. 208)

Northern Neck Chesapeake Bay Public Access Authority Act

§ 15.2-6626.Title

This act shall be known and may be cited as the Northern Neck Chesapeake Bay Public Access Authority Act.

2005, c. 842.

§ 15.2-6627.Creation; public purpose

If any of the governing bodies of the Counties of Lancaster, Northumberland, Richmond, and Westmoreland by resolution declare that there is a need for a public access authority to be created and an operating agreement, which shall be approved by participating localities by ordinance, is developed for the purpose of establishing or operating a public access authority for any such participating political subdivisions and that they should unite in the formation of an authority to be known as the Northern Neck Chesapeake Bay Public Access Authority (hereinafter the "Authority"), which shall thereupon exist for such participating counties and towns and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions. The Authority shall be charged with the following duties:

1. Identify land, either owned by the Commonwealth or private holdings that can be secured for use by the general public as a public access site;

2. Research and determine ownership of all identified sites;

3. Determine appropriate public use levels of identified access sites;

4. Develop appropriate mechanisms for transferring title of Commonwealth or private holdings to the Authority;

5. Develop appropriate acquisition and site management plans for public access usage;

6. Determine which holdings should be sold to advance the mission of the Authority; and

7. Perform other duties required to fulfill the mission of the Northern Neck Chesapeake Bay Public Access Authority.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Northern Neck Chesapeake Bay Public Access Authority, the Authority shall be deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the participating political subdivisions declaring that there is a need for such Authority. A copy of such resolution duly certified by the clerks of the counties and towns by which it is adopted shall be

admissible as evidence in any suit, action, or proceeding. Any political subdivision of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this act.

The ownership and operation by the Authority of any public access sites and related facilities and the exercise of powers conferred by this act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired. The Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county or town pursuant to Section 10 (a) of Article VII of the Constitution of Virginia.

2005, c. 842.

§ 15.2-6628.Definitions

As used in this act the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the Northern Neck Chesapeake Bay Public Access Authority Act.

"Authority" means the Northern Neck Chesapeake Bay Public Access Authority created by this act.

"Board of Directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by this Authority pursuant to this act.

"Commonwealth" means the Commonwealth of Virginia.

"Participating political subdivision" means any of the counties of the Northern Neck Planning District Commission or any other subdivision that may join the Authority pursuant to the act.

"Political subdivision" means a county, municipality, or other public body of the Commonwealth.

"Site" means any land holding that can improve public access to waters of the Commonwealth.

2005, c. 842.

§ 15.2-6629.Participating political subdivision

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any other political subdivision.

2005, c. 842.

§ 15.2-6630.Appointment of a board of directors

The powers of the Authority shall be vested in the directors of the Authority. The governing body of each participating political subdivision shall appoint either one or two directors, one of whom shall be a member of the appointing governing body or its chief operating officer. In the event there are two or fewer participating jurisdictions in the Authority, each participating jurisdiction shall appoint two directors.

The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term.

If financial funds are available, each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties.

2005, c. 842.

§ 15.2-6631.Organization

A simple majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws duly adopted and published at the organizational meeting of that body.

The board of directors shall annually elect a chairman and a vice-chairman from their membership, and a secretary and a treasurer or a secretary-treasurer from their membership, or not, as they deem appropriate, and such other officers as they may deem appropriate.

The board of directors may make and from time to time amend and repeal bylaws, not inconsistent with this act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The board of directors may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees.

2005, c. 842.

§ 15.2-6632.Powers

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Sue and be sued in its own name;

3. Have perpetual succession;

4. Adopt a corporate seal and alter the same at its pleasure;

5. Maintain offices at such places as it may designate;

6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate public access sites that are owned or managed by the authority within the territorial limits of the participating political subdivisions;

7. Construct, install, maintain, and operate facilities for managing access sites;

8. Determine fees, rates, and charges for the use of its facilities;

9. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property, or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements, and legal instruments, as may be necessary, convenient, or desirable or imposed as a condition to such financial aid;

10. Receive and expend public funds and private donations for dredging or construction; apply for permits in order to perform dredging projects on waterways or to construct facilities and infrastructure within the region for which the Authority exists, provided that such projects enhance recreational and commercial public access; and perform such dredging projects or construct such facilities and infrastructure;

11. In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA), created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Middle Peninsula Chesapeake Bay Public Access Authority (the MPCBPAA), created pursuant to the provisions of Chapter 66 (§ 15.2-6600 et seq.), receive and expend public funds and private donations for dredging, apply for permits in order to perform dredging projects, and perform such dredging projects on waterways within the region for which any or all of the Authority, the ESWAA, or the MPCBPAA exists;

12. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

13. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, and depository and investment services contemplated by § 15.2-6638 hereof, accounting services, including the annual independent audit required by § 15.2-6635 hereof, procurement of goods and services, and to act as fiscal agent for the Authority;

14. Establish personnel rules;

15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

20. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

21. Whenever it shall appear to the Authority, or to a simple majority of participating political subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia.

2005, c. 842; 2018, c. 327.

§ 15.2-6633.Name of Authority

The name of the Authority shall be the Northern Neck Chesapeake Bay Public Access Authority. The name of this authority may be changed upon approval of a simple majority of the directors of the Authority.

2005, c. 842.

§ 15.2-6634.Rules, regulations, and minimum standards

The Authority shall have the power to adopt, amend, and repeal rules, regulations, and minimum standards, for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the board of directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment, or modification thereof:

1. Make such rule, regulation, alteration, amendment, or modification in convenient form available for public inspection in the office of the Authority for at least 10 days; and

2. Post in a public place a notice declaring the board of directors' intention to consider adopting such rule, regulation, alteration, amendment, or modification and informing the public that the Authority will at a public meeting consider the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least 10 days from the first day of the posting of the notice thereof. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to: (i) traffic, including but not limited to motor vehicle speed limits and the location of and charges for public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) site management and maintenance shall have the force of law, as shall any other rule or regulation of the Authority, which shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the appropriate official of the political subdivision in which such rules or regulations are to be enforced. The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

2005, c. 842.

§ 15.2-6635.Reports

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection.

2005, c. 842.

§ 15.2-6636.Procurement

All contracts that the Authority may let for professional services, nonprofessional services, or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

2005, c. 842.

§ 15.2-6637.Deposit and investment of funds

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for fiduciaries.

2005, c. 842.

§ 15.2-6638.Authority to issue bonds

The Authority shall have the power to issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority facilities and including the payment or retirement of bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest: (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts of certain designated facilities or loans whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth, or any political subdivision, agency, or instrumentality thereof, any federal agency or any unit, private corporation, co-partnership, association, or individual, as such participating political subdivision, or other entities, may be authorized to make under general law or by pledge of any income or revenues of the Authority or by mortgage or encumbrance of any property or facilities of the Authority. Unless

otherwise provided in the proceeding authorizing the issuance of the bonds, or in the trust indenture securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the Authority at any time and from time to time may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding 40 years from the date thereof, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times and at such places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the board of directors in authorizing each particular bond issue.

If deemed advisable by the board of directors, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors of the Authority to be most advantageous, and the Authority may pay all costs, premiums, and commissions that its board of directors may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the board of directors may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

All bonds shall be signed by the chairman or vice-chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature, or such facsimile, shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this act; provided, however, that nothing contained in this act shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia (§ 8.1A-101 et seq.), subject only to provisions respecting registration of the bonds.

In addition to all other powers granted to the Authority by this act, the Authority is authorized to provide for the issuance, from time to time, of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this act that relate to bonds or revenue bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate.

2005, c. 842.

§ 15.2-6639.Fees, rents, and charges

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents, and other charges for the use and services of any facilities or access site. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement.

2005, c. 842.

§ 15.2-6640.Credit of Commonwealth and political subdivisions not pledged

Bonds issued pursuant to the provisions of this act shall not be deemed to constitute a debt of the Commonwealth, or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefor as herein authorized. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the Authority, shall be obligated to pay the same or the interest thereon or other costs

incident thereto except from the revenues and money pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

All expenses incurred in carrying out the provisions of this act shall be payable solely from the funds of the Authority and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall be available to the Authority.

Bonds issued pursuant to the provisions of this act shall not constitute an indebtedness within the meaning of any debt limitation or restriction.

2005, c. 842.

§ 15.2-6641.Directors and persons executing bonds not liable thereon

Neither the board of directors nor any person executing the bonds shall be liable personally for the Authority's bonds by reasons of the issuance thereof.

2005, c. 842.

§ 15.2-6642.Security for payment of bonds; default

The principal of and interest on any bonds issued by the Authority shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture covering all or any part of the Authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, all as the board of directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement, and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any trust indenture executed as security therefor, may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the directors, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any trust indenture of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of said remedies.

2005, c. 842.

§ 15.2-6643.Taxation

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience, and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act and the bonds issued under the provisions of this act, their transfer, and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations, and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted including, but not limited to, any leasehold tax on real property and taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation, or calling, and taxes upon consumers of gas, electricity, telephone, and other public utility services.

2005, c. 842.

§ 15.2-6644.Bonds as legal investments

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital, in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

2005, c. 842.

§ 15.2-6645.Appropriation by political subdivision

Any participating political subdivision, or other political subdivision of the Commonwealth, is authorized to provide services, to donate real or personal property, and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act of 1991 (§ 15.2-2600 et seq.) or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume, or reimburse a participating political subdivision for any indebtedness incurred by, such participating political subdivision with respect to facilities conveyed by it to the Authority.

2005, c. 842.

§ 15.2-6646.Contracts with political subdivisions

The Authority is authorized to enter into contracts with any one or more political subdivisions.

2005, c. 842.

§ 15.2-6647.Agreement with Commonwealth and participating political subdivisions

The Commonwealth and, by participating in the Authority, each participating political subdivision, pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds.

2005, c. 842.

§ 15.2-6648.Liberal construction

Neither this act nor anything contained herein is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws.

2005, c. 842; 2015, c. 709.

§ 15.2-6649.Application of local ordinances, service charges, and taxes upon leaseholds

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom.

2005, c. 842.

§ 15.2-6650.Existing contracts, leases, franchises, etc., not impaired

No provisions of this act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession, lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification.

2005, c. 842.

§ 15.2-6651.Withdrawal of membership

Any member jurisdiction may withdraw from membership in the Authority by resolution or ordinance of its governing body. However, no member jurisdiction shall be permitted to withdraw from the Authority after any obligation has been incurred except by unanimous vote of all member jurisdictions.

2005, c. 842.

Northern Virginia Transportation Authority

§ 33.2-2500.Northern Virginia Transportation Authority created

There is hereby created a political subdivision of the Commonwealth known as the Northern Virginia Transportation Authority, for purposes of this chapter referred to as "the Authority."

In addition to such other powers vested in the Authority by this chapter, the Authority shall have the following powers and functions:

1. The Authority shall prepare a regional transportation plan for Planning District 8 that includes transportation improvements of regional significance and those improvements necessary or incidental thereto and shall revise and amend the plan. The provisions of Article 7 (§ 33.2-1928 et seq.) of Chapter 19 shall apply, mutatis mutandis, to preparation of such transportation plan.

2. The Authority shall evaluate all significant transportation projects, including highway, mass transit, and technology projects, in and near Planning District 8, to the extent that funds are available for such purpose. The evaluation shall provide an objective, quantitative rating for each project according to the degree to which the project is expected to reduce congestion and, to the extent feasible, the degree to which the project is expected to improve regional mobility in the event of a homeland security emergency. Such evaluation shall rely on analytical techniques and transportation modeling, including those that employ computer simulations currently and customarily employed in transportation planning. The Authority may rely on the results of transportation modeling performed by other entities, including the Department of Transportation and private entities contracted for this purpose, provided that such modeling is in accordance with this section. The Authority shall publicize the quantitative ratings determined for each project on its website and complete the evaluation at least once every four years, with interim progress reports provided on the website at least once every six months.

For purposes of this section, the significant transportation projects to be evaluated may include:

a. Projects included in the version of the Financially Constrained Long-Range Transportation Plan of the National Capital Region Transportation Planning Board in effect when the evaluation is made, plus additional projects in the plan adopted according to subdivision 1; and

b. Other highway, rail, bus, and technology projects that could make a significant impact on mobility in the region, including additional Potomac River crossings west and south of Washington, D.C.; extension of the Metro Orange Line, Metro Yellow Line, and Metro Blue Line; bus rapid transit on Interstate 66; vehicle capacity and mass transit improvements on the U.S. Route 1 corridor; and implementation of relevant portions of the Statewide Transportation Plan established pursuant to § 33.2-353.

3. The Authority may, when a transportation plan is adopted according to subdivision 1, construct or acquire, by purchase, lease, contract, or otherwise, the transportation facilities specified in such transportation plan.

4. The Authority may enter into agreements or leases with public or private entities for the operation of its facilities or may operate such facilities itself.

5. The Authority may enter into contracts or agreements with the counties and cities embraced by the Authority, with other transportation commissions of transportation districts adjoining any county or city embraced by the Authority, with any transportation authority, or with any federal, state, local, or private entity to provide, or cause to be provided, transportation facilities and services to the area embraced by the Authority. Such contracts or agreements, together with any agreements or leases for the operation of such facilities, may be used by the Authority to finance the construction and operation of transportation facilities and such contracts, agreements, or leases shall inure to the benefit of any creditor of the Authority.

Notwithstanding subdivisions 1 through 5, the Authority shall not have the power to regulate services provided by taxicabs, either within municipalities or across municipal boundaries; such regulation is expressly reserved to the municipalities within which taxicabs operate.

6. Notwithstanding any other provision of law to the contrary, the Authority may:

a. Acquire land or any interest therein by purchase, lease, or gift and provide transportation facilities thereon for use in connection with any transportation service;

b. Acquire land or any interest therein by purchase, lease, or gift in advance of the need for sale or contribution to an agency, for use by that agency in connection with an adopted transportation plan; and

c. Prepare a plan for mass transportation services with persons, counties, cities, agencies, authorities, or transportation commissions and may further contract with any such person or entity to provide necessary facilities, equipment, operations and maintenance, access, and insurance pursuant to such plan.

2002, c. 846, § 15.2-4830; 2014, c. 805; 2019, c. 749.

§ 33.2-2501.Counties and cities embraced by the Authority

The Authority shall embrace the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

2002, c. 846, § 15.2-4831; 2014, c. 805.

§ 33.2-2502.Composition of Authority; membership; terms

The Authority shall consist of 17 members as follows:

1. The chief elected officer of the governing body of each county and city embraced by the Authority or, in the discretion of the chief elected officer, his designee, who shall be a current elected officer of such governing body;

2. Two members who reside in different counties or cities embraced by the Authority, appointed by the Speaker of the House who may be from the membership of the House Committee on Appropriations, the House Committee on Finance, or the House Committee on Transportation;

3. One member of the Senate who resides in a county or city embraced by the Authority, appointed by the Senate Committee on Rules and, to the extent practicable, from the membership of the Senate Committee on Finance and the Senate Committee on Transportation;

4. Two nonlegislative citizen members who reside in different counties or cities embraced by the Authority, appointed by the Governor. One such gubernatorial appointment shall be a member of the Commonwealth Transportation Board and one shall be a person who has significant experience in transportation planning, finance, engineering, construction, or management; and

5. The following three persons who shall serve as nonvoting ex officio members of the Authority: the Director of the Department of Rail and Public Transportation, or his designee; the Commissioner of Highways, or his designee; and the chief elected officer of one town in a county embraced by the Authority to be chosen by the Authority.

All members of the Authority shall serve terms coincident with their terms of office, except that the gubernatorial appointee who is not a member of the Board shall serve for a term of four years. A vacancy occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

The Authority shall appoint a chairman and vice-chairman from among its members.

2002, c. 846, § 15.2-4832; 2004, c. 1000; 2008, c. 434; 2014, c. 805.

§ 33.2-2503.Staff

The Authority shall employ a chief executive officer and such staff as it shall determine to be necessary to carry out its duties and responsibilities under this chapter. No such person shall contemporaneously serve as a member of the Authority. The Department of Transportation and the Department of Rail and Public Transportation shall make their employees available to assist the Authority, upon request.

2002, c. 846, § 15.2-4833; 2014, c. 805.

§ 33.2-2504.Decisions of Authority

A majority of the Authority, which majority shall include at least a majority of the representatives of the counties and cities embraced by the Authority, shall constitute a quorum. Decisions of the Authority

shall require a quorum and shall be in accordance with voting procedures established by the Authority. In all cases, decisions of the Authority shall require the affirmative vote of two-thirds of the members of the Authority present and voting and two-thirds of the representatives of the counties and cities embraced by the Authority who are present and voting and whose counties and cities include at least two-thirds of the population embraced by the Authority; however, no motion to fund a specific facility or service shall fail because of this population criterion if such facility or service is not located or to be located or provided or to be provided within the county or city whose representative's sole negative vote caused the facility or service to fail to meet the population criterion. The population of counties and cities embraced by the Authority shall be the population as determined by the most recently preceding decennial census, except that once the population estimates for July 1 of the fifth year are made available then the population of each county and city shall be adjusted on the basis of population estimates made by the Weldon Cooper Center for Public Service of the University of Virginia.

2002, c. 846, § 15.2-4834; 2014, c. 805; 2016, cc. 224, 375.

§ 33.2-2505.Allocation of certain Authority expenses among component counties and cities

Notwithstanding the provisions of subdivision C 1 of § 33.2-2510, the administrative and operating expenses of the Authority shall be provided in an annual budget adopted by the Authority, to the extent funds for such expenses are not provided from other sources, shall be paid from the Fund. Such budget shall be limited solely to the administrative and operating expenses of the Authority and shall not include any funds for construction or acquisition of transportation facilities or for the performance of any transportation service.

2002, c. 846, § 15.2-4835; 2014, c. 805; 2019, c. 749.

§ 33.2-2506.Payment to members of Authority

The members of the Authority may be paid for their services compensation in either (i) the amount provided in the general appropriation act for members of the General Assembly engaged in legislative business between sessions or (ii) a lesser amount as determined by the Authority. Members may be reimbursed for all reasonable and necessary expenses as provided in §§ 2.2-2813 and 2.2-2825, if approved by the Authority. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

2002, c. 846, § 15.2-4836; 2004, c. 1000; 2014, c. 805.

§ 33.2-2507.Formation of advisory committees

A. The Authority shall have a technical advisory committee, consisting of nine individuals who reside or are employed in counties and cities embraced by the Authority and have experience in transportation planning, finance, engineering, construction, or management. Six members shall be appointed by localities embraced by the Authority and three members shall be appointed by the

Chairman of the Commonwealth Transportation Board. The technical advisory committee shall advise and provide recommendations on the development of projects as required by § 33.2-2508 and funding strategies and other matters as directed by the Authority.

B. The Authority also shall have a planning coordination advisory committee that shall include at least one elected official from each town that is located in any county embraced by the Authority and receives street maintenance payments under § 33.2-319.

C. The Authority may form additional advisory committees.

2002, c. 846, § 15.2-4837; 2014, c. 805.

§ 33.2-2508.Responsibilities of Authority for long-range transportation planning

In fulfilling the requirements of subdivision 1 of § 33.2-2500, the Authority shall be responsible for long-range transportation planning for regional transportation projects in Northern Virginia. In carrying out this responsibility, the Authority shall, on the basis of a regional consensus whenever possible, set regional transportation policies and priorities for regional transportation projects and, at least once every five years, shall consider for revision and revise as necessary the regional transportation plan. The policies and priorities shall have reducing congestion in Planning District 8 as their primary objective to the greatest extent practicable and shall be guided by performance-based criteria such as the ability to improve travel times, reduce delays, connect regional activity centers, improve safety, improve air quality, and move the most people in the most cost-effective manner. Any obstacles to achieving this objective shall be specified in writing, including any reason relating to the need for cooperation by any locality embraced by (i) the Authority, (ii) the District of Columbia, (iii) the State of Maryland, or (iv) any other regional entity in the metropolitan Washington area. Each locality embraced by the Authority shall annually inform the Authority about and the Authority shall annually publish on its website any land use or transportation elements of its comprehensive plan that are not consistent with the plan required by subdivision 1 of § 33.2-2500. No change in such comprehensive plan shall compel the Authority to alter the plan prepared according to this section.

2002, c. 846, § 15.2-4838; 2014, c. 805; 2015, cc. 477, 496; 2017, c. 351.

§ 33.2-2509.Northern Virginia Transportation Authority Fund

There is hereby created in the state treasury a special nonreverting fund for Planning District 8 to be known as the Northern Virginia Transportation Authority Fund, referred to in this chapter as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 33.2-2400, 58.1-638, and 58.1-802.4, any other funds that may be appropriated by the General Assembly, and any funds that may be received for the credit of the Fund from any other source shall be paid into the state treasury and credited 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

interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

The amounts dedicated to the Fund pursuant to §§ 33.2-2400, 58.1-638, and 58.1-802.4 shall be deposited monthly by the Comptroller into the Fund and thereafter distributed to the Authority as soon as practicable for use in accordance with § 33.2-2510. If the Authority determines that such moneys distributed to it exceed the amount required to meet the current needs and demands to fund transportation projects pursuant to § 33.2-2510, the Authority may invest such excess moneys to the same extent as provided in subsection A of § 33.2-1525 for excess funds in the Transportation Trust Fund.

2013, c. 766, § 15.2-4838.01; 2014, c. 805; 2018, cc. 854, 856; 2020, cc. 1230, 1275.

§ 33.2-2510.Use of certain revenues by the Authority

A. All moneys received by the Authority and the proceeds of bonds issued pursuant to § 33.2-2511 shall be used by the Authority solely for transportation purposes benefiting those counties and cities that are embraced by the Authority.

B. 1. Except as provided in subdivision 2, 30 percent of the revenues received by the Authority under subsection A shall be distributed on a pro rata basis, with each locality's share being the total of such fee and taxes received by the Authority that are generated or attributable to the locality divided by the total of such fee and taxes received by the Authority. Of the revenues distributed pursuant to this subsection, as determined solely by the applicable locality, such revenues shall be used for additional urban or secondary highway construction, for other capital improvements that reduce congestion, for other transportation capital improvements that have been approved by the most recent long-range transportation plan adopted by the Authority, or for public transportation purposes. None of the revenue distributed by this subsection may be used to repay debt issued before July 1, 2013. Each locality shall create a separate, special fund in which all revenues received pursuant to this subsection and from the tax imposed pursuant to § 58.1-3221.3 shall be deposited. Each locality shall provide annually to the Authority sufficient documentation as required by the Authority showing that the funds distributed under this subsection were used as required by this subsection.

2. If a locality has not deposited into its special fund (i) revenues from the tax collected under § 58.1-3221.3 pursuant to the maximum tax rate allowed under that section or (ii) an amount, from sources other than moneys received from the Authority, that is equivalent to the revenue that the locality would receive if it was imposing the maximum tax authorized by § 58.1-3221.3, then the amount of revenue distributed to the locality pursuant to subdivision 1 shall be reduced by the difference between the amount of revenue that the locality would receive if it was imposing the maximum tax authorized by such section and the amount of revenue deposited into its special fund pursuant to clause (i) or (ii), as applicable. The amount of any such reduction in revenue shall be redistributed according to

subsection C. The provisions of this subdivision shall be ongoing and apply over annual periods as determined by the Authority.

C. 1. The remaining 70 percent of the revenues received by the Authority under subsection A, plus the amount of any revenue to be redistributed pursuant to subsection B, shall be used by the Authority solely to fund transportation projects selected by the Authority that are contained in the regional transportation plan in accordance with subdivision 1 of § 33.2-2500 and that have been rated in accordance with subdivision 2 of § 33.2-2500. For only those regional funds received in fiscal year 2014, the requirement for rating in accordance with subdivision 2 of § 33.2-2500 shall not apply. The Authority shall give priority to selecting projects that are expected to provide the greatest congestion reduction relative to the cost of the project and shall document this information for each project selected. Such projects selected by the Authority for funding shall be located (i) only in localities embraced by the Authority or (ii) in adjacent localities but only to the extent that such extension is an insubstantial part of the project and is essential to the viability of the project within the localities embraced by the Authority.

2. Not less than 15 days prior to any decision by the Authority for the expenditure of funds pursuant to subdivision 1 for any project to create or improve any transportation facility, the Authority shall make the following publicly available: (i) the project evaluation pursuant to subdivision 2 of § 33.2-2500, (ii) the total amount of funds from the Authority to be used for the project, (iii) the total amount of funds from sources other than the Authority to be used for the project, and (iv) any other rating or scoring of other factors to be taken into account by the Authority related to each such transportation facility.

3. All transportation projects undertaken by the Authority shall be completed by private contractors accompanied by performance measurement standards, and all contracts shall contain a provision granting the Authority the option to terminate the contract if contractors do not meet such standards. Notwithstanding the foregoing, any locality may provide engineering services or right-of-way acquisition for any project with its own forces. The Authority shall avail itself of the strategies permitted under the Public-Private Transportation Act (§ 33.2-1800 et seq.) whenever feasible and advantageous. The Authority is independent of any state or local entity, including the Department and the Commonwealth Transportation Board, but the Authority, the Department, and the Commonwealth Transportation Board shall consult with one another to avoid duplication of efforts and, at the option of the Authority, may combine efforts to complete specific projects. Notwithstanding the foregoing, at the request of the Authority, the Department may provide the Authority with engineering services or right-of-way acquisition for the project with its own forces.

4. With regard to the revenues distributed under subdivision 1, each locality's total long-term benefit shall be approximately equal to the proportion of the total of the fees and taxes received by the Authority that are generated by or attributable to the locality divided by the total of such fees and taxes received by the Authority.

D. For road construction and improvements pursuant to subsection B, the Department may, on a reimbursement basis, provide the locality with planning, engineering, right-of-way, and construction services for projects funded in whole by the revenues provided to the locality by the Authority.

2007, c. 896, § 15.2-4838.1; 2009, cc. 410, 556; 2013, c. 766; 2014, c. 805; 2015, c. 458; 2016, c. 225; 2019, c. 749.

§ 33.2-2511.Authority to issue bonds

The Authority may issue bonds and other evidences of debt as may be authorized by this section or other law. The provisions of Article 5 (§ 33.2-1920 et seq.) of Chapter 19 shall apply, mutatis mutandis, to the issuance of such bonds or other debt. The Authority may issue bonds or other debt in such amounts as it deems appropriate. The bonds may be supported by any funds available except that funds from tolls collected pursuant to subdivision 7 of § 33.2-2512 shall be used only as provided in that subdivision.

2002, c. 846, § 15.2-4839; 2007, c. 896; 2014, c. 805.

§ 33.2-2512.Other duties and responsibilities of Authority

In addition to other powers granted in this chapter, the Authority shall have the following duties and responsibilities:

1. Providing general oversight of regional programs involving mass transit or congestion mitigation, including carpooling, vanpooling, and ridesharing;

2. Providing long-range regional planning, both financially constrained and unconstrained;

3. Recommending to federal, state, and regional agencies regional transportation priorities, including public-private transportation projects and funding allocations;

4. Developing, in coordination with affected counties and cities, regional priorities and policies to improve air quality;

5. Allocating to priority regional transportation projects funds made available to the Authority and, at the discretion of the Authority, directly overseeing such projects;

6. Recommending to the Commonwealth Transportation Board priority regional transportation projects for receipt of federal and state funds;

7. Imposing, collecting, and setting the amount of tolls for use of facilities in the area embraced by the Authority, when the facility is either newly constructed or reconstructed solely with revenues of the Authority or solely with revenues under the control of the Authority in such a way as to increase the facility's traffic capacity, with the amount of tolls variable by time of day, day of the week, vehicle size or type, number of axles, or other factors as the Authority may deem proper, and with all such tolls to be used for programs and projects that are reasonably related to or benefit the users of the applicable

facility, including for the debt service and other costs of bonds whose proceeds are used for such construction or reconstruction;

8. Providing general oversight of regional transportation issues of a multijurisdictional nature, including intelligent transportation systems, signalization, and preparation for and response to emergencies;

9. Serving as an advocate for the transportation needs of Northern Virginia before the state and federal governments;

10. Applying to and negotiating with the government of the United States, the Commonwealth, or any agency, instrumentality, or political subdivision thereof for grants and other funds available to carry out the purposes of this chapter and receiving, holding, accepting, and administering from any source gifts, bequests, grants, aid, or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter subject, however, to any condition upon which gifts, bequests, grants, aid, or contributions are made. Unless otherwise restricted by the terms of the gift, bequest, or grant, the Authority may sell, exchange, or otherwise dispose of such money, securities, or other property given or bequeathed to it in furtherance of its purposes;

11. Acting as a "responsible public entity" for the purpose of the acquisition, construction, improvement, maintenance, or operation, or any combination thereof, of a "qualifying transportation facility" under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.); and

12. Deciding on and voting to impose certain fees and taxes authorized under law for imposition or assessment by the Authority, provided that any such fee or tax assessed or imposed is assessed or imposed in all counties and cities embraced by the Authority. The revenues from such certain fees and taxes shall be kept in a separate account and shall be used only for the purposes provided in this chapter.

2002, c. 846, § 15.2-4840; 2007, c. 896; 2014, c. 805.

Norton Industrial Development Authority

Created

1962 Acts of Assembly, c. 632.

§ 1. There is hereby created within the city of Norton a political subdivision of the Commonwealth with such public and corporate powers as are granted in this act to be known as the Norton Industrial Development Authority, hereinafter called the Authority. (1962, c. 632)

§ 2. As used in this act the word "city" means the city of Norton and the governing body thereof as requisite. (1962, c. 632)

§ 3. The Authority shall be governed by a commission composed of nine commissioners, appointed by the council of the city. All powers and duties of the Authority shall be exercised and performed by the commission. (1962, c. 632)

§ 4. The nine commissioners shall be appointed initially for terms of one, two, three and four years, two being appointed for one, two and three-year terms, and three for four-year terms; subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. Each commissioner shall before entering on his duties take and subscribe the oath prescribed by § 49-1 of the Code of Virginia. (1962, c. 632)

§ 5. The commissioners shall elect from their membership a chairman and vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer or secretary-treasurer. The commission shall meet at least monthly and at such other times as may be required. The commissioners shall receive no salary but shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties. The commission shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually. Copies of each such audit shall be furnished to the council of the city and shall be open to public inspection. (1962, c. 632)

§ 6. The Authority shall have the following powers:

(a) To contract and be contracted with; to sue and to be sued; and to adopt and use a corporate seal, and to alter the same at pleasure;

(b) To acquire, hold and dispose of personal property necessary for its purposes;

(c) To acquire by purchase or lease, real property, or rights, easements or estates therein necessary for its purposes; and to sell, lease and dispose of the same, or any portion thereof or interest therein.

(d) To construct for sale or lease, on such terms and conditions as it may deem proper, warehouses, factories or manufacturing facilities of any kind and description and approaches to and appurtenances thereof.

(e) To employ a director and such other agents and employees as may be necessary, to serve at the pleasure of the commission, and to fix their compensation and prescribe their duties.

(f) To do all other acts and things which may be reasonably necessary and convenient to carry out its purposes and powers. (1962, c. 632)

§ 7. The Authority may foster and stimulate the development of industry in the area within its jurisdiction. To this end, the Authority may appoint an Industrial Advisory Committee to advise it,

consisting of such number of persons as it may deem advisable; such persons shall not receive any compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on business of the Authority. The Authority may accept, and expend for the purposes stated above, money from any public or private source, and may accept, maintain, operate and use, or sell or lease any property conveyed to it for such purposes. (1962, c. 632)

§ 8. In selling, disposing of or leasing for a period of more than one year any of the facilities owned by the Authority, bids therefor shall be first advertised for by publication in one or more newspapers of general circulation published in the city for at least five consecutive days. The Authority shall have the right to reject any and all bids. (1962, c. 632)

§ 9. The council of the city is authorized and empowered to transfer to the Authority the operation and maintenance of such suitable facilities as are now or may be hereafter owned by the city, on such terms and conditions which it may prescribe; but this section shall not be construed as authorizing the Authority to maintain and operate such facilities unless and until the operation thereof has been transferred by the council. (1962, c. 632)

§ 10. The city is authorized and empowered to make appropriations and to provide funds for the operation of the Authority. (1962, c. 632)

§ 11. The Authority shall have the power to issue bonds from time to time in its discretion, for any of its purposes, including the payment or retirement of bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest: (a) from its revenues generally; (b) exclusively from the income and revenues of a particular "facility"; which term shall mean a particular building or structure or particular building or structures including all equipment, appurtenances and accessories necessary or appropriate for the operation of such facility; or (c) exclusively from the income and revenues of certain designated facilities whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government, Commonwealth of Virginia or any political subdivision which is a part of the Authority, or a pledge of any income or revenues of the Authority, or a mortgage of any particular facility or facilities or other property of the Authority. (1962, c. 632)

§ 12. Neither the commissioners of the Authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the Authority (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof and neither the Commonwealth nor any political subdivision thereof other than the Authority shall be liable thereon, nor, shall such bonds or obligations be payable out of any funds or properties other than those of the Authority. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of

the Authority are declared to be issued for an essential public and governmental purpose. (1962, c. 632)

§ 13. Bonds of the Authority shall be authorized by resolution adopted by the commission and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding six per centum per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution or its trust indenture or mortgage may provide. The bonds may be sold at public or private sale. (1962, c. 632)

§ 14. In case any of the commissioners or officers of the Authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this act shall be fully negotiable within the meaning and for all the purposes of Chapter 10 of Title 6 of the Code of Virginia. (1962, c. 632)

§ 15. In order to secure the payment of such bonds the Authority shall have power by provision or provisions included in any resolution authorizing such bonds or in any indenture made to secure their payment:

(a) To pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

(b) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(c) To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

(d) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(e) To covenant as to the rents and fees to be charged in the operation of a facility or facilities, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(f) To prescribe the procedure, if any, by which the terms of any contact with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(g) To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(h) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenant securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by the Authority, to take possession and use, operate and manage any facility or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the Authority with said trustee; to provide for the powers and duties of a trustee or trustees or the holders of bonds or any proportion of them who may enforce any covenant or rights securing or relating to the bonds.

(j) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of said Authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein. (1962, c. 632)

§ 16. An obligee of the Authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action or proceeding at law or in equity to compel the Authority and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of the Authority with or for the benefit of such obligee, and

to require the carrying out of any or all such covenants and agreements of the Authority and the fulfillment of all duties imposed upon the Authority by this chapter.

(b) By suit, action or proceedings in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the Authority. (1962, c. 632)

§ 17. The Authority shall fix and revise from time to time the rents, fees and other charges to be paid by persons for the use of the various facilities of the Authority and for any other service furnished or provided by the Authority. Such rents, fees and charges shall be fixed so as to provide at least sufficient funds to pay the cost of maintaining, repairing and operating such facilities and the principal and interest of any bonds issued by the Authority or other debts contracted as the same shall become due and payable. A reserve may be accumulated and maintained out of the revenues of such Authority for extraordinary repairs and expenses and for such other purposes as may, be provided in any resolution authorizing a bond issue or in any trust indenture securing such bonds. Subject to such provisions and restrictions as may be set forth in the resolution or in the trust indenture authorizing or securing any of the bonds or other obligations issued hereunder, the Authority shall have exclusive control of the revenues derived from any facility or facilities operated and controlled by it and the right to use such revenues in the exercise of its powers and duties set forth in this section. No individual, firm, association or corporation shall receive any profit or dividend from the revenues, earnings or other funds or assets of such authority other than for debts contracted, for services rendered, for materials and supplies furnished and for other value actually received by the Authority. (1962, c. 632)

§ 18. In addition to the other powers conferred by this act, the Authority shall have the power to borrow money and to accept contributions, grants and other financial assistance from the federal government and agencies or instrumentalities thereof for or in aid of the construction and equipment of its facilities or the retirement or refunding of its bonds. To these ends the Authority shall have the power to comply with such conditions and to execute such mortgages, trust indentures and agreements as may be necessary, convenient or desirable. (1962, c. 632)

§ 19. Nothing contained in this act shall be deemed to authorize the Authority to occupy or use any land, streets, buildings, structures or other property of any kind, owned or used by any political subdivision within its jurisdiction, or any public improvement or facility maintained by such political subdivision for the use of its inhabitants, without first obtaining the consent of the governing body thereof. (1962, c. 632)

§ 19-a. The commissioners of the Authority shall not issue any bonds under the provisions of § 11 unless they find, and enter upon the records of the Authority, that financing from private sources for a facility, as defined in § 11, is not available. (1962, c. 632)

§ 19-b. Provided, further, that the Commissioners of the Authority shall not issue any bonds for the construction of factories or manufacturing facilities under the provisions of § 11 hereof, after July 1,

1966, unless the Governor of Virginia shall determine that Norton is still a distressed area. (1962, c. 632)

§ 20. The powers granted and the duties imposed in this act shall be construed to be independent and severable. (1962, c. 632)

Nuclear Energy Consortium Authority, Virginia

§ 67-1400.Definitions

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Nuclear Energy Consortium Authority established pursuant to this chapter.

"Board" means the board of directors of the Authority.

"Consortium" means the nonstock, nonprofit corporation established by the Authority pursuant to § 67-1404.

"Member" means a member of the Consortium.

2013, cc. 57, 394.

§ 67-1401.Virginia Nuclear Energy Consortium Authority established

There is hereby created and constituted a political subdivision of the Commonwealth to be known as the Virginia Nuclear Energy Consortium Authority (the Authority). The Authority's exercise of powers conferred by this chapter shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

2013, cc. 57, 394.

§ 67-1402.Purposes; powers of Authority

A. The Authority is established for the purposes of making the Commonwealth a national and global leader in nuclear energy and serving as an interdisciplinary study, research, and information resource for the Commonwealth on nuclear energy issues.

B. The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the following rights, powers, and duties to:

1. Adopt, use, and alter at will a corporate seal;

2. Acquire, purchase, hold, use, lease, or otherwise dispose of property, real, personal, or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority;

3. Adopt bylaws for the management and regulation of its affairs;

4. Develop and adopt a strategic plan for carrying out the purposes set out in this chapter;

5. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this chapter, including agreements with any person or federal agency;

6. Consult with the General Assembly; federal, state, and local agencies; nonprofit organizations; private industry; and other potential developers and users of nuclear energy;

7. Promote and facilitate agreements among public and private institutions of higher education in the Commonwealth and other research entities to carry out research projects relating to nuclear energy;

8. Disseminate information and research results;

9. Identify and support, in cooperation with Virginia's nuclear entities and the public and private sectors, the development of education programs related to Virginia's nuclear industry;

10. Provide for the establishment of the Consortium by the Board as provided in § 67-1404;

11. Develop a policy regarding any interest in intellectual property that may be acquired or developed by the Consortium;

12. In order to fund and support the activities of the Authority and the Consortium, apply for, solicit, and accept from any source, including any agency of the federal government, the Commonwealth, or any other state, any municipality, county, or other political subdivision thereof, any member, or any private corporation or other entity, (i) grants, including grants made available pursuant to federal legislation, (ii) aid, or (iii) contributions of money, property, or other things of value, which shall be held, used, and applied for the purposes set out by this chapter;

13. Facilitate the collaboration of members toward the attainment of grants and the expenditure of funds in accomplishing the purposes set out by this chapter;

14. Encourage, facilitate, and support the application, commercialization, and transfer of new nuclear energy technologies;

15. Provide public information and communication about nuclear energy and related educational and job opportunities;

16. Provide advice, assistance, and services to institutions of higher education and to other persons providing services or facilities for nuclear research or graduate education;

17. Foster innovative partnerships and relationships among the Commonwealth, the Commonwealth's public institutions of higher education, private companies, federal laboratories, and not-for-profit organizations to accomplish the purposes set out by this chapter; and

18. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

2013, cc. 57, 394.

§ 67-1403.Board of the Authority

A. The Authority shall be governed by a board of directors consisting of 17 members appointed as follows:

1. The Director of the Department of Mines, Minerals and Energy or his designee;

2. The President and Chief Executive Officer of the Virginia Economic Development Partnership or his designee;

3. The Chancellor of the Virginia Community College System or his designee;

4. The President of Virginia Commonwealth University or his designee;

5. The President of the University of Virginia or his designee;

6. The President of Virginia Polytechnic Institute and State University or his designee;

7. The President of George Mason University or his designee;

8. Two individuals to represent an institution of higher education in the Commonwealth not already represented on the Board, at least one of which shall be a private institution of higher education;

9. Six individuals, each to represent a single business entity located in the Commonwealth that is engaged in activities directly related to the nuclear energy industry;

10. One individual to represent a nuclear energy-related nonprofit organization; and

11. One individual to represent a Virginia-based federal research laboratory.

B. The members of the Board described in subdivisions A 1 through A 7 shall serve terms coincident with their terms of office.

C. The 10 members of the Board described in subdivisions A 8 through A 11 shall be appointed by the Governor. The original terms of five of such members shall end on June 30, 2015, and the original term of the five other such members shall end on June 30, 2017, all as designated by the Governor. After the initial staggering of terms, such members shall be appointed for terms of four years. Vacancies in the membership of the Board shall be filled in the same manner as the original appointments for the unexpired portion of the term. Members of the Board described in subdivisions A 8 through A 11 may serve two successive terms on the Board.

D. Any appointment to fill a vacancy on the Board shall be made for the unexpired term of the member whose death, resignation, or removal created the vacancy.

E. Meetings of the Board shall be held at the call of the chairman or of any seven members. Nine members of the Board shall constitute a quorum for the transaction of the business of the Authority. An act of the majority of the members of the Board present at any regular or special meeting at which a quorum is present shall be an act of the Board.

F. Immediately after appointment, the members of the Board shall enter upon the performance of their duties.

G. The Board shall annually elect from among its members a chairman, a vice-chairman, and a treasurer. The Board shall also elect annually a secretary, who need not be a member of the Board, and may also elect such other subordinate officers who need not be members of the Board, as it deems proper. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings.

H. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall have forfeited his or her office or employment by reason of acceptance of membership on the Board or by providing service to the Authority or to the Consortium.

I. On or before November 15 of each year, the Authority shall submit its updated strategic plan, an annual summary of its activities, and recommendations for the support and expansion of the nuclear energy industry in Virginia to the Governor and the Chairmen of the House Appropriations Committee, the Senate Finance Committee, and the House and Senate Commerce and Labor Committees.

2013, cc. 57, 394.

§ 67-1404.Establishment of the Consortium

A. The Board shall provide for the formation, by January 1, 2014, of a nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, not organized for profit, which corporation shall include in its name the words "Virginia Nuclear Energy Consortium," or some variation thereof that is approved by the Board.

B. The Consortium shall be established for the purpose of conducting activities useful in (i) making the Commonwealth a leader in nuclear energy; (ii) serving as an interdisciplinary study, research, and information resource for the Commonwealth on nuclear energy issues; and (iii) carrying out the provisions of this chapter, including raising money on behalf of the Authority in the corporate and nonprofit community and from other nonstate sources.

C. The membership of the Consortium shall be open to:

1. Public or private institutions of higher education in the Commonwealth;

2. Virginia-based federal research laboratories;

3. Nuclear energy-related nonprofit organizations;

4. Business entities with operating facilities located in the Commonwealth that are engaged in activities directly related to the nuclear energy industry; and

5. Other individuals or entities whose membership is approved by the board of directors of the Consortium through a process established by the bylaws of the Consortium.

D. The board of directors of the Consortium shall consist of members selected and approved by the Consortium pursuant to a process established by its bylaws.

E. The board of directors of the Consortium shall appoint an executive director to serve as the principal administrative officer of the Consortium. The executive director shall carry out the specific duties assigned to him by the board of directors, develop appropriate policies and procedures for the operation of the Consortium; employ such persons and secure such services as may be required to carry out the purposes of the Consortium; expend funds as authorized by the Authority; and accept moneys from federal or private sources on behalf of the Authority, including moneys contributed by Consortium members to the Authority, for cost-sharing on nuclear energy research or projects. The executive director and any other employee of the Consortium (i) shall be compensated in the manner provided by the board of directors of the Authority, (ii) shall not be subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.), and (iii) shall not be deemed to be an officer or employee for purposes of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

F. The articles of incorporation of the Consortium shall provide that upon dissolution the net assets of the Consortium shall be transferred to the Authority.

G. The Consortium shall not be deemed to be a state or governmental agency, advisory agency, public body, or agency or instrumentality for purposes of Chapters 8 (§ 2.2-800 et seq.), 18 (§ 2.2-1800 et seq.), 24 (§ 2.2-2400 et seq.), 29 (§ 2.2-2900 et seq.), 31 (§ 2.2-3100 et seq.), 37 (§ 2.2-3700 et seq.), 38 (§ 2.2-3800 et seq.), 43 (§ 2.2-4300 et seq.), 44 (§ 2.2-4400 et seq.), 45 (§ 2.2-4500 et seq.), 46 (§ 2.2-4600 et seq.), and 47 (§ 2.2-4700 et seq.) of Title 2.2, Chapter 14 (§ 30-130 et seq.) of Title 30, or Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1.

H. The board of directors of the Consortium shall adopt, alter, and repeal bylaws governing the manner in which its business shall be transacted and the manner in which the activities of the Consortium shall be conducted.

I. The Consortium shall report on all of its non-proprietary activities at least twice a year to the Authority.

2013, cc. 57, 394.

§ 67-1405.Moneys of Authority

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other orders of such persons as the Authority may authorize to execute such warrants or orders.

2013, cc. 57, 394.

§ 67-1406.Audits; external reviews

A. The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the financial accounts of the Authority. The audit report and any nonproprietary information provided to the auditor in connection with the audit shall be made available to the public, upon request, in accordance with the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

B. The Authority, if it receives state funds, shall be subject to periodic external review either (i) under the provisions of the Legislative Program Review and Evaluation Act (§ 30-64 et seq.) or (ii) by an entity appointed for that purpose by the Governor.

2013, cc. 57, 394.

Offshore Wind Development Authority, Virginia

§ 67-1200.Definitions

As used in this chapter, unless the context requires another meaning:

"Authority" means the Virginia Offshore Wind Development Authority created pursuant to this chapter.

"Developer" means any private developer of offshore wind energy projects.

"Offshore wind energy project" means a wind-powered electric energy facility, including tower, turbine, and associated equipment, located off the coast of the Commonwealth beyond the Commonwealth's three-mile jurisdictional limit, and includes interests in land, improvements, and ancillary facilities.

"Transmission study" means a study to determine the potential interconnection options to accommodate multiple offshore wind energy projects in the Hampton Roads region.

2010, cc. 507, 681.

§ 67-1201.Authority created; purpose

The Virginia Offshore Wind Development Authority is created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Authority is established for the purposes of facilitating, coordinating, and supporting the development, either by the Authority or by other qualified entities, of the offshore wind energy industry, offshore wind energy projects, and associated supply chain vendors by collecting relevant metocean and environmental data, by identifying existing state and regulatory or administrative barriers to the development of the offshore wind energy industry, by working in cooperation with relevant local, state, and federal agencies to upgrade port and other logistical facilities and sites to accommodate the manufacturing and assembly of offshore wind energy project components and vessels, and by ensuring that the development of such projects is compatible with other ocean uses and avian and marine resources, including both the possible interference with and positive effects on naval facilities and operations, NASA-Wallops Flight Facility operations, shipping lanes, recreational and commercial fisheries, and avian and marine species and habitats. The Authority shall, in cooperation with the relevant state and federal agencies as necessary, recommend ways to encourage and expedite the development of the offshore wind energy industry. The Authority shall also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate.

The Authority shall have only those powers enumerated in this chapter.

2010, cc. 507, 681.

§ 67-1202.Membership; terms; vacancies; expenses

A. The Authority shall be composed of nine nonlegislative citizen members appointed by the Governor, one of whom shall be a representative of the Virginia Commercial Space Flight Authority. In addition, one ex officio member without voting privileges shall be selected by the Governor after consideration of the persons nominated by the Secretary of the Navy. With the exception of the representative of the Virginia Commercial Space Flight Authority, all members of the Authority shall reside in the Commonwealth.

B. Except as otherwise provided herein, all appointments shall be for terms of four years each. No member shall be eligible to serve more than two successive four-year terms. After expiration of an initial term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The initial appointments of members shall be as follows: three members shall be appointed for terms of four years; three members shall be appointed for terms of three years; and three members shall be appointed for terms of two years. Thereafter all appointments shall be for terms of four years.

D. The Authority shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.

E. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds as may be appropriated to the Authority by the General Assembly.

F. Members of the Authority shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

G. Except as otherwise provided in this chapter, members of the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

2010, cc. 507, 681; 2011, c. 17; 2012, c. 502.

§ 67-1203.Data collection

A. The Authority shall, through moneys derived from sources other than state funds, to the extent such moneys are available, operate in cooperation with the National Oceanic and Atmospheric Administration to upgrade wind resource and other metocean assessment equipment at Chesapeake Light Tower and other structures.

B. The Authority may establish public-private partnerships with a developer pursuant to the Public-Private Educational Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) for the installation and operation of wind resource and other metocean equipment, including light detection and ranging equipment, meteorological measurement towers, and data collection platforms. Any partnership established pursuant to this subsection shall stipulate that:

1. The Authority and the developers shall share the costs of the upgrade;

2. The developer, in coordination with the Authority and relevant state and federal agencies, shall operate any meteorological measurement towers and data collection platforms; and

3. The developer shall make all collected data available to the Authority.

C. The Authority may establish public-private partnerships with a developer pursuant to the Public-Private Educational Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) for the collection of avian and marine environmental data. Any partnership established pursuant to this subsection shall stipulate that:

1. The Authority and the developer shall share the costs of data collection;

2. The developer, in coordination with the Authority and relevant state and federal agencies, shall manage the environmental data collection process; and

3. The developer shall make all collected data available to the Authority.

D. The Authority may make any data collected pursuant to this section available to the public.

2010, cc. 507, 681.

§ 67-1204.Port facilities upgrades

The Authority may establish public-private partnerships with entities pursuant to the Public-Private Educational Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) for the upgrade of port facilities and other logistical equipment and sites to accommodate the manufacturing and assembly of offshore wind energy project components and vessels that will support the construction and operations of offshore wind energy projects. Any partnership established pursuant to this subsection shall stipulate that the Authority and the entities shall share the costs of the upgrade.

2010, cc. 507, 681.

§ 67-1205.Federal loan guarantees

A. The Authority, on behalf of the Commonwealth, may apply to the U.S. Department of Energy for federal loan guarantees authorized or made available pursuant to Title XVII of the Energy Policy Act of 2005, 42 U.S.C. § 16511 et seq., the American Recovery and Reinvestment Act of 2009, P.L. 111-5, or other similar federal legislation, to facilitate the development of offshore wind energy projects.

B. Upon obtaining federal loan guarantees for offshore wind energy projects pursuant to subsection A, the Authority, subject to any restrictions imposed by federal law, may allocate or assign all or portions thereof to qualified third parties, on such terms and conditions as the Authority finds are appropriate. Actions of the Authority relating to the allocation and assignment of such loan guarantees shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 4 of § 2.2-4002. Decisions of the Authority shall be final and not subject to review or appeal.

2010, cc. 507, 681.

§ 67-1206.Transmission of power from offshore wind energy projects

A. The incumbent, investor-owned utility for the onshore service territory adjacent to any offshore wind generation project shall, at the request of the Department of Mines, Minerals and Energy, initiate a transmission study. Such utility shall initiate the transmission study no more than 30 days following the request of the Department of Mines, Minerals and Energy, and shall report to the Department of Mines, Minerals and Energy within 180 days of the request. The Department of Mines, Minerals and Energy shall report the results of the study to the Authority. The Department of Mines, Minerals and Energy shall request the study no later than July 31, 2010.

B. Upon receipt of the study, but no later than May 31, 2011, the Authority shall recommend such actions as it deems appropriate to facilitate transmission of power from offshore wind energy projects.

2010, cc. 507, 681.

§ 67-1207.Powers and duties of the Authority

In addition to such other powers and duties established under this chapter, the Authority shall have the power and duty to:

1. Adopt, use, and alter at will an official seal;

2. Make bylaws for the management and regulation of its affairs;

3. Maintain an office at such place or places within the Commonwealth as it may designate;

4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is created;

5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary, and fix their compensation to be payable from funds made available to the Authority;

7. Invest its funds as permitted by applicable law;

8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any state, and from any municipality, county, or other political subdivision thereof and any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;

9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating, and providing for the financing or assisting in the financing of any project;

10. Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied;

11. Identify and take steps to mitigate existing state and regulatory or administrative barriers to the development of the offshore wind energy industry, including facilitating any permitting processes; and

12. Enter into interstate partnerships to develop the offshore wind energy industry and offshore wind energy projects.

2010, cc. 507, 681.

§ 67-1208.Director; staff; counsel to the Authority

A. The Director of the Department of Mines, Minerals and Energy shall serve as Director of the Authority and shall administer the affairs and business of the Authority in accordance with the provisions of this chapter and subject to the policies, control, and direction of the Authority. The Director shall maintain, and be custodian of, all books, documents, and papers of or filed with the Authority. The Director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Director also shall perform such other duties as prescribed by the Authority in carrying out the purposes of this chapter.

B. The Division of Offshore Wind within the Department of Mines, Minerals and Energy shall serve as staff to the Authority.

C. The Office of the Attorney General shall provide counsel to the Authority.

2010, cc. 507, 681; 2020, c. 794.

§ 67-1209.Annual report

On or before October 15 of each year, the Authority shall submit an annual summary of its activities and recommendations to the Governor and the Chairs of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Labor and Commerce, and the Senate Committee on Commerce and Labor. Such report may include the submission of the Division of Offshore Wind within the Department of Mines, Minerals and Energy required by § 45.1-161.5:1.

2010, cc. 507, 681; 2020, c. 794.

§ 67-1210.Confidentiality of information

A. The Authority shall hold in confidence the personal and financial information supplied to it, or maintained by it, concerning the siting and development of offshore wind energy projects.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

C. Information supplied by or maintained on persons or entities applying for or receiving allocations of federal loan guarantees, as well as specific information relating to the amount and identity of recipients of such distributions, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

2010, cc. 507, 681.

§ 67-1211.Declaration of public purpose; exemption from taxation

A. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.

B. The Authority shall be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Authority and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Authority under the provisions of this chapter.

2010, cc. 507, 681.

Online Virginia Network Authority

§ 23.1-3135.Online Virginia Network Authority established

The Online Virginia Network Authority (the Authority) is established as a political subdivision of the Commonwealth for the purpose of providing a means for individuals to earn degrees and postsecondary education credentials by improving the quality of and expanding access to online degree and credential programs that are beneficial to citizens, public institutions of higher education, and employers in the Commonwealth.

2017, c. 686.

§ 23.1-3136.Board of Trustees

A. The Authority shall be governed by a Board of Trustees (the Board) that has a total membership of 19 members that shall consist of four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the Senate Committee on Rules; three nonlegislative citizen members to be appointed by the Governor; one nonlegislative citizen member to be appointed by the board of visitors of George Mason University; one nonlegislative citizen member to be appointed by the board of visitors of Old Dominion University; one nonlegislative citizen member to be appointed by the State Board; one nonlegislative citizen member to be appointed by the board of visitors of James Madison University, and five members who shall serve ex officio with voting privileges, consisting of the President of George Mason University or his designee, the President of Old Dominion University or his designee, the President of James Madison University or his designee, the Chancellor of the Virginia Community College System or his designee, and the Director of the Council. Nonlegislative citizen members of the Authority shall be citizens of the Commonwealth.

B. Legislative and ex officio members of the Board shall serve terms coincident with their terms of office.

C. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

D. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.

E. No House member shall serve more than four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is

appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

F. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

G. Legislative members of the Board shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

H. George Mason University, Old Dominion University, and the System shall provide staff support to the Authority and the Board. All agencies of the Commonwealth shall provide assistance to the Board, upon request.

2017, c. 686; 2018, cc. 199, 200, 832, 845; 2020, cc. 174, 340.

§ 23.1-3137.Duties of the Authority

The Authority shall:

1. Expand access to affordable higher education in the Commonwealth by establishing the Online Virginia Network (the Network) for the purpose of coordinating the online delivery of courses that facilitate the completion of degrees at George Mason University, Old Dominion University, James Madison University, and comprehensive community colleges;

2. Encourage each public institution of higher education and each consortium of public institutions of higher education that offers online courses, online degree programs, or online credential programs to offer any such course, degree program, or credential program through the Network;

3. Oversee a process of approval for public institutions of higher education and consortia of such institutions to participate in the Network, with such funds as are appropriated for such purpose and made available to it;

4. Serve as a resource for residents of the Commonwealth and disseminate information regarding the opportunities for online learning offered by institutions and consortia that participate in the Network;

5. Coordinate the maintenance of an online portal through which potential students may examine and enroll seamlessly in Network offerings;

6. Collaborate with institutions and consortia that participate in the Network to ensure that the needs of enrolled students are met before, during, and after enrollment through online student support systems;

7. To the extent practicable, ensure that courses and degree programs offered through the Network (i) are accredited by an accrediting agency recognized by the U.S. Department of Education or authorized by the Council, as applicable; (ii) expand access to underserved populations based on income, race, geography, and age; (iii) are responsive to the employment demands of the Commonwealth; (iv) employ learning and delivery technologies, which may include competency-based and experiential learning, in an efficient and cost-effective manner to promote flexibility for each student to pursue online courses and programs at his own pace and in his own location throughout the year; (v) minimize student expenses and reduce time-to-degree or time-to-credential; and (vi) are offered in collaboration with existing public and private providers of online courses;

8. Promote the refinement and implementation of articulation agreements to ensure that credits earned through the Network are transferable to each other public institution of higher education and contribute to on-time degree completion at each such institution;

9. Assist in developing processes to help institutions and consortia that participate in the Network to expand their online offerings;

10. Ensure that the Passport Program and the Uniform Certificate of General Studies Program, established pursuant to § 23.1-907, be made available through the Network;

11. Develop specific goals for meeting the demand in the Commonwealth for affordable and accessible higher education through online learning;

12. Review and report annually to the Governor and the General Assembly on the cost structure of funds allocated to the establishment, maintenance, and expansion of the Network. In addition, the Authority shall examine ways to reduce the cost of online education and develop a budget that incorporates estimated expected tuition revenue from online students and its use in supporting the Network and assumes that any financial aid will come from existing financial aid programs; and

13. Accept, administer, and account for any state, federal, or private moneys that it may receive. Any moneys, including interest thereon, that have not been expended by the Authority by the end of each fiscal year shall not revert to the general fund but shall remain in the accounts of the Authority.

2017, c. 686; 2018, cc. 199, 200, 832, 845; 2020, cc. 174, 340.

§ 23.1-3138.Procurement and information technology

A. The Authority shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for § 2.2-4342, which shall not be construed to require compliance with the prequalification application procedures of subsection B of § 2.2-4317, if it adopts and complies with policies for the procurement of goods and services, including professional services, that (i) are based upon competitive principles; (ii) in each instance seek competition to the maximum practical degree; (iii) implement a system of competitive negotiation for professional services pursuant to §§ 2.2-4303.1

and 2.2-4302.2; (iv) prohibit discrimination in the solicitation and award of contracts based on the bidder's or offeror's race, religion, color, sex, sexual orientation, gender identity, national origin, age, or disability or on any other basis prohibited by state or federal law; (v) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354; (vi) consider the impact on correctional enterprises under § 53.1-47; (vii) provide that whenever solicitations are made seeking competitive procurement of goods or services, it shall be a priority of the Authority to provide for fair and reasonable consideration of small, women-owned, and minority-owned businesses and to promote and encourage a diversity of suppliers; and (viii) identify the public, educational, and operational interests served by any procurement rule that deviates from procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

B. The Authority shall be exempt from the provisions governing the Virginia Information Technologies Agency in Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 and the provisions governing the Information Technology Advisory Council in Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2, if it adopts and complies with policies and professional best practices regarding strategic planning for information technology, project management, security, budgeting, infrastructure, and ongoing operations.

2017, c. 686; 2020, c. 1137.

Park Authorities Act

§ 15.2-5700.Short title; application

This chapter shall be known and may be cited as the "Park Authorities Act." The chapter shall apply to all localities of the Commonwealth.

Code 1950, § 15-714.1; 1950, p. 1244; 1952, c. 401; 1962, c. 623, § 15.1-1228; 1997, c. 587.

§ 15.2-5701.Definitions

As used in this chapter, the following words and terms shall mean unless the context shall indicate otherwise:

"Authority" means an authority created under the provisions of § 15.2-5702 or, if any such authority shall be abolished, the entity succeeding to the principal functions thereof.

"Federal agency" means the United States of America and any department or bureau thereof, and any other agency or instrumentality of the United States of America heretofore established or which may be established hereafter.

"Park" means public parks and recreation areas as the terms are generally used.

Code 1950, § 15-714.2; 1950, p. 1244; 1952, c. 401; 1962, c. 623, § 15.1-1229; 1997, c. 587.

§ 15.2-5702.Creation of authorities

A. A locality may by ordinance or resolution, or two or more localities may by concurrent ordinances or resolutions, signify their intention to create a park authority, under an appropriate name and title, containing the word "authority" which shall be a body politic and corporate.

Whenever an authority has been incorporated by two or more localities, any one or more of the localities may withdraw therefrom, but no locality shall be permitted to withdraw from any authority that has outstanding obligations unless United States securities have been deposited for their payment or without unanimous consent of all holders of the outstanding obligations.

Other localities may join the authority as provided in the ordinances or resolutions.

B. Each ordinance or resolution shall include articles of incorporation setting forth:

1. The name of the authority and the address of its principal office.

2. The name of each incorporating locality, together with the names, addresses and terms of office of the first members of the board of the authority.

3. The purpose or purposes for which the authority is created.

C. Each participating locality shall cause to be published at least one time in a newspaper of general circulation in its locality, a copy of the ordinance or resolution together with a notice stating that on a day certain, not less than ten days after publication of the notice, a public hearing will be held on such

ordinance or resolution. If at the hearing substantial opposition to the proposed park authority is heard, the members of the participating localities' governing bodies may in their discretion call for a referendum on the question of establishing such an authority. The request for a referendum shall be initiated by resolution of the governing body and filed with the clerk of the circuit court for the locality. The court shall order the referendum as provided for in § 24.2-681 et seq. Where two or more localities are participating in the formation of an authority the referendum, if any be ordered, shall be held on the same date in all such localities so participating. In any event if ten percent of the registered voters in such locality file a petition with the governing body at the hearing calling for a referendum such governing body shall request a referendum as herein provided.

D. Having specified the initial plan of organization of the authority, and having initiated the program, the localities organizing such authority may, from time to time, by subsequent ordinance or resolution, after public hearing, and with or without referendum, specify further parks to be acquired and maintained by the authority, and no other parks shall be acquired or maintained by the authority than those so specified. However, if the governing bodies of the localities fail to specify any project or projects to be undertaken, and if the governing bodies do not disapprove any project or projects proposed by the authority, then the authority shall be deemed to have all the powers granted by this chapter.

Code 1950, § 15-714.3; 1950, p. 1244; 1952, c. 401; 1962, c. 623, § 15.1-1230; 1975, c. 517; 1997, c. 587.

§ 15.2-5703.Members of authority; appointment, terms, compensation, etc.; officers, quorum

Each authority created hereunder, whether created by single or multiple localities, shall be governed by a board of not less than six members, but always an even number, appointed by the governing body of the locality. The board members shall be appointed for staggered four-year terms. Members of the governing body may be appointed to the board but shall not comprise a majority thereon.

When an authority is created by participating localities, each shall appoint at least two members, one of whom may be a member of the governing body. One-half of the members first appointed by each governing body shall serve for two years and one-half shall serve for four years. After the first appointment, the term of office of all members shall be four years. When one or more additional localities join an existing authority, each of such participating localities shall have not less than two members on the authority's board. The first members shall be appointed immediately upon the admission of the locality into the authority in the same manner as were the first members of the authority.

The members of the board of the authority shall elect one of their number chairman and shall elect a secretary and a treasurer who need not be members of the board of the authority. The offices of secretary and treasurer may be combined. A majority of the members of the authority shall constitute a

quorum and the vote of a majority of such quorum shall be necessary for any action taken by the authority. No vacancy in the membership of the board of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

Localities which created or thereafter joined the authority, by ordinance or resolution or concurrent ordinances or resolutions, may provide for the payment of compensation to the members of the authority; provided no compensation shall be paid for meetings not attended and for the reimbursement to each member of the authority the amount of his actual expenses necessarily incurred in the performance of that member's duties.

Code 1950, § 15-714.4; 1950, p. 1246; 1952, c. 401; 1962, c. 623, § 15.1-1231; 1978, cc. 37, 717; 1984, cc. 142, 255; 1995, c. 626; 1997, c. 587.

§ 15.2-5704.Powers of authority

Each authority shall be deemed to be performing essential governmental functions providing for the public health and welfare, and is authorized and empowered:

1. To have existence for such term of years as specified by the participating localities;

2. To adopt bylaws for the regulation of its affairs and the conduct of its business;

3. To adopt an official seal and alter the same at pleasure;

4. To maintain an office at such place or places as it may designate;

5. To sue and be sued;

6. To acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain parks within, or partly within and partly outside, one or more of the participating localities; to acquire by gift, purchase or the exercise of the right of eminent domain lands or rights in land or water rights in connection therewith; and to sell, lease as lessor, transfer or dispose of any property or interest therein acquired by it; however, the power of eminent domain shall not extend beyond the geographical limits of the localities composing the authority;

7. To regulate the uses of all lands and facilities under control of the authority;

8. To issue revenue bonds and revenue refunding bonds of the authority, such bonds to be payable solely from revenues derived from the use of the facilities or the furnishing of park services;

9. To accept grants and gifts from the localities forming or thereafter joining the authority, the Commonwealth, the federal government or any other governmental bodies or political subdivisions, and from any other person;

10. To enter into contracts with the federal government, the Commonwealth, any political subdivision, or any agency or instrumentality thereof, or with any other person providing for or relating to the furnishing of park services or facilities;

11. To contract with any municipality, county, person or any public authority or political subdivision of this or any adjoining state, on such terms as the authority shall deem proper, for the construction, operation and maintenance of any park which is partly in this Commonwealth and partly in such adjoining state;

12. To exercise the same rights for acquiring property for the construction or improvement, maintenance or operation of a park as the locality or localities by which such authority is created may exercise. The governing body of any participating locality, notwithstanding any contrary provision of law, general or special, is authorized and empowered to transfer jurisdiction over, to lease, lend, grant or convey to the authority, upon the request of the authority, upon such terms and conditions as the governing body of such locality may agree with the authority as reasonable and fair, real or personal property as may be necessary or desirable in connection with the acquisition, construction, improvement, operation or maintenance of a park, including public roads and other property already devoted to public use. Agreements may be entered into by the authority with the Commonwealth, or any agency acting on behalf of the Commonwealth, for the acquisition of any lands or property, owned or controlled by the Commonwealth, for the purposes of construction or improvement, maintenance or operation of a park;

13. In the event of annexation by a municipality not a member of the authority of lands, areas, or territory served by the authority, then such authority may continue to do business, exercise its jurisdiction over properties and facilities in and upon or over such lands, areas or territory as long as any bonds or indebtedness remain outstanding or unpaid, or any contracts or other obligations remain in force;

14. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including a trust agreement or trust agreements securing any revenue bonds or revenue refunding bonds issued hereunder;

15. To do all acts and things necessary or convenient to carry out the powers granted by this chapter;

16. To borrow, at such rates of interest as the law authorizes, from the federal government or any agency thereof, individuals, partnerships, or private or municipal corporations, for the purpose of acquiring parklands and improvements thereon; to issue its notes, bonds or other obligations; to secure such obligations by mortgage or pledge of the property and improvements being acquired and the income derived therefrom; and to use any revenues and other income of the authority for payment of interest and retirement of principal of such obligations provided that prior approval of the governing body of the locality shall be obtained by an authority that was created by a single locality. Any locality which has formed or joined an authority may lend money to the authority. The power to borrow set forth in this subdivision shall be in addition to the power to issue revenue bonds and revenue refunding bonds set forth in subdivision 8 of this section and § 15.2-5712. Notes, bonds or other

obligations issued under this subdivision shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any political subdivision of the Commonwealth; and

17. To adopt such rules and regulations from time to time, not in conflict with the laws of this Commonwealth, concerning the use of properties under its control as will tend to the protection of such property and the public thereon. No such rule or regulation shall be adopted until after descriptive notice of an intention to propose such rule or regulation for passage has been published in accordance with the procedures required for the adoption of general county ordinances and emergency county ordinances as set forth in § 15.2-1427, mutatis mutandis. The full text of any proposed rule or regulation shall be available for public inspection and copying during regular office hours of the authority at a place designated in the published notice.

Code 1950, § 15-714.5; 1950, p. 1246; 1952, c. 401; 1956, c. 472; 1962, c. 623, § 15.1-1232; 1968, c. 613; 1976, c. 483; 1977, c. 381; 1981, c. 182; 1996, c. 279; 1997, c. 587.

§ 15.2-5704.1.Northern Virginia Regional Park Authority

The Northern Virginia Regional Park Authority is authorized to acquire, either by gift or purchase, any real property or interests therein that the Northern Virginia Regional Park Authority considers necessary or desirable to provide public use areas as identified in the Goose Creek Scenic River Report published in 1975.

2018, c. 273.

§ 15.2-5705.Violation of rules and regulations

Any violation of any such rule and regulation adopted pursuant to subdivision 17 of § 15.2-5704 shall constitute a Class 4 misdemeanor.

1977, c. 381, § 15.1-1232.1; 1997, c. 587.

§ 15.2-5706.Appointment of special conservators of the peace

The chairman of the board of any authority created pursuant to the provisions of this chapter may apply to the circuit court for any locality for the appointment of one or more special conservators of the peace under procedures specified by § 19.2-13. Any such special conservator of the peace shall have, within the lands and facilities controlled by such authority, the powers, functions, duties, responsibilities and authority of any other conservator of the peace.

1977, c. 381, § 15.1-1232.2; 1997, c. 587.

§ 15.2-5707.Recordation of conveyances of real estate to park authorities

No deed purporting to convey real estate to a park authority shall be recorded unless accepted by a person authorized to act on behalf of the park authority, which acceptance shall appear on the face thereof.

1983, c. 52, § 15.1-1232.3; 1997, c. 587.

§ 15.2-5708.Exemption from taxation

No authority shall be required to pay any taxes or assessments upon any park acquired and constructed by it under the provisions of this chapter.

Code 1950, § 15-714.6; 1950, p. 1248; 1962, c. 623, § 15.1-1233; 1997, c. 587.

§ 15.2-5709.Rates and charges

The authority is hereby authorized to fix and revise from time to time rates, fees and other charges for the use of and for the services furnished or to be furnished by any park.

Code 1950, § 15-714.7; 1950, p. 1248; 1962, c. 623, § 15.1-1234; 1997, c. 587.

§ 15.2-5710.Funds

All moneys received pursuant to the powers granted in this chapter shall be held and applied solely as provided in this chapter. The authority shall provide that any officer or other fiscal agent to which such moneys shall be paid shall hold and apply the same for the purposes hereof, subject to such regulations as the authority may provide.

Code 1950, § 15-714.8; 1950, p. 1248; 1962, c. 623, § 15.1-1235; 1997, c. 587.

§ 15.2-5711.Conveyance or lease of park to authority; contract for park services; when referendum required before certain contracts made

Each locality and other public body is hereby authorized and empowered:

1. To convey or lease to any authority created hereunder, with or without consideration, any park upon such terms and conditions as the governing body thereof shall determine to be for the best interests of such locality or other public body; and

2. To contract with any authority created hereunder for park services; provided, that no locality shall enter into any contract with an authority involving payments by such locality to such authority for park services which requires the locality to incur an indebtedness extending beyond one fiscal year, unless the question of entering into such contract shall first be submitted to the voters of the locality for approval or rejection by a majority vote. Nothing herein shall prevent any locality from making a voluntary contribution to any authority.

In the event that a locality shall desire to contract with an authority under this subdivision, such governing body shall adopt a resolution stating in brief and general terms the substance of the proposed contract for park services and requesting the circuit court for the locality to order an election upon the question of entering into such contract. A copy of such resolution, certified by the clerk of the governing body, shall be filed with the judge of the circuit court who shall thereupon enter an order in accordance with § 24.2-681 et seq. Notice of such election entered and paid for by the locality shall

be published at least once in a newspaper of general circulation in the locality at least ten days before the election.

The question to be submitted to the voters for determination shall include the names of the locality and the authority between whom the contract is proposed and the nature, duration and cost of such contract.

Code 1950, § 15-714.9; 1950, p. 1248; 1956, c. 474; 1962, c. 623, § 15.1-1236; 1997, c. 587.

§ 15.2-5712.Revenue bonds

Each authority is authorized to issue, at one time or from time to time, revenue bonds of the authority for the purpose of acquiring, purchasing, constructing, reconstructing, improving or extending parks and acquiring necessary land or equipment therefor, and revenue refunding bonds of the authority for the purpose of refunding any revenue bonds outstanding. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates as authorized by law, as may be determined by the authority. Bonds may be made redeemable before maturity, at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under the provisions of this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the authority.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Bonds may be issued under the provisions of this chapter without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this chapter.

Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any political subdivision of the Commonwealth, but such bonds shall be payable solely from revenues of the authority as provided herein.

Code 1950, § 15-714.10; 1956, c. 472; 1958, c. 484; 1962, c. 623, § 15.1-1237; 1997, c. 587.

§ 15.2-5713.Same; for water or sewer systems, etc

An authority created under the provisions of this chapter is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the authority for the purpose of paying the whole or any part of the cost of any water system, sewer system, sewage disposal system, or garbage and refuse collection and disposal system, or any combination of any thereof and for improvement and maintenance of any such system. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates as may be authorized by law, shall mature at such time or times not exceeding twenty years from their date or dates, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds.

Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or of any incorporating or participating locality, or a pledge of the faith and credit of the Commonwealth or of any incorporating or participating locality.

Code 1950, § 15-714.11; 1954, c. 540; 1962, c. 623, § 15.1-1238; 1997, c. 587.

§ 15.2-5714.Bonds mutilated, lost or destroyed

Should any bond issued under this chapter become mutilated or be lost or destroyed, the authority may cause a new bond of like date, number and tenor to be executed and delivered in exchange and substitution for, and upon cancellation of, such mutilated bond and its coupons, or in lieu of and in substitution for such lost or destroyed bond and its unmatured coupons. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost or destroyed bond (i) has paid the reasonable expense and charges in connection therewith; (ii) in the case of a lost or destroyed bond, has filed with the authority and its treasurer satisfactory evidence that such bond was lost or destroyed and that the holder was the owner thereof; and (iii) has furnished indemnity satisfactory to its treasurer.

Code 1950, § 15-714.12; 1962, c. 203, § 15.1-1238.1; 1997, c. 587.

Parking Authorities Act

Created
1958 Acts of Assembly, c. 383.

Amendments
1972, c. 337 (§§ 2, 3)

Editor's note: Applies to counties with certain populations; applicable to Counties of Arlington and Fairfax.

§ 1. This Act shall be known and may be cited as the "Parking Authorities Act." (1958, c. 383)

§ 2. It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of any county having a density of population in excess of four thousand per square mile or a population exceeding four hundred thousand is necessary to the health, safety and general welfare of the public, whether residing in such county or traveling to, through or from such county in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of such counties; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the present time a public nuisance; that such parking prevents the free circulation of traffic in, through and from such county, and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions for sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided; and that the enactment of the provisions of this act is hereby declared to be a public necessity. (1958, c. 383; 1972, c. 337)

§ 3. As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Authority created under the provisions of this act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the authority shall be given by law.

(b) The word "cost" as applied to Parking Facilities or to extensions or additions thereto shall include the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and interest acquired by the Authority for such construction or reconstruction or the operation thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such building or structures may be moved, finance charges, inert prior to and during construction, and, if deemed advisable by the governing body, for one year after completion of construction,

reasonable provision for working capital, cost of engineering and legal services, cost of plans an specifications, surveys and estimates of cost and of revenues, administrative expense and such other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof and the placing of the Parking Facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(c) The words "governing body" shall mean the board, commission, or other body by whatever name it may be known in which the general legislative powers of such county are vested.

(d) The word "county" shall mean any county having a density of population in excess of four thousand per square mile or a population exceeding four hundred thousand.

(e) The words "Parking Facilities" shall mean and shall include lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to public use for a fee, and may also include terminal facilities for trucks and busses, waiting rooms, lockers, and offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easement and interests relation thereto which are deemed necessary for the construction or operation thereof; provided, however, the words "Parking Facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles. (1958, c. 383; 1972, c. 337)

§ 4. (a) The governing body of any such county may by resolution signify its determination to organize an Authority under the provisions of this Act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for such hearing, in a newspaper having a general circulation in the county. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the authority and shall state the time and place of the public hearing to be held thereon. Such county shall not be required to make any other publication of such resolution under the provisions of any other law.

(b) Such resolution shall include articles of incorporation which shall set forth:

(1) the name of the Authority;

(2) a statement that such Authority is organized under this Act;

(3) the name of the organizing county; and

(4) the names and addresses of the first members of the Authority appointed by the organizing county.

(c) Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the Commonwealth of Virginia. (1958, c. 383)

§ 5. The Authority organized under the provisions of this Act shall consist of five members selected by the governing body of the organizing county who shall serve for terms expiring one, two, three, four, and five years, respectively, from the date of appointment, the term of each such member to be designated by said governing body. The successor of each member of the Authority shall be appointed for a term of five years but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Authority before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Authority.

The Authority shall select one of its members as Chairman and another as Vice-Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice-Chairman, Secretary and Treasurer shall be provided in by the by-laws of the Authority.

A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of all of the members of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all of the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. (1958, c. 383)

§ 6. The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such Authority is hereby authorized and empowered:

(a) to adopt by-laws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to maintain an office at such place or places as it may designate;

(d) to sue and be sued in its own name, plead and be impleaded;

(e) to construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the limit of the organizing county;

(f) to issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;

(g) to issue revenue refunding bonds of the Authority as hereinafter provided;

(h) to fix and revise from time to time and to charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time regulations in respect of the use, operation and occupancy of such parking facilities or part thereof;

(i) to accept from any authorized agency of the Federal Government loans or grants for the planning, construction or acquisition of any parking facilities and to enter into agreements with such agency respecting any such loans or grants, and to receive and accept aid and contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants or contributions may be made;

(j) to acquire in the name of the Authority by gift, purchase or the exercise of the right of eminent domain in accordance with the laws of the Commonwealth of Virginia which are applicable to the exercise of such powers by counties, any lands or rights in lands and interest therein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facilities, provided, however, that the Authority shall not condemn any lands or personal property or right or interest therein, unless authorized so to do by resolution of the governing body of the county; and provided, further, that the property of any public service corporation may not be condemned without the approval of the State Corporation Commission pursuant to § 25-233 of the Code of Virginia, and provided, further, that no property may be condemned without the approval of the county board.

(k) to lease all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this act; provided, however, that no enterprise involving the sale or dispensing of any product or commodity used in or for the servicing of motor vehicles, shall be conducted on any parking facility or any space leased thereon.

(l) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agent as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this Act;

(m) to do all acts and things necessary or convenient to carry out the powers granted by this Act; and

(n) nothing in this Act shall be construed as authorizing the Authority or any lessee to furnish or dispense at, or in connection with, any parking lot or area authorized by this Act, any product or service other than the parking of vehicles. (1958, c. 383)

§ 7. The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of construction, reconstructing, equipping, improving, extending or enlarging any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or time snot exceeding forty years from their date or dates and shall bear interest as such rate or rates not exceeding five per centum per annum, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes of the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and proviso may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests o the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor a more than five per centum per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this Act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happenings of other conditions or things than those proceedings, conditions or things which are specifically required by this Act.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision, of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any political subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds. (1958, c. 383)

§ 8. The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by any parking facilities or parts thereof owned or operated by the Authority. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all times (a) to pay the cost of maintaining, repairing and operating the parking facilities or partners thereof owned or operated by the Authority, including reserves for such purposes, and (b) to pay the principal of and the interest on all bonds issued by the Authority under the provisions of this Act as the same shall become due and payable and to provide reserves therefore. Notwithstanding any of the forgoing provisions of this section, the Authority may enter into contracts relating to use of the services and facilities of the parking facilities on such terms as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms. (1958, c. 383)

§ 9. In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received, but shall not

convey or mortgage any parking facilities or any part thereof, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this Act otherwise provided, the Authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any parking facilities or part thereof to such officer, board of depositary as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this Act shall be valid and binding form the time when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such ledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. (1958, c. 383)

§ 10. All moneys received pursuant to the Authority of this Act shall be deemed to be trust funds, to be held and applied solely as provided in this Act. Any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this Act and the resolution authorizing the issuance of bonds or trust agreement securing such bonds may provide. (1958, c. 383)

§ 11. Any holder of revenue bonds issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under such

resolution or trust agreement, and may enforce and compel the performance of all duties required by this Act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of rates, rentals, fees an charges for the use of or for the services and facilities furnished by any Parking Facilities. (1958, c. 383)

§ 12. As adequate off-street Parking Facilities are essential to the health, safety and general welfare of the public, and as the exercise of the power covered by this Act to effect such purposes constitute the performance of essential county functions, and as parking facilities constructed under the provisions of this Act constitute the performance of purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this Act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the Commonwealth. (1958, c. 383)

§ 13. The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (a) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions or enlargements of an parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the foregoing provisions of this Act insofar as the same may be applicable. (1958, c. 383)

§ 14. Any such county is hereby authorized to make contributions or advances to an Authority which it organizes under the provisions of this Act, from any moneys which may be available for such purpose, to provide for the preliminary expenses of such Authority in carrying out the provisions of this Act or to pay any item of cost of any parking facilities. (1958, c. 383)

§ 15. Any action taken by the Authority under the provisions of this Act may be authorized by resolution at any regular or special meeting and each such resolution shall tae effect immediately and need not be published or posted. (1958, c. 383)

§ 16. This Act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regardless as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue

bonds or revenue refunding bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds. (1958, c. 383)

§ 17. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (1958, c. 383)

Patrick Hospital Authority

Created
2000 Acts of Assembly, c. 242.

Amendments
2006, c. 658 (§§ 2, 7, 7.1, 7.2)

§ 1. There is hereby created a public body politic and corporate to be known as the "Patrick Hospital Authority," hereinafter referred to as the "Authority," with such public and corporate powers as are hereinafter set forth. The Authority may sue and be sued, plead and be impleaded, and shall have the power and authority to contract and be contracted with and to exercise and discharge all the powers and duties imposed and conferred upon it, as hereinafter provided. (2000, c. 242)

§ 2. The Authority shall be composed of nine members, two of whom shall be licensed members of the medical profession, all of whom shall be appointed by the Patrick County Board of Supervisors, hereinafter referred to as the "Board." The terms of the members shall be three years; provided, however, that three of the initial members shall serve three-year terms, three of the initial members shall serve two-year terms and three of the initial members shall serve one-year terms so that no more than three members shall be appointed in any one year. Members may be reappointed and shall serve without compensation, but they shall be entitled to reimbursement for necessary travel and other expenses incurred while engaged in the performance of their duties. Each member shall continue to hold office until the earlier of the effective date of his resignation or the date on which his successor has been appointed and qualified. The Board shall have the right to remove any member or officer, for malfeasance or misfeasance, incompetency, or gross neglect of duty. Vacancies shall be filled by appointment of the Board for unexpired terms, or in the case of an increase in the size of the Authority, filled by appointment of the Board, which appointments may be for an initial term of less than three years. Members shall take an appropriate oath of office and same shall be filed with the county clerk. Members shall elect on an annual basis one of their number as chairman and another as vice-chairman and shall also elect a secretary and treasurer for terms to be determined by them, who may or may not be one of the members. The same person may serve as both secretary and treasurer. The members shall make such rules, regulations and bylaws for their own government and procedure as

they shall determine; they shall meet regularly at least once a month and may hold such special meetings as they deem necessary. (2000, c. 242; 2006, c. 658)

§ 3. The Authority shall be deemed to be a public instrumentality, exercising public and essential governmental functions to provide for the public health, welfare, convenience and prosperity of the residents of the County of Patrick and such other persons who might be served by the Authority (its service area) and to provide improved medical care and related services to such residents and persons and is hereby authorized to exercise the powers conferred by the following sections. (2000, c. 242)

§ 4. The Authority may plan, design, construct, renovate, enlarge, equip, maintain and operate projects for the purpose of providing medical care and related services and other appropriate purposes. The Authority may lease, sell or otherwise convey any or all of its projects to others who agree to provide for the operation of the same if the Authority determines that such sale, lease or other conveyance will assist, promote or further the purposes and intent of this act, subject to the provisions of § 5 below.

"Projects" as used in this act shall mean any medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all medical facilities and equipment, including, without limitation, hospitals, nursing homes, continuing care facilities, self-care facilities, medical office facilities, clinics, outpatient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill, residential facilities for nurses, interns, and physicians and any other kind of facility for the treatment of sick, disturbed or infirm persons, together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, parking facilities, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

"Operating project" as used in this act shall mean any project operated by the Authority or directly controlled by the Authority and shall include, without limitation, parking facilities operated by the Authority or an agent therefor and medical office buildings with respect to which the Authority exercises the normal powers of a landlord. (2000, c. 242)

§ 5. The Authority may acquire property, real or personal, by purchase, gift or devise, on such terms and conditions, and in such manner as it may deem proper, and such rights, easements or estates therein as may be necessary for its purposes, and sell, lease and dispose of the same, or any portion thereof or interest therein, whenever it shall become expedient to do so and in any manner it deems

appropriate, including without limitation by the granting of mortgages and other liens, the conveyance of property to related entities and the disposition of property no longer necessary or desirable for its operations; provided, however, that the Authority may not sell or otherwise dispose of all, or substantially all, of its property providing hospital care, other than to an entity controlled by the Authority, without the approval of the Board, expressed in a resolution. For purposes of the previous sentence, the granting of mortgages, deeds of trust, security interests, and other liens as security for indebtedness or other obligations of the Authority shall not be considered a sale or other disposition nor shall approval of the Board be required for any sale or other disposition resulting from the execution or foreclosure or other enforcement of such liens or other security devices. (2000, c. 242)

§ 6. The Authority may fix and revise from time to time and charge and collect rates, rentals, fees and other charges for the services and facilities furnished by the Authority, and establish and revise from time to time regulations, in respect to the use, occupancy or operation of any such facility or part thereof, or service rendered. (2000, c. 242)

§ 7. The Authority may accept loans, grants or assistance from the federal government, the Commonwealth, any municipality thereof, or from any other sources, public or private, to carry out any of its purposes and may enter into any agreement or contract regarding or relating to the acceptance or use or repayment of any such loan, grant or assistance. This power shall include the power to refinance all or any portion of the Authority's debt, to renegotiate the terms of all or any portion of such debt, and to retire all or any portion of such debt prior to its maturity date. (2000, c. 242; 2006, c. 658)

§ 7.1. The Authority shall have the following powers to carry out the purposes and intent of this act:

(1) To provide or assist in providing medical care and related services in its service area.

(2) To promote, develop, improve and increase the commerce and economic development of the County of Patrick and its environs.

(3) To assist in or provide for the creation of domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organization or other entities, and to purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares of or other interests in, or obligations of, any domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any domestic or foreign stock or nonstock corporation, limited liability company, partnership, limited partnership, association, foundation or other supporting organization, joint venture or other entity organized for any purpose or any individual. The investments of any entity wholly owned or controlled by the Authority that is an

"institution," as such term is defined in § 55-268.12, shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 55-268.11 et seq.) of the Code of Virginia.

(4) To provide domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the Authority with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this act.

(5) To make loans and provide other assistance to domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities.

(6) To make contracts or guarantees, incur liabilities, borrow money, or secure any obligations of others.

(7) To transact its business, locate its offices and control, directly or through domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities, facilities that will assist or aid the Authority in carrying out the purposes and intent of this act.

(8) To participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities for providing medical care or related services or other activities that the Authority may undertake to the extent that such undertakings assist the Authority in carrying out the purposes and intent of this act.

(9) To conduct or engage in any lawful business, activity, effort or project, necessary or convenient for the purposes of the Authority or for the exercise of any of its powers.

(10) To exercise all other powers granted to nonstock corporations pursuant to § 13.1-826 of the Code of Virginia as amended.

(11) To procure such insurance, participate in such insurance plans, or provide such self-insurance, or any combination thereof, as it deems necessary or convenient to carry out the purposes and provisions of this act. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its members, officers, directors, employees, or agents are otherwise entitled. (2000, c. 242; 2006, c. 658)

§ 7.2. Notwithstanding the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) of the Code of Virginia, the Authority shall be permitted to conduct executive or closed meetings to discuss or consider the condition, acquisition or use of real or personal property or plans for the future of the

Authority which could affect the value of property, real or personal, owned or desirable for ownership by the Authority; for discussion or consideration of matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing and operational strategies that will affect competitive position; and the discussion or consideration of members of its medical staff, and qualifications and appointments thereto. The Authority shall follow the provisions of § 2.2-3712 when convening executive or closed meetings.

The Authority shall not be required to disclose records pertaining to the qualifications for or continued membership on its medical staff; proprietary information gathered by or in the possession of the Authority from third parties; contract cost estimates prepared for confidential use and awarding contracts for construction or the purchase of goods or services; data, records, or information of a proprietary nature produced or collected by or for the Authority or members of its staff; financial statements not publicly available which may be filed with the Authority from third parties; customer account information; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies that affect competitive position.

The Authority's exemptions from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) shall be limited to those activities specifically described in this section and those exemptions otherwise granted under the provisions of the Act. Except as specifically provided in this section, the Authority shall be subject to the provisions of the Virginia Freedom of Information Act.

Notwithstanding the exemptions from the Virginia Freedom of Information Act granted by this section, the Authority shall comply with all applicable state reporting requirements. (2000, c. 242; 2006, c. 658)

§ 7.3. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this chapter. The Authority shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods or services. (2000, c. 242)

§ 8. The Authority may borrow money and issue bonds as hereinafter provided. (2000, c. 242)

§ 9. In addition to the powers granted by general law or by charter, any county or municipality in the Commonwealth is empowered to cooperate with the Authority as follows:

(a) To make such appropriations and provide such funds for the operation of and carrying out the purposes of the Authority as the governing body may deem proper, either by outright donation or by loan, or the governing body may agree with such Authority to take such action.

(b) To dedicate, sell, convey or lease any of its interest in property, or grant easements, licenses or any other privileges therein to any such Authority.

(c) To cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with property of or any facility or project of such Authority.

(d) To furnish, dedicate, close, pave, install, grade or regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake.

(e) To plan or replan, zone or rezone any part of such county or municipality in connection with the use of any property of such Authority or any property adjacent to the property of such Authority or any of its facilities or projects which it is otherwise empowered to undertake, in accordance with general laws.

(f) To cause services to be furnished to the Authority of the character which such county or municipality is empowered to furnish.

(g) To purchase any of the bonds of such Authority or legally invest in such bonds any funds belonging to or within the control of such county or municipality and exercise all the rights of any holder of such bonds.

(h) To do any and all things necessary or convenient to aid or cooperate in the planning, undertaking, construction or operation of any of the plans, projects or facilities of such Authority.

(i) To enter into agreements with such Authority respecting action to be taken by such county or municipality pursuant to any of the above powers. (2000, c. 242)

§ 10. The Authority is hereby authorized to issue bonds from time to time in its discretion for the purpose of paying all or any part of the cost of any project within its service area or for the purpose of paying or refunding, at or prior to the maturity thereof, any bonds previously issued by the Authority, the Commonwealth or any agency or political subdivision thereof. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable as to principal and interest from any one or more of the following: (a) its revenues generally; (b) the income and revenues of a particular project (including revenues from the sale of or lease of such project); (c) the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds; (d) the proceeds of the sale or lease of any project or projects, whether or not they are financed from the proceed of such bonds; (e) funds realized from the enforcement of security interests or other liens securing such bonds; (f) proceeds from the sale of bonds of the Authority; (g) payments due under letters of credit, policies of bond purchase agreements or other credit enhancements securing payment of bonds of the Authority; (h) any reserve or sinking funds created to secure such payment; or (i) other available funds of the Authority; however, bonds issued to finance the construction or acquisition of projects that are not operating projects of the Authority shall not be payable from revenues of the Authority generally or from any revenues derived from operating projects.

"Bonds" as used in this act shall include bonds, notes, revenue certificates and other evidences of indebtedness.

"Cost" as used in this subsection shall mean costs of construction, acquisition of lands, structures, rights-of-way, franchises, easements and other property rights and interests; costs of demolition, removal or relocation of buildings or structures; costs of labor, materials, machinery and all other kinds of equipment; financing charges; interest on bonds and other borrowing in connection with a project prior to and during construction thereof and for a period not exceeding one year after the completion of such construction; costs of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of costs and of revenues, feasibility studies, administrative expenses, including administrative expenses during the start-up of any facility; provision of working capital to be used in connection with any project; reserve funds and other reserves for the payment of principal and interest on bonds; and all other expenses necessary, desirable or incidental to the construction and acquisition of projects, the financing of the same or placing of the same in operation.

Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, or a pledge of any income or revenues of the Authority, or a mortgage or a deed of trust or other lien on or a security interest in, any particular project or projects or other property of the Authority.

Neither the members of the Authority nor any person executing any bonds issued under the provisions of this act shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the Authority (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof and neither the Commonwealth nor any political subdivision thereof other than the Authority shall be liable thereon, nor shall such bonds or obligations be payable out of any funds or properties other than those of the Authority. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of the Authority are declared to be issued for an essential public and governmental purpose. (2000, c. 242)

§ 11. Bonds of the Authority shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest payable at such time or times at such rate or rates, as may be determined by the Authority, or as may be determined in such manner as the Authority may provide, including the determination by agents, designated by the Authority under guidelines established by the Authority, and may be made redeemable before maturity, at the option of the Authority at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be

attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payments of principal of and premium, if any, and interest on such bonds. The Authority may contract for the services of one or more banks, trust companies, financial institutions or other entities or persons, within or outside the Commonwealth, for the authentication, registration, transfer, exchange and payment of the bonds, or may provide such services itself. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be in the best interests of the Authority.

Prior to the preparation of definitive bonds the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act. (2000, c. 242)

§ 12. In the discretion of the Authority, any bonds issued under the provisions of this act may be secured by a trust indenture by way of conveyance, deed of trust or mortgage of any project or any other property of the Authority, whether or not financed in whole or in part from the proceeds of such bonds, or by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth or by both such conveyance, deed of trust or mortgage and indenture or trust agreement. Such trust indenture or agreement, or the resolution providing for the issuance of such bonds may pledge or assign fees, rents and other charges to be received. Such trust indenture or agreement, or resolution providing for the issuance of such bonds, may contain such provisions for protecting and enforcing the

rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants providing for the repossession and sale by the Authority or any trustees under any trust indenture or agreement of any project, or part thereof, upon any default under the lease or sale of such project, setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of any project or other property of the Authority, the amounts of fees, rents and other charges to be charged, the collection of such fees, rents, and other charges, and the custody, safeguarding and application of all moneys of the Authority, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any national bank with its main office in the Commonwealth or any other state or any bank or trust company incorporated under the laws of the Commonwealth or another state which may act as depository of the proceeds of such bonds or of other revenues of the Authority to furnish indemnifying bonds or to pledge such securities as may be required by the Authority. Such trust indenture or agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders.

In addition to the foregoing, such trust indenture or agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders, including, without limitation, provisions for the assignment to a corporate trustee or escrow agent of any rights of the Authority in any project owned by, or leases or sales of any projects made by, the Authority. All expenses incurred in carrying out the provisions of such trust indenture or agreement or resolution or other agreements relating to any project, including those to which the Authority may not be a party, may be treated as a part of the cost of a project. (2000, c. 242)

§ 13. The Authority is hereby authorized to fix, revise, charge and collect fees, rents and other charges for the use of any project. Such fees, rents and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the principal and any interest on bonds secured by or otherwise to be paid by such revenues, as the same shall become due and payable, to create reserves for such purposes and for other purposes of the Authority and to pay the cost of maintaining, repairing and operating the project. Such fees, rents and charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth or any such participating political subdivision. The fees, rents and other charges received by the Authority may be applied and set aside from time to time in the order and in the manner as may be provided in such resolution or trust indenture or agreement including application to a sinking fund which may be pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. All pledges of such fees, rents and other charges to payment of bonds shall be valid and binding from the time when the pledge is made. The fees, rents and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such

pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. Except as may otherwise be provided in such resolution or such trust indenture or agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (2000, c. 242)

§ 14. All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. (2000, c. 242)

§ 15. Any holder of bonds, notes, certificates or other evidence of borrowing issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, except to the extent of the rights herein given may be restricted by such trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust indenture or agreement or the resolution authorizing the issuance of such bonds, notes or certificates, and may enforce and compel the performance of all duties required by this act or by such trust indenture or agreement or resolution to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges. (2000, c. 242)

§ 16. The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of any project which the Authority is authorized to undertake will constitute the performance of an essential governmental function, no authority shall be required to pay any taxes or assessments upon any project acquired and constructed by it under the provisions of this act; and the bonds, notes, certificates or other evidences of debt issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. (2000, c. 242)

§ 17. Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital

in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with or received by any State or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligation is now or may hereafter be authorized by law. (2000, c. 242)

§ 18. This act shall constitute full and complete authority, without regard to the provisions of any other law, for the doing of the acts and things herein authorized, and shall be liberally construed to effect the purposes hereof. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act. (2000, c. 242)

Peninsula Airport Commission

Created

1946 Acts of Assembly, c. 22.

Amendments

1947 Extra Session, c. 46 (§ 5)

1948, c. 1 (§§ 6, 7, 12)

1954, c. 568 (§§ 1, 1-A [added], 1-B [added], 2, 2-A [added], 5, 6, 6-A [added], 8, 12)

1956, c. 489 (§ 4)

1958, c. 68 (§ 3-a [added])

1964, c. 270 (§§ 3, 3-a, 6-A [repealed], 7, 13 [repealed], 15 through 23[added])

1968, c. 777 (§ 3)

1971, c. 134 (§§ 1-C [added], 2-A)

1975, c. 385 (§ 2)

1980, c. 370 (§§ 3-b [added], 16)

1984, c. 114 (§§ 2, 9)

1987, c. 60 (§ 2)

1989, c. 270 (§§ 2, 2.B [added], 3, 4, 6.B [added], 7, 8.A [added], 9, 11, 13.A [added], 14, 15, 15.A [added], 16, 17, 18, 18.A [added], 20, 21, 22, 23)

2003, c. 171 (§ 2)

§ 1. If the governing bodies of each of the cities of Newport News, Warwick and Hampton, or any two or more of them, shall by resolution declare that there is need for an airport commission to be created for the purpose of establishing and operating one or more airports or landing fields for all such political subdivisions, an airport commission, to be known as "The Peninsula Airport Commission", shall thereupon exist for such county and cities, and shall exercise its powers and functions therein.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of The Peninsula Airport Commission, such commission shall be conclusively deemed to have become created as a body corporate, and to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body of each of the counties and cities creating the airport commission declaring that there is need for such commission and that it unites with the other political subdivisions in its creation. A copy of such resolution duly certified by the clerk of the county or city by which it is adopted, shall be admissible in evidence in any suit, action or proceeding. (1946, c. 22; 1954, c. 568)

§ 1-A. The county of York may, by resolution, declare that there is need for its participation in the Peninsula Airport Commission, and may participate therein if the terms of its participation be approved by the Commission, together with the consent of the governing bodies of the participating political subdivisions. (1954, c. 568)

§ 1-B. The city of Williamsburg may, by resolution, declare that there is need for its participation in the Peninsula Airport Commission, and may participate therein in the terms of its participation be approved by the Commission, together with the consent of the governing; bodies of the participating political subdivisions. (1954, c. 568)

§ 1-C. The county of James City may, be resolution, declare that there is need for its participation in the Peninsula Airport Commission, and may participate therein if the terms of its participation be approved by the Commission, together with the consent of the governing bodies of the participating political subdivisions. (1971, c. 134)

§ 2. The Peninsula Airport Commission, hereinafter referred to as the "Commission", shall consist of two members from each of the participating counties and cities, appointed by the governing bodies thereof, respectively. Original appointments of members shall be for terms as follows: From the City of Warwick and the City of Newport News, two years; and from the City of Hampton, three years. Thereafter all appointments shall be for four-year terms, except appointments to fill vacancies which shall be for the unexpired terms. The governing body appointing any member may remove such member at any time and appoint his successor. The members of the Commission so appointed shall constitute the Commission, and the powers of such Commission shall be vested in and exercised by the members in office from time to time. The chairman of the Commission shall be paid $200 per month for attendance at meetings and other activities as chairman and members of the Commission shall be paid $175 per month for attendance at meetings and other activities.

Three members of the Commissioners in office shall constitute a quorum. No vacancy in the membership of the Commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the Commission.

The Commissioners shall annually elect a chairman and a vice chairman from their membership, a secretary and a treasurer or a secretary-treasurer from their membership or not as they deem appropriate, and such other officers as they may deem appropriate. The Commissioners may appoint an executive director, who shall not be a commissioner, who shall exercise such powers and duties as may be delegated to him by the Commissioner, including powers and duties involving the exercise of discretion.

The Commission shall hold regular meetings at such times and places as may be established by its bylaws. Special meetings of the Commission may be called by any Commissioner or the Executive Director upon at least 12 hours' written notice to each Commissioner served personally or left at his usual place of business or residence.

The Commissioners may make and from time to time amend and repeal bylaws, not inconsistent with this Act, governing the manner in which the Commission's business may be transacted and in which the power granted to it may be enjoyed. The Commissioners may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees. (1946, c. 22; 1954, c. 568; 1975, c. 385; 1984, c. 114; 1987, c. 60; 1989, c. 270; 2003, c. 171)

§ 2-A. If the county of York shall participate in the Commission, it shall appoint one member for a four-year term conforming to the laws applicable to the Commission. If the city of Williamsburg shall participate in the Commission, it shall appoint one member for a four-year term conforming to the laws applicable to the Commission. If the county of James City shall participate in the Commission, it shall appoint one member for a four-year term, conforming to the laws applicable to the Commission. (1954, c. 568; 1971, c. 134)

§ 2.B. Definitions.--As used in this Act the following words and terms have the following meanings unless a different meaning clearly appears from the context.

"Act" means the Peninsula Airport Commission Act.

"Bonds" means any bonds, notes, debentures or any other evidence of financial indebtedness issued by the commission pursuant to this act.

"Commission" means the Peninsula Airport Commission created by this Act which shall be an independent body corporate and politic.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all airports, terminals, runways, repair shops, parking areas, facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies and airlines, and industrial and commercial facilities, purchased, constructed or otherwise acquired or operated by the Commission pursuant to the provisions of this Act, Any

facility may consist of or include any or all buildings or other structures, improvements, additions, extension, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, avigation rights, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

"Participating Political Subdivision" means any political subdivision which has joined the Commission pursuant to § 1 or § 2 of this Act.

"Political Subdivision" means a county, municipality or other public body of this Commonwealth. (1989, c. 270)

§ 3. The airport commission established hereunder shall have all powers necessary or convenient to carry out the general purposes of this Act, including for purposes of illustration the following powers and, in addition all others herein granted:

(a) To sue and be sued; to adopt a seal and alter the same at pleasure; to have perpetual succession; to maintain offices at such places as it may designate; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities.

(b) To appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation within the limits of available funds.

(c) To apply for and accept gifts or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, this Commonwealth and political subdivisions, agencies and instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, from maintenance or repair of the Commission's facilities or for the payment of principal of any indebtedness of the Commission, interest thereon or other cost incident thereto, and to this end the Commission shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid.

(d) To acquire within the territorial limits of the region for which it is formed, by purchase, lease, gift, condemnation or otherwise, whatever land may be reasonably necessary for the purpose of establishing constructing, enlarging, maintaining and operating one or more airports or landing fields.

(e) To acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate the use of any airports, air landing fields, structures, air navigation facilities and other property incidental thereto, within the area for which it is created.

(f) To construct, install, maintain and operate facilities for the servicing and storage of aircraft, and for the accommodation of cargo, freight, mail, express, etc., and comfort of air travelers, and for lease or sale to industrial or commercial users, and to purchase and sell equipment and supplies as an incident to the operation of its airport facilities.

(g) To determine rates and charges for the use of its airport and other facilities, including fees for enplaning.

(h) To enforce all rules, regulations and statutes relating to its airports, including airport zoning regulations.

(i) To exercise within its area such powers and authority with respect to airports and air navigation facilities as may be conferred by law upon the governing bodies of the counties and cities of the Commonwealth.

(j) To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided.

(k) To grant to others the privilege to operate for profit concessions, leases, and franchises, including but not limited to the sale of airplanes, fuel, parts and equipment, maintenance of aircraft, the accommodation and comfort of persons using its facilities and the providing of ground transportation and parking facilities for such persons, and such concessions, leases and franchises shall be exclusive or limited when deemed by the Commission necessary to further the public safety, improve the quality of air service, avoid duplication of service or conserve airport property and the airport operation, or to engage directly or through its agents or employees in such operations for profit.

(l) To comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys in connection with airports, landing fields and air navigation facilities, and to accept, receive and receipt for federal moneys granted the Commission, or granted any of the political subdivisions by which it is formed, for airport purposes.

(m) To borrow money and to issue bonds, refunding bonds, notes, certificates or other evidence of indebtedness of the Commission.

(n) To establish, operate and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce.

(o) To establish personnel rules.

(p) To pay pensions and establish pension plans, pension trusts, and other compensation plans for any of its employees.

(q) To purchase and maintain insurance or to provide indemnification on behalf of any person who is or was a Commissioner, officer, employee or agent of the Commission against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such.

(r) To do all things necessary or convenient to the purposes of this Act. Grant of regulatory authority by this Act, including regulations that displace, eliminate or limit competition by or among persons or entities, is based on the policy of the Commonwealth to provide for the safe, adequate, economical and efficient provision of air transportation and related facilities and services to the public. (1946, c. 22; 1964, c. 270; 1968, c. 777; 1989, c. 270)

§ 3-a. In addition to the powers conferred by the preceding section the commission is hereby empowered to lease, sell or encumber any real property owned by the commission. (1958, c. 68; 1964, c. 270)

§ 3-b. In addition to the general purpose of the commission and the powers granted to carry out such general purpose, the commission, on property it acquires for airport purposes but no longer needs for such and so declares, may construct for sale, exchange or lease, on such terms and conditions as it may deem proper, factories or manufacturing facilities, office buildings, warehouses or other industrial or commercial buildings and such structures, approaches, and appurtenances as are necessary for the foregoing purposes.

Provided, however, without the consent of the members of the commission, the commission shall not acquire, for the above-mentioned purposes, any property which is not conveyed to it by its members or that is not contiguous to any such property so conveyed.

The commission is authorized to sell, exchange, mortgage, convey, lease to others or otherwise dispose of, or grant concessions or rights in, all or any part of the property mentioned in or provided for in this section, and is authorized to lave to a lessee or lessees all or any part of such property for such period or periods of years, with or without options of renewal or options to purchase, in such manner, upon such terms and conditions and at such prices or rentals as the commission shall determine to be in the public interest.

All powers granted to the commission in this act shall be applicable to their endeavors under this section except to the extent they may be limited or restricted in this section. (1980, c. 370)

§ 4. The commission established hereunder is hereby granted full power to exercise within its area the right of eminent domain in the acquisition of any lands, easements and privileges which are necessary for airport and landing field purposes including the right to acquire, by eminent domain,

avigation easements over lands or water outside the boundaries of its airport or landing fields where necessary or desirable in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport and landing fields even though such avigation easement be inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition. Proceedings for the acquisition of such lands, easements and privileges by condemnation may be instituted and conducted in the name of the Commission in accordance with Title 25 of the Code of Virginia, and the procedure shall be the same as in the acquisition of land by condemnation proceedings instituted by councils of cities and towns. (1946, c. 22; 1956, c. 489; 1989, c. 270)

§ 5. The counties and cities for which the Commission is formed are hereby authorized to appropriate to the Commission from available funds, or from funds provided for the purpose by bond issues, such funds as may be necessary for the acquisition, construction, maintenance and operation of airports, air landing fields and other air navigation facilities. The basis of financial participation by the counties and cities shall be determined by agreement between their governing bodies. Any county participating in the Commission is hereby authorized to issue bonds for the purposes set forth herein in accordance with §§ 15-601 through 15-604 of the Code of Virginia. (1946, c. 22; 1947 Ex Sess, c. 46; 1954, c. 568)

§ 6. The Commission shall prepare annually and submit to the governing bodies of the respective counties and cities for which it is formed for their approval, a budget showing the estimated revenues it may reasonably expect to receive for such year, and its estimated expenses for all purposes for such period. After the approval of such budget the Commission shall be limited in its expenditures for such year to the estimated expenses shown therein, and shall not commit the participating subdivisions beyond appropriations actually made. If the estimated expenditures exceed the estimated revenue from the operation of the Commission for such year the governing bodies of the participating local subdivisions shall appropriate, in the proportions in which they are financially interested in the operations of the Commission, the funds necessary to supply the deficiency. If the actual revenue received shall be less than the estimated revenue as approved in the budget, the governing bodies of the participating local subdivisions may appropriate, in the same manner, the funds necessary to supply the deficiency.

In the event that the Commission does not seek any appropriations from the participating subdivisions for a calendar year, then the Commission shall not be required to submit a budget for such year to the participating subdivisions for their approval, but shall make an annual financial report in lieu thereof. The Commission may expend any and all funds received from the participating subdivisions and any and all revenues derived from the airport or derived from revenue-producing operations of the Commission, without obtaining the approval of the participating subdivisions, but the Commission

shall not commit the participating subdivisions beyond appropriations actually made by the governing bodies of said subdivisions. (1946, c. 22; 1948, c. 1; 1954, c. 568)

§ 6-A. [Repealed.] (1954, c. 568; 1964, c. 270)

§ 6.B. A. Any deficit budgeted by the Commission in any fiscal year, i.e., any excess of its estimated expenses over its estimated revenues, and the cost of any budgeted capital expenditures in excess of the amount shown as available therefor, as shown on the Commission's operating and capital budgets approved by the participating political subdivisions, shall be allocated among the participating political subdivisions in proportion to their respective populations as most recently before such fiscal year determined by the Center for Public Service of the University of Virginia. In the event the appropriation of any participating political subdivision is insufficient to pay its portion of the deficit incurred in any fiscal year, the allocation of any deficit for any succeeding fiscal year shall take into account the cumulative deficiency attributable to such participating political subdivision; however, no participating political subdivision shall be required to pay the Commission in any fiscal year any amount in excess of that appropriated to the Commission by the governing body of such participating political subdivision.

B. Any participating political subdivision not contributing its proportionate share of the any deficit as determined by the Commission pursuant to the provisions of this Act, either of the Commission's operating budget or capital budget in accordance with a schedule established by the Commission, shall automatically be denied voting privileges. The denial of voting privileges shall terminate upon the delivery of its proportionate share by such political subdivision. (1989, c. 270)

§ 7. Subject to the provisions of § 18.1, if the funds received by the Commission in and any year, including money appropriated for its use by the participating subdivisions, shall with exceed its appropriations for such year, the surplus shall be set aside for capital improvements, extensions and operational expenses. All moneys of the Commission shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act.

Funds of the Commission not needed for immediate use or disbursement may, subject to the provisions of any contract between the Commission and the holders of its bonds, be invested in securities which are considered lawful investments for fiduciaries.

Whenever any such surplus fund shall amount to $500,000 any additional revenue in any year in excess of operating costs shall be applied towards repaying proportionately the participating counties, cities and towns in the amounts contributed by them to the Commission for their appropriations for capital outlay in establishing airports and airport facilities. Thereafter, any profits derived from the

operation of the Commission shall be distributed to the participating subdivisions in proportion to their respective financial interest in the operation of the Commission, if, within thirty days from the end of the fiscal year of the Commission, any one or more of the participating subdivisions request such distribution of such profits. (1946, c. 22; 1948, c. 1; 1964, c. 270; 1989, c. 270)

§ 8. The commission shall be an independent body corporate, invested with the rights, powers and authority and charged with the duties set forth in this act, and the political subdivisions by which it is created shall not be responsible for its acts. No pecuniary liability of any kind shall be imposed upon any county or city creating the Commission because of any act, agreement, contract, tort, malfeasance or misfeasance by or on the part of the Commission or any member thereof, or its agents, servants or employees, except as otherwise provided in this act with respect to contracts and agreements between the Commission and any such county or city. (1946, c. 22; 1954, c. 568)

§ 8.A. The Commission is authorized to enter into contracts with any one or more political subdivisions, which contracts may restrict the powers of the Commission otherwise granted by this Act. Any participating political subdivisions, or other political subdivision of the Commonwealth all or part of which is located within sixty miles of a Commission facility, is authorized to enter into contract with the Commission, pursuant to which the Commission undertakes to provide the facilities and render the services specified therein. Any such contract or agreement may provide that the political subdivision will make payments to the Commission based on the services rendered by the Commission to the residents of such political subdivision, determined in such reasonable manner as the Commission and the political subdivision may mutually agree. Each political subdivision entering into such a service contract with the Commission is authorized to do everything necessary or proper to carry out and perform such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations. (1989, c. 270)

§ 9. Except in cases of emergency, all contracts of more than $20,000 that the Commission may let for construction or materials shall be subject to the Virginia Public Procurement Act (§ 11-35 et seq.), Code of Virginia. (1946, c. 22; 1984, c. 114; 1989, c. 270)

§ 10. No member, agent or employee of the commission shall contract with the commission or be interested, either directly or indirectly, in any contract with the commission, or in the sale of any property o the commission. (1946, c. 22)

§ 11. The Commission shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions, which records shall be open to inspection by the participating subdivisions at all times, and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to

public inspection. It shall make reports to such subdivisions annually, and at such other times as they may require. (1946, c. 22; 1989, c. 270)

§ 12. Any county or city creating the Commission may withdraw therefrom upon giving one year's notice to the Commission and to other participating counties and cities. The political subdivision so withdrawing shall forfeit its rights to any further revenue from the operations of the Commission and to the repayment of any funds appropriated by it for capital expenditure. The operations of the Commission may be discontinued at any time and its property disposed of by the unanimous action of all participating counties and cities due regard being had for existing contracts and obligations. Upon the cessation of its activities all of the assets of the Commission shall be distributed to the counties and cities participating therein at the time of liquidation in the proportion in which they are financially interested in such activities.

Any county or city participating in the Commission shall automatically be excluded from the Commission on June thirtieth, nineteen hundred forty-eight, if said county or city prior to said date has not paid to the Commission its proportionate share of the cost of participation, provided that said county or city has been notified by the Commission prior to May first, nineteen hundred forty-eight, of its failure to pay its agreed proportional share. (1946, c. 22; 1948, c. 1; 1954, c. 568)

§ 13. [Repealed.] (1946, c. 22; 1964, c. 270)

§ 13.A. The Commission's employees meeting the minimum requirements of the Criminal Justice Officers Training Standards Commission shall be given special police power by the circuit court of any participating political subdivision. The authority conferred upon such special policemen shall be exercised only upon the Commission's facilities located within such participating political subdivision, and shall be in all terms consistent with the requirements of Chapter 3 (§ 15.1-131 et seq.) of Title 15.1 of the Code of Virginia.

Such special policemen shall have all powers vested in police officers under Chapter 3 (§ 15.1-131 et seq.) of Title 15.1 of the Code of Virginia and shall be responsible upon the Commission's facilities for enforcing the Commission's rules and regulations and all other applicable statutes, ordinances, rules, and regulations of the United States of America and agencies and instrumentalities thereof and this Commonwealth and political subdivisions, agencies and instrumentalities thereof.

Such special policemen may issue summons to appear, or arrest on view or on information without warrant as permitted by law, and summons before any court of competent jurisdiction any person violating any rule or regulation of the Commission or other applicable statute, ordinance, rule or regulation.

For the purpose of enforcing such statutes, ordinances, rules and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the participating political subdivision wherein the

offense was committed shall have jurisdiction to try a person charged with the violating of any such statutes, ordinances, rules and regulations. (1989, c. 270)

§ 14. The Commission shall have the power to adopt, amend, and repeal rules and regulations for the use, maintenance and operation of its facilities and governing the conduct of persons and organizations using its facilities,

Unless the Commission shall by unanimous vote of all Commissioners present determine that an emergency exists, the Commission shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

1. Make such rule, regulation, alteration, amendment or modification in convenient form available for public inspection in the office of the Commission for at least five days, and

2. Post in a public place a notice declaring the Commission's intention to consider adopting such rule, regulation, alteration, amendment or modification and informing the public that the Commission will at a public meeting consider the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least five days from the first day of the posting of the notice thereof. The Commission's rules and regulations shall be available for public inspection in the Commission's principal office.

The Commission's rules and regulations relating to:

1. Traffic, including but not limited to motor vehicle speed limits and the location of and payment of public parking;

2. Access to Commission facilities, including but not limited to solicitation, handbilling, and picketing; and

3. Aircraft operation and maintenance; shall have the force and effect of law, as shall any other rules or regulations of the Commission which shall contain a determination by the Commission that it is necessary to accord the same force and effect of law in the interest of the public safety; however, with respect to motor vehicle traffic rules and regulations, the Commission shall obtain the approval of the traffic engineer or comparable official of the political subdivision in which such rules or regulations are to be enforced. The violation of any rule or regulation of the Commission relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the Commission's rules and regulations having the force and effect of law shall be punishable as misdemeanors.

All ordinances, rules and regulations duly adopted for the regulation, administration and operation of Patrick Henry International Airport, in force at the effective date of this Act shall remain in full force and

effect insofar as they or any part thereof are not inconsistent with the provisions of this Act until amended or repealed in accordance with this Act.

The provisions of this Act and all rules and regulations adopted hereunder shall not apply to any airport, air landing field, structure, air navigation facilities and other property incidental thereto, created or set aside for such purposes prior to the effective date of this Act. (1946, c. 22; 1989, c. 270)

§ 15. The Commission is hereby authorized to issue bonds from time to time in its discretion for any of its purposes, including the payment of all or any part of the cost of any of its facilities and the refunding of any bonds previously issued by it.

The Commission may issue such types of bonds as it may determine, including without limiting the generality of the foregoing, bonds payable as to principal and interest: (i) from its revenues generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, as such participating political subdivisions, or other entities may be authorized to make under general law or by pledge of any income or revenues of the Commission, or where such mortgage has been approved by the participating political subdivisions, a mortgage of any facilities of the Commission.

Neither the commissioners nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the commission (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof and neither the Commonwealth nor any political subdivision thereof other than the Commission shall be liable thereon, nor shall such bonds or obligations be payable out of any funds or properties other than those of the Commission. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of the Commission are declared to be issued for an essential public and governmental purpose. (1964, c. 270; 1989, c. 270)

§ 15.A. Any participating political subdivision, or other political subdivision of the Commonwealth all or part of which is located within sixty miles of a Commission facility, is authorized to provide services, to donate real or personal property and to make appropriations to the Commission, for the acquisition, construction, maintenance, and operation of the Commission's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Commission, and such political subdivisions may enter into contracts obligating such bond proceeds to the Commission.

The Commission may agree to assume, or reimburse a participating political subdivision for, any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Commission. With the consent of the governing body of the participating political subdivision, any such agreement may be made subordinate to the Commission's indebtedness to others. (1989, c. 270)

§ 16. Bonds of the Commission shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates as may be determined by the Commission, and may be made redeemable before maturity, at the option of the Commission at such price or prices and under such terms and conditions as may be fixed by the Commission prior to the issuance of the bonds. The Commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Act or any recitals in any bonds issued under the provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the Commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Commission may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Commission.

Prior to the preparation of definitive bonds the Commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Commission may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

Bonds may be issued under this Act notwithstanding any debt or other limitation prescribed in any statute without obtaining the consent of any city, town or county government or any commission, board, bureau or agency of the Commonwealth or of any of the foregoing, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this Act. (1964, c. 270; 1980, c. 370; 1989, c. 270)

§ 17. In connection with the issuance of bonds and in order to secure the payment of such bonds, the Commission shall have power:

1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents or revenues;

2. To covenant to impose and maintain such schedule of fees, rents and charges as will produce funds sufficient to pay operating costs and debt service;

3. To covenant against pledging all or any part of its fees, rents, and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and powers in the fees, rents and revenues from which are subject to a pledge;

5. To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or facilities of the Commission or any part thereof or with respect to limitations on its right to undertake additional projects;

6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

7. To covenant as to what other, or additional, debt may be incurred by it:

8. To provide for the terms, forms, registration, exchange, execution, and authentication of bonds;

9. To provide for the replacement of lost, destroyed, or mutilated bonds;

10. To covenant as to the use of any or all of its property, real or personal, subject to the continued use of such property for airport purposes;

11. To create or to authorize the creation of special funds in which there maybe segregated (i) the proceeds of any loan or grant; (ii) all of the fees, rents and revenues of any facility or facilities or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the payment of the principal and interest and its bonds or the sums due under its leases, or as reserve for such payments; and (v) any moneys held for any other reserve or contingencies, and to covenant as to the use and disposal of the moneys held in such funds;

12. To redeem its bonds and to covenant for their redemption and to provide the terms and conditions thereof;

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

15. To covenant as to the maintenance of its facilities, the insurance to be carried thereon and the use and disposition of insurance moneys;

16. To vest in a bondholder the right, in the event of the failure of the Commission to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the Commission with such interest, security and priority as may be provided in any trust indenture, lease or contract of the Commission with reference thereto;

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

18. To covenant as to the rights, liabilities, powers and duties arising upon the breach of it of any covenant, condition or obligation;

19. To covenant to surrender possession of all or any part of any facility or facilities acquired or constructed from bond proceeds, the revenues from which have been pledged upon the happening of any event of default, as defined in the contract, and to vest in a bondholder the right without judicial proceeding to take possession and to use, operate, manage and control such facility or any part thereof, and to collect and receive all fees, rents and revenues arising therefrom in the same manner as the Commission itself might do and to dispose of the moneys collected in accordance with the agreement of the Commission with such obligee, subject to the continued use of such facilities for airport purposes;

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as any purchase of the bonds of the Commission may reasonably require; and

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the Commission tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the Commission power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of the Commonwealth or this Act. (1964, c. 270; 1989, c. 270)

§ 18. Bonds issued by the Commission under breach provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1964, c. 270; 1989, c. 270)

§ 18.A. The Commission is hereby authorized to fix, revise, charge and collect fees, rents and other charges for the use and services of any facilities. Such fees, rents and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay; first, the cost of maintaining, repairing and operating the facilities, and the principal or any interest on such bonds as the same shall become due and payable and second, to create reserves for such purpose and for other purposes of the Commission. Such fees, rents and charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth or any such participating political subdivision except the Peninsula Airport Commission. The fees, rents and other charges received by the Commission, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust indenture or agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust indenture or agreement in a sinking fund may be or sinking funds which is hereby pledged to, and charged with, the payment of and the interest on such bonds as the same shall become due, and the redemption price or purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents and charges so pledged and thereafter received by the Commission shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Commission, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Commission. The use and

disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. Except as may otherwise be provided in such resolution or such trust indenture or agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1989, c. 270)

§ 19. All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this act. (1964, c. 270)

§ 20. Any holder of bonds, notes, certificates or other evidences of borrowing issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, except to the extent of the rights herein given may be restricted by such trust indenture, or agreement may, either at law or equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this Act or under such trust indenture or agreement or the resolution authorizing the issuance of such bonds, notes or certificates, and may enforce and compel the performance of all duties required by this Act or by such trust indenture or agreement or resolution to be performed by the Commission or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges. Any reduction authorizing the issuance of Commission's bonds or trust indenture or agreement securing the same may limit or abrogate the individual right of action by the holders of such bonds or coupons appertaining thereto. (1964, c. 270; 1989, c. 270)

§ 21. The exercise of the powers granted by this Act shall be in all respects for benefit of the inhabitants of the Commonwealth, for the increase of their commerce, for the promotion of their safety, health, welfare, convenience and prosperity, and as operation and maintenance of any project which the authority is authorized to under will constitute the performance of an essential governmental function, the Commission not be required to pay any taxes or assessments upon any facilities acquired constructed by it under the provisions of this Act, including but not limited to, its real estate, tangible personal property and machinery and tools. The bonds, notes, certificates or other evidences of debt issued under the provisions of this Act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof.

Persons, firms, partnerships, associations, corporations and organizations leasing property of the Commission or doing business on property of the Commission shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to, any leasehold tax on real property and taxes on tangible personal property, machinery and tools, taxes for admission, taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages,

privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling and taxes upon consumers of gas, electricity, telephone and other public utility services. (1964, c. 270; 1989, c. 270)

§ 22. No provision of this Act shall relieve, impair or affect any right, duty, liability or obligation arising out of any contract, concession, lease or franchise now in existence except to the extent that such contract, concession, lease or franchise may permit. Notwithstanding the foregoing provisions of this section, the Commission may renegotiate, renew, extend the term of or otherwise modify at any time any concession, lease or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease or franchise consents to said renegotiation, renewal, extension or modification. (1964, c. 270; 1989, c. 270)

§ 23. This Act shall constitute full and complete authority, without regard provisions of any other law, for the doing of the acts and things herein authorized, and shall be liberally construed to effect the purposes hereof. Neither this Act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the Commission might otherwise have under any laws of this Commonwealth, and this Act is cumulative to any such powers. This Act dos and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds, notes or other obligations. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is expressly provided in this Act. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this Act. (1964, c. 270; 1989, c. 270)

Peninsula Ports Authority of Virginia

Created

1952 Acts of Assembly, c. 46, as Newport News Port and Industrial.

Amendments

1956 Extra Session, c. 42 (§§ 1, 2; name changed to Peninsula Port and Authority)

1964, c. 39 (§§ 1 through 4, 9, 10 through 16, 18, 19; name changed to Peninsula Ports Authority of Virginia)

1973, c. 185 (§ 5)

1974, c. 495 (§§ 3, 6, 12, 14)

1977, c. 68 (§ 2)
1978, c. 86 (§ 6)
1984, c. 249 (§§ 2, 6, 8, 9, 11, 12, 14, 15)
1998, c. 211 (§§ 2, 4)
2000, cc. 670, 698 (§ 4)
2005, cc. 493, 529 (§ 4)
2008, c. 724 (§ 20)

Additional reference
1977 Acts of Assembly, c. 599, Port Unification Contract

§ 1. The creation and organization of the Peninsula Port and Industrial Authority by the city of Newport News and the city of Hampton and all actions and proceedings by said cities relating to said Authority are hereby ratified, validated and confirmed. The Authority shall be known hereafter as the Peninsula Ports Authority of Virginia and shall exercise such powers as are authorized by this act or as this act may be amended from time to time. (1952, c. 46; 1956 Ex Sess, c. 42; 1964, c. 39)

§ 2. The Authority may exercise its powers within the boundaries of the Cities of Hampton, Newport News, Poquoson, and Williamsburg and the Counties of Gloucester, James City and York and in the waters adjacent thereto and, in addition, may finance Authority Facilities without the boundaries of such cities and counties, and in connection with such financing of Authority Facilities, may acquire, construct, improve, maintain, equip and furnish such Authority Facilities, to the same extent and subject to the same restrictions imposed by Chapter 3 of the Acts of Assembly of 1981, (adding the second paragraph to § 15.2-4905 of the Code of Virginia), as amended or hereafter amended, on industrial development authorities created pursuant to Chapter 33 of Title 15.2 of the Code of Virginia. (1952, c. 46; 1956 Ex Sess, c. 42; 1964, c. 39; 1977, c. 68; 1984, c. 249; 1998, c. 211)

§ 3. As used in this act, the following words and terms shall have the following meanings:

(a) "Authority" shall mean the Peninsula Ports Authority of Virginia, a body politic and corporate and a political subdivision of the State of Virginia, created and operating under this act, or if said Authority shall be abolished, the board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers given by this act shall be given by law;

(b) "Authority Facilities" shall mean any or all harbor, seaport, industrial and other facilities, as described in § 6 of this act, now existing or hereafter acquired or constructed by the Authority under this act, together with any or all buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, water rights, franchises, machinery, equipment, furnishings, landscaping, utilities, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, acquired or constructed by the Authority;

(c) "bond resolution" shall mean the resolution or resolutions of the commission of the Authority authorizing and providing for the issuance of revenue bonds under this act;

(d) "bonds" or "revenue bonds" shall embrace notes, bonds and other obligations authorized to be issued by the Authority under this act;

(e) "city of Newport News" shall mean the Consolidated City of Newport News, Virginia;

(f) "cost" shall mean and shall include, as applied to Authority Facilities, the cost of construction, the cost of acquisition of all lands, structures, rights of way, franchises, easements and other property rights and interests, the cost of demolishing, removing or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to and during construction and, if deemed advisable by the Authority, for a period not exceeding one year after completion of such construction, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing the Authority Facilities, administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions and improvements, and such other expenses as may be necessary or incident to the construction of the Authority Facilities, the financing of such construction and the placing of the Authority Facilities in operation. Any obligation or expense incurred by the State or any agency thereof, with the approval of the Authority, for studies, surveys, borings, preparation of plans and specifications or other work or materials in connection with the construction of the Authority Facilities may be regarded as a part of the cost of the Authority Facilities and may be reimbursed to the State or such agency out of the proceeds of the revenue bonds issued for such Authority Facilities as hereinafter authorized;

(g) "Port Facilities" shall mean any or all of the Authority Facilities, as described above, exclusive of the facilities within the purview of § 6(f) of this act;

(h) "revenues" shall mean any or all fees, tolls, rates, rentals and receipts derived by the Authority from, and all other moneys and income of whatsoever kind or character obtained by the Authority in connection with, the ownership or operation of the Authority Facilities;

(i) "State" shall mean the State or Commonwealth of Virginia; and

(j) "trust agreement" shall mean any trust agreement under which bonds authorized under this act may be secured.

For the purpose of this act the references to the city of Newport News in §§ 5 and 7 shall be deemed to include the city of Hampton. (1952, c. 46; 1964, c. 39; 1974, c. 495)

§ 4. The Authority shall be governed by a commission composed of seven commissioners. All powers and duties of the Authority shall be exercised and performed by the commission. Each member of the commission shall be appointed for a term of one year and until his successor shall be duly appointed and qualified, except that the two incumbent members whose terms expire on February 29, 2000, shall not continue in office after February 29, 2000, and that any person appointed to fill a vacancy shall serve only for the unexpired term. Members of the commission may be appointed for no more than ten successive one-year terms. All members of the commission shall be residents of or persons whose principal place of business is located in the City of Hampton, the City of Newport News, the City of Poquoson, the City of Williamsburg, the County of Gloucester, the County of James City, or the County of York and shall be appointed by the council of the City of Newport News, and shall have been appointed as Peninsula representatives of the executive committee of the Hampton Roads Economic Development Alliance. Any member who shall cease to reside or no longer has a principal place of business within such city or county or shall cease to be a member of the executive committee of the Hampton Roads Economic Development Alliance shall thereupon be disqualified from holding office as a member of the commission. Each member of the commission shall, before entering upon the discharge of his duties, take and subscribe the oath of office required by Article II § 7 of the Constitution of Virginia.

A majority of members of the commission shall constitute a quorum and the affirmative vote of four members shall be necessary for any action taken by the commission. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the powers and perform all the duties of the commission. (1952, c. 46; 1964, c. 39; 1998, c. 211; 2000, cc. 670, 698; 2005, cc. 493, 529)

§ 5. The commissioners shall elect from their membership a chairman and vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer or secretary-treasurer. The commission shall meet at least quarterly and at such other times as may be required. The commissioners shall receive no salary but shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties. The commission shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually. Copies of each such audit shall be furnished to the council of the city of Newport News and shall be open to public inspection. (1952, c. 46; 1973, c. 185)

§ 6. The Authority shall have the following powers:

(a) To contract and be contracted with; to sue and to be sued; and to adopt and use a corporate seal, and to alter the same at pleasure;

(b) To acquire, hold and dispose of personal property necessary for its purposes;

(c) To acquire by purchase, exchange, gift, lease or otherwise, real property, or rights, easements or estates therein necessary for its purposes; and to sell, exchange, donate, convey, lease and dispose of the same, or any portion thereof or interest therein;

(d) To acquire, lease, construct, maintain, operate and sell landings, wharves, docks and piers, and the approaches to and appurtenances thereof, tracks, spurs, crossings, switchings, terminals, warehouses and terminal facilities of every kind and description necessary or useful in the transportation and storage of goods, wares and merchandise, to perform any and all services at said facilities in connection with the receipt, delivery, shipment and transfer in transit, weighing, marking, tagging, ventilating, fumigating, refrigerating, icing, storing and handling of goods, wares, and merchandise, to prescribe and collect charges from vessels coming into or using any landings, wharves, docks and piers, operated and maintained by the Authority and from persons using any of its other facilities, and to lease or sell any and all of such facilities or any concessions properly incident thereto for the maintenance and operation of any or all thereof on such terms and conditions as it may deem proper;

(e) To maintain and operate a free port under such terms and conditions as may be prescribed by law;

(f) To acquire, construct and/or equip for sale or lease, on such terms and conditions as it may deem proper, factories or manufacturing facilities of any kind and description and approaches to and appurtenances thereof and without limitation any other facilities as defined by the Industrial Development and Revenue Bond Act (Chapter 33 of Title 15.1, § 15.1-1373 et seq. of the Code of Virginia) as amended and as may hereafter be amended, all for the purposes set forth herein or in the Industrial Development and Revenue Bond Act, as amended and as hereafter amended, except that no approval of a local governing body shall be required where any facility is located or to be located within the cities of Hampton or Newport News or partly in both;

(g) To fix and charge tolls, fees and any other charges for the use of, or for services rendered by, any of the facilities it is authorized hereunder to maintain and operate;

(h) To employ a director and such other agents and employees as may be necessary, to serve at the pleasure of the commission, and to fix their compensation and prescribe their duties;

(i) To do all other acts and things which may be reasonably necessary and convenient to carry out its purposes and powers;

(j) To lease to others any or all of its facilities and to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, a provision that the lessee thereof shall have options to renew such lease or to purchase any or all of the leased facilities, or that upon payment

of all of the indebtedness of the Authority it may lease or convey any or all of its facilities to the lessee thereof with or without consideration;

(k) To sell, exchange, donate, and convey any or all of its facilities or properties whenever the commission shall find any such action to be in furtherance of the purposes for which the Authority was organized;

(l) To issue its bonds for the purpose of carrying out any of its powers including specifically, but without intending to limit any power conferred by this section or this chapter, the issuance of bonds to provide long-term financing of any pollution control facility, whether any such facility was constructed prior to or after the enactment hereof or the receipt of a commitment from an Authority to undertake financing pursuant hereto, unless the major part of the proceeds of such bonds will be used to redeem any prior long-term financing of such facility other than financings pursuant to this chapter or any similar law;

(m) As security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith, to mortgage and pledge any or all of its facilities or any part or parts thereof, whether then owned or therefor acquired, and to pledge the revenues therefrom or from any part thereof;

(n) To employ and pay compensation to such employees and agents, including attorneys, as the board of directors shall deem necessary in carrying on the business of the Authority;

(o) To exercise all powers expressly given the Authority by the governing bodies of the municipalities which established the Authority and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

(p) To appoint an industrial advisory committee to advise the Authority consisting of such number of persons as it may deem advisable; however, such persons shall not receive any compensation for their services, but may be reimbursed for necessary traveling and other expenses incurred while on the business of the Authority; and

(q) To borrow money and to accept contributions, grants and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth, for or in aid of the construction, acquisition, ownership, maintenance or repair of the Authority facilities or for the payment of principal of any bond of the Authority, interest thereon, or other cost incident thereto, and to this end the Authority shall have the power to comply with such conditions and to execute such agreements, trust indentures, and other legal instruments as may be necessary, convenient or desirable and to agree to such terms and conditions as may be imposed. The Authority shall not have power to operate any facility as a business other than as lessor; provided, however, that the

Authority shall have the power to apply for, establish, operate and maintain a foreign-trade zone in accordance with the provisions of Chapter 14 (§ 62.1-159 et seq.) of Title 62.1. (1952, c. 46; 1974, c. 495; 1978, c. 86; 1984, c. 249)

§ 7. The Authority shall foster and stimulate the commerce of the port of Newport News and the shipment of freight through such port, and may investigate and handle matters pertaining to all transportation rate structures affecting the commerce of the port. To this end, the Authority may appoint a Port Advisory Committee to advise it, consisting of such number of persons as it may deem advisable; such persons shall not receive any compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on business of the Authority. The Authority may accept, and expend for the purposes stated above, money from any public or private source, and may accept, maintain, operate and use, or sell, any property conveyed to it for purposes. (1952, c. 46)

§ 8. The Authority may foster and stimulate the development of industry and trade in the area within its jurisdiction. To this end, the Authority may appoint an Industrial Advisory Committee to advise it, consisting of such number of persons as it may deem advisable; such persons shall not receive any compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on business of the Authority. The Authority may accept, and expend for the purposes stated above, money from any public or private source, and may accept, maintain, operate and use, or sell or lease any property conveyed to it for such purposes. (1952, c. 46; 1984, c. 249)

§ 9. (a) The Authority is authorized to sell, lease to others or otherwise dispose of, or grant concessions or rights in, all or any part of the Authority Facilities, in the exercise of its powers and the performance of its duties under this act, and is authorized to lease to a lessee or lessees all or any part of the Authority Facilities for such period or periods of years, with or without options of renewal or options to purchase, in such manner, upon such terms and conditions and at such prices or rentals as the Authority shall determine to be in the public interest.

(b) The Authority is authorized to protect and promote the health and welfare of the inhabitants of the Commonwealth by (i) assisting in the acquisition, construction, equipping, expansion, enlargement and improvement of educational facilities qualifying as Authority Facilities, medical facilities and facilities for the residence or care of the aged in order to provide modern and efficient facilities and services to the inhabitants of the Commonwealth for education, medical care and care of the aged in accordance with their special needs and (ii) assisting in the refinancing of such educational facilities, medical facilities and facilities for the residence or care of the aged owned and operated by charitable not-for-profit organizations (which shall be deemed to include nonstock corporations not organized or conducted for pecuniary profit but which may charge persons for education, care, treatment or other services provided) in order to reduce the costs to residents of the Commonwealth of utilizing such facilities, all for the benefit of the inhabitants of the Commonwealth and for the promotion of their

health and welfare. It is not intended hereby that the Authority shall itself be authorized to operate any such educational facility, medical facility or facility for the residence or care of the aged.

(c) The Commonwealth of Virginia hereby consents to the use by the Authority, in the performance of its duties hereunder, of all lands lying under the waters of the Commonwealth which are deemed by the Authority to be necessary for the construction or operation of any Authority Facilities. But such use shall in no way hinder or prevent any deepening and widening of the channel in the James River which may hereafter be authorized or undertaken. (1952, c. 46; 1964, c. 39; 1984, c. 249)

§ 10. The cities of Newport News and Hampton are each empowered to convey to the Authority any and all port facilities of whatsoever kind or character owned by it and any other property owned by it useful or convenient in the exercise of the powers and functions of the Authority under this act, and are further authorized to provide advances and donations of funds to assist the Authority in the performance of its functions under this act. Any such conveyance, advance or donation shall be made upon such terms and conditions, with or without consideration and at such time or times and in such manner, as the respective city may determine. (1952, c. 46; 1964, c. 39)

§ 11. The improvement and development of Port Facilities for the purpose of increasing trade and commerce beneficial to the economy, prosperity and welfare of the Commonwealth conform to the overall state policy of promoting the development and operation of adequate, modern and efficient seaports and harbors through such aids and other encouragement as may be authorized by the General Assembly. To promote and encourage the acquisition, construction, operation and maintenance of Port Facilities and to enable the Authority to sell its bonds for paying the cost of such Port Facilities, the Authority is authorized to pledge for the payment of such bonds, in addition to other revenues, moneys from time to time (i) appropriated to or for the use of the Authority by the General Assembly and available for such purpose and (ii) paid to the Authority by the City of Newport News or the City of Hampton or both cities as provided in this section. Notwithstanding any charter or statutory provision to the contrary, the Cities of Newport News and Hampton are, or either of them is, authorized to pay to the Authority for each fiscal year during which any of such bonds are outstanding an amount not exceeding the Bond Requirement Deficiency, as hereinafter defined, incurred in such fiscal year and the City of Newport News and the City of Hampton, or either of them, and the Authority are empowered to enter into any contract or contracts, for such period of years as they determine to be necessary, providing for such payments and further providing that in consideration of the assumption by the City of Newport News or the City of Hampton, or both cities, as the case may be, of such contingent liability to make such payments the Authority may convey to the respective city or cities, when all bonds of the Authority payable from any revenues of such Port Facilities, including interest thereon, shall have been paid or sufficient funds for such payment shall have been deposited in trust therefor, title to such Port Facilities of the Authority, subject to any leasehold interests, licenses, liens or other lawful encumbrances thereon. The term "Bond Requirement Deficiency" as used in this act

means for any fiscal year an amount equal to one-half of the total amount required for such fiscal year to provide for payment of principal of and interest on, and for amortization and reserves for, the bonds of the Authority that are issued under this act to pay the cost of such Port Facilities, less the amount of any funds appropriated by the General Assembly to or for the use of the Authority for such fiscal year and available for such purpose.

Any liability to make any payment assumed by the City of Newport News or the City of Hampton under any such contract or contracts, being contingent upon the existence of a Bond Requirement Deficiency caused by inadequate appropriations to or for the use of the Authority by the General Assembly, shall not constitute or create an obligation or an indebtedness within the meaning of any constitutional, statutory or charter limitations upon obligations or debts of such city, and the execution of any such contract or contracts by the City of Newport News or the City of Hampton shall not be deemed to create any obligation or debt contrary to any such limitations. (1952, c. 46; 1964, c. 39; 1984, c. 249)

§ 12. (a) through (e). [Repealed.]

(f) The Authority shall have the power to issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority Facilities and including the payment or retirement of bonds previously issued by it. All bonds issued by the Authority shall be payable solely from the revenues and receipts derived from the leasing or sale by the Authority of its facilities or any part thereof or from other funds provided for such payment and the Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest: (i) from its revenues and receipts generally; (ii) exclusively from the revenues and receipts of a particular facility; or (iii) exclusively from the revenues and receipts of certain designated facilities whether or not they are financed in whole or in part from the proceeds of such bonds. Unless otherwise provided in the proceeding authorizing the issuance of the bonds, or in the trust indenture securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility. Bonds may be executed and delivered by the Authority at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding forty (40) years from the date thereof, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates (which may change, within specified limits, pursuant to provisions or procedures approved by the board of directors), may be payable at such time or times and at such place or places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the board of directors in authorizing each particular bond issue. If deemed advisable by the commissioners, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an

option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the board of directors of the Authority to be most advantageous, and the Authority may pay all costs, premiums and commissions which its commissioners may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the commissioners may deem necessary, but not exceeding an amount sufficient to refund principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums or commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates, or shall be due serially or otherwise.

(g) All bonds shall be signed by the chairman or vice chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature or said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or the secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

(h) If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost or the Authority Facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall exceed such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements or enlargements of the Authority Facilities for which such bonds shall have been issued.

(i) Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this chapter; provided, however, that nothing contained in this chapter shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

(j) All bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code of Virginia, subject only to provisions respecting registration of the bonds.

(k) In addition to all other powers granted to the Authority by this chapter, the Authority is authorized to provide for the issuance, from time to time, of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this chapter which relate to bonds or revenue bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate. (1952, c. 46; 1964, c. 39; 1974, c. 495; 1984, c. 249)

§ 13. Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt or a pledge of the faith and credit of the State but shall be payable solely from the funds provided therefor as herein authorized. All such revenue bonds shall contain on the face thereof a statement to the effect that neither the State nor the Authority shall be obligated to pay the same or the interest thereon except from the revenues and moneys pledged therefor and that neither the faith, and credit nor the taxing power of the State is pledged to the payment of the principal of or the interest on such bonds.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds of the Authority and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall be available to the Authority. (1952, c. 46; 1964, c. 39)

§ 14. (a) In the discretion of the Authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the bond resolution providing for the issuance of such bonds may pledge or assign the revenues of the Authority Facilities (or any part thereof). Such trust agreement or bond resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of the bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the Authority Facilities, the rates to be charged, the custody, safeguarding and application of all moneys and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any national bank with its main office in the Commonwealth or any bank or trust company incorporated under the laws of the Commonwealth or another state which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the holders of the bonds and of the trustee, and may restrict the individual right of action by such bondholders. In addition to the foregoing, any such trust agreement or bond resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the holders of bonds. All expenses incurred in carrying out the provisions of such trust agreement or bond resolution may be treated as part of the cost of the operation of the Authority Facilities.

(b) All moneys received pursuant to the provisions of this act, whether as proceeds from the sale of bonds, revenues or other moneys made available hereunder shall be deemed to be trust funds to be held and applied solely as provided in this act. The Authority may provide in the bond resolution or in the trust agreement for the payment of the proceeds derived from the sale of the bonds and the revenues to be received to a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, that shall act as trustee of such funds and hold and apply the same to the purposes of this act, subject to such requirements as may be provided in this act, the bond resolution or the trust agreement. The trustee may invest and reinvest such funds, pending their disbursement for the Authority Facilities, in securities that are legal investments under the laws of the Commonwealth for funds held by fiduciaries or are otherwise approved by the Authority. (1952, c. 46; 1964, c. 39; 1974, c. 495; 1984, c. 249)

§ 15. (a) The exercise of the powers granted by this act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their

safety, health, welfare, convenience and prosperity. The bonds, notes or other obligations issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof. Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

(b) As the operation and maintenance of Port Facilities will constitute the performance of essential governmental functions, no taxes or assessments shall be levied by the Commonwealth or by any county, city, political subdivision, district or other agency or instrumentality of the Commonwealth upon any Port Facilities or upon any leasehold or other interest or property acquired or used in connection with, or any income derived from, the operation and maintenance of any Port Facilities by the Authority or any lessee or other holder of any right to or interest in the Port Facilities pursuant to any contract with the Authority.

(c) The operation and maintenance of Authority Facilities within the meaning of § 6(f) of this act constitute the performance of essential governmental functions and are for a public purpose promoting the industry and economy of the State Commonwealth and thereby providing employment, stimulating business, increasing tax revenues, contributing to the general welfare of the State Commonwealth and promoting the health, welfare and education of the inhabitants of the Commonwealth. No taxes or assessments shall be levied by the Commonwealth or by any county, city, political subdivision, district or other agency or instrumentality of the State Commonwealth upon Authority Facilities within the meaning of § 6(f) or upon any leasehold or other interest or property acquired or used in connection with, or any income derived from, the operation and maintenance of any such facilities by the Authority or any lessee or other holder of any right to or interest in such facilities pursuant to any contract with the Authority. The Authority is authorized to agree to make and may make, out of any revenues or other funds available therefor, payments in lieu of taxes or assessments to the City of Newport News, the City of Hampton or any other political subdivision of the State Commonwealth. (1952, c. 46; 1964, c. 39; 1984, c. 249)

§ 16. In order to secure the payment of such bonds the Authority shall have power by provisions included in any bond resolution or trust agreement:

(a) to pledge all or any part of the gross or net revenues of the Authority Facilities (or any part thereof) and to pledge all or any part of any other moneys then or thereafter available to the Authority;

(b) to covenant against pledging all or any part of such revenues and other moneys or against permitting or suffering any lien on such revenues or moneys or against the Authority Facilities; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any Authority Facilities (or any part thereof) or any other property; and to covenant as to what other or additional bonds or obligations may be issued by it;

(c) to covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, covenant for their redemption and provide the terms and conditions thereof;

(d) to covenant as to the rents and fees to be charged in the operation of any Authority Facilities, the amount to be raised each year or other period of time by rates, fees, rents, tolls, charges and other revenues and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for acquisition, construction or operating cost, payment of the bonds and interest thereon, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds;

(e) to prescribe the procedure, if any, by which the terms of any contract with the holders of the bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

(f) to covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys;

(g) to covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation; and to covenant and prescribe as to events of default and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(h) to vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenant securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by the Authority, to take possession and use, operate and manage any facility or part thereof, and to collect and use the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the Authority with said trustee; to provide for the powers and duties of a trustee or trustees or the holders of

bonds or any proportion of them who may enforce any covenant or rights securing or relating to the bonds; and

(i) to exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the absolute discretion of said Authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein. (1952, c. 46; 1964, c. 39)

§ 17. An obligee of the Authority shall have the right in addition to all other rights which may be conferred on such obligee, subject to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action or proceeding at law or in equity to compel the Authority and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of the Authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants or agreements of the Authority and the fulfillment of all duties imposed upon the Authority by this chapter.

(b) By suit, action or proceedings in equity, to enjoin any acts or things which may be unlawful, or the violation of any, of the rights of such obligee of the Authority. (1952, c. 46)

§ 18. The Authority is hereby authorized to establish, maintain, revise, charge and collect such rates, fees, rents, tolls or other charges for the use, services and facilities of the Authority Facilities and to contract with any person, partnership, association or corporation desiring the of any part thereof, and to fix the terms, conditions, rates, fees, rents, tolls and charges for such use. Such rates, fees, rents, tolls and charges shall be so fixed and adjusted so that the revenues of the Authority Facilities, including moneys to be provided by the State, the city of Newport News, the city of Hampton or any other public agency or donor shall be sufficient to pay (a) the cost to the Authority of maintaining, repairing and operating the Authority Facilities and (b) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such rates, fees, rents, tolls and charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the State or of any municipality, county, or other political subdivision of the State. The revenues derived from or in connection with the ownership or operation of the Authority Facilities, except such part thereof as may be necessary to pay the cost of maintenance, repair and operation thereof and to provide such reserves thereof as may be required under the bond resolution or the trust agreement, shall be set aside at such regular intervals as may be provided in the bond resolution or the trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such

pledge shall be valid and binding from the time when the pledge is made. The revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the bond resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the bond resolution or the trust agreement. Such sinking fund shall be a fund for all such bonds without distinction or priority of one over another or with such distinctions and priorities among such bonds as may be provided in the bond resolution or the r trust agreement. A reserve may be accumulated and maintained out of the revenues and other moneys available to the Authority for extraordinary repairs and expenses and for such other purposes as may be provided in the bond resolution or trust agreement. Subject to such provisions and restrictions as may be set forth in the bonds resolution or trust agreement the Authority shall have exclusive control of the revenues derived from or in connection with the Authority Facilities and the right to use such revenues in the exercise of its powers and duties et forth in this act. (1952, c. 46; 1964, c. 39)

§ 19. In addition to other powers conferred by this act, the Authority shall have the following additional authority and powers:

(a) to borrow money and to accept contributions, grants and other financial assistance from the United States of America and agencies or instrumentalities thereof, the State, the cities of Newport News and Hampton, or any other political subdivision, agency or public instrumentality of the State, for or in aid of the construction, acquisition, operation, maintenance or repair of the Authority Facilities or for the payment of principal of or interest on any revenue bonds of the Authority, and to this end the Authority shall have the power to comply with such conditions and to execute such agreements, trust agreements and other legal instruments as may be necessary, convenient or desirable and to agree to such terms and conditions as may be imposed;

(b) to exercise the powers vested under this act free of the jurisdiction or control of any other State agency or instrumentality empowered to exercise powers and duties relating to harbors, seaports or port facilities; and

(c) to use, apply and expend funds appropriated by the General Assembly in conformity with the requirements of the respective appropriation; provided, however, that no such appropriated funds shall be used, applied or expended in connection with any property or facilities other than property or facilities owned by the State or the Authority or in which the Authority has a leasehold interest extending at least to the final maturity date of any bonds of the Authority then outstanding.

Any provision of this act which is found to be in conflict with any other statute or city charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict. (1952, c. 46; 1964, c. 39)

§ 20. Whenever the commission of the Authority declares and finds that the purposes for which the Authority was created have been completed or are impractical or impossible, or that substantially all of its functions have been taken over or are being undertaken by one or more political subdivisions and that the Authority should be dissolved, it shall adopt and file with the governing body of the City of Newport News a resolution declaring such findings. If the governing body of the City of Newport News concurs with such declaration and findings that the Authority should be dissolved, it shall so resolve and the Authority shall stand dissolved.

Notwithstanding the provisions of the preceding paragraph, the Authority shall continue in existence and shall not be dissolved unless all of the Authority's obligations have been paid or have been assumed by one or more political subdivisions, or by an authority created thereby, or cash or United States government securities have been deposited for their payment. (2008, c. 724)

Planning District Commissions

§ 15.2-4200.Short title

This chapter shall be known and may be cited as the "Regional Cooperation Act."

1968, c. 224, § 15.1-1400; 1995, cc. 732, 796; 1997, c. 587.

§ 15.2-4201.Purpose of chapter

This chapter is enacted:

1. To improve public health, safety, convenience and welfare, and to provide for the social, economic and physical development of communities and metropolitan areas of the Commonwealth on a sound and orderly basis, within a governmental framework and economic environment which will foster constructive growth and efficient administration.

2. To provide a means of coherent articulation of community needs, problems, and potential for service.

3. To foster planning for such development by encouraging the creation of effective regional planning agencies and providing the financial and professional assistance of the Commonwealth.

4. To provide a forum for state and local government on issues of a regional nature.

5. To encourage regional cooperation and coordination with the goals of improved services to citizens and increased cost-effectiveness of governmental activities.

6. To deter the fragmentation of governmental units and services.

1968, c. 224, § 15.1-1401; 1995, cc. 732, 796; 1997, c. 587.

§ 15.2-4202.Definitions

For the purposes of this chapter:

"Commission" means a planning district commission. Planning district commissions are composed of the duly appointed representatives of the localities or Indian tribes which are parties to the charter agreement.

"Indian tribe" means an Indian tribe or band that is recognized by federal law.

"Planning district" means a contiguous area within the boundaries established by the Department of Housing and Community Development.

"Population," unless a different census is clearly set forth, means the number of inhabitants according to the United States census latest preceding the time at which any provision dependent upon population is being applied, or the time as of which it is being construed, unless there is available an annual estimate of population prepared by the Weldon Cooper Center for Public Service of the

University of Virginia, which has been filed with the Department of Housing and Community Development, in which event the estimate shall govern.

1968, c. 224, § 15.1-1402; 1976, c. 760; 1986, c. 164; 1990, c. 722; 1995, cc. 732, 796; 1997, c. 587; 2017, c. 377.

§ 15.2-4203.Organization of planning district commission

A. At any time after the establishment of the geographic boundaries of a planning district, the localities or Indian tribes embracing at least 45 percent of the population within the district acting by their governing bodies may organize a planning district commission by written agreement. Any locality not a party to such charter agreement shall continue as a part of the planning district, but, until such time as such locality elects to become a part of the planning district commission as hereinafter provided, shall not be represented in the composition of the membership of the planning district commission. Any Indian tribe (i) whose land is located within the boundaries of the planning district and (ii) that is not a party to such charter agreement may elect to become part of the planning district commission at any time after its formation, and may negotiate the terms of such membership with the planning district commission. Whenever a planning district is created which contains only two counties, the governing body of either county may organize a planning district commission in accordance with the provisions of this chapter if the governing body of the other county does not agree to organize such a planning district commission.

B. The charter agreement shall set forth:

1. The name of the planning district. An entity organized as a planning district commission under this act may employ the name "regional council" or "regional commission" as a substitute for the name "planning district commission."

2. The locality in which its principal office shall be situated.

3. The effective date of the organization of the planning district commission.

4. The composition of the membership of the planning district commission. At least a majority of its members shall be elected officials of the governing bodies of the localities within the district, or members of the General Assembly, with each county, city and town of more than 3,500 population having at least one representative. In any planning district other than planning district number 23, a town of 3,500 or less population may petition the planning district commission to be represented thereon. The planning district commission may, in its discretion, grant representation to such town by a majority vote of the members of the commission. Other members shall be qualified voters and residents of the district. In planning districts number 4 and 14, the membership may also include representatives of higher education institutions. Should the charter agreement, as adopted, so provide, an alternate may serve in lieu of one of the elected officials of each of the governing bodies of the participating localities.

5. The term of office of the members, their method of selection or removal and the method for the selection and the term of office of a chairman.

6. The voting rights of members. Such voting rights need not be equal and may be weighed on the basis of the population of the locality represented by the member, the aggregation of the voting rights of members representing one locality, or otherwise.

7. The procedure for amendment, for addition of other localities within the planning district which are not parties to the original charter agreement, and the withdrawal from the charter agreement by localities within the planning district electing to do so.

C. The governing body of any locality which is a member of the planning district commission may provide for compensation to be paid by it for its commission members, except for any full-time salaried employees of the locality. The amount of such compensation shall not exceed the amount fixed by the planning district commission.

1968, c. 224, § 15.1-1403; 1970, cc. 303, 703; 1972, c. 595; 1973, c. 176; 1982, c. 660; 1989, c. 49; 1993, c. 838; 1995, cc. 732, 796; 1997, c. 587; 1998, cc. 668, 686; 2000, c. 984; 2005, c. 819; 2017, c. 377.

§ 15.2-4204.Disposition of earnings and assets of planning district commissions

No part of the net earnings of any planning district commission organized under the provisions of this chapter shall inure to the benefit of, or be distributable to, any of its members, officers or other private persons, other than to its member localities as provided in this chapter. However, the commission may pay reasonable compensation for services rendered and make payments and distributions in furtherance of the purposes of a planning district commission as set forth in this chapter and in its charter and bylaws. Upon the dissolution or termination of any planning district commission, it shall, after paying or making provisions for the payment of its liabilities, distribute its assets to its member localities, pro rata, based upon the formula used to determine local government dues to the commission.

1989, c. 178, § 15.1-1403.1; 1995, cc. 732, 796; 1997, c. 587.

§ 15.2-4205.Powers of commission generally

A. Upon organization of a planning district commission, pursuant to charter agreement, it shall be a public body corporate and politic, the purposes of which shall be to perform the planning and other functions provided by this chapter, and it shall have the power to perform such functions and all other powers incidental thereto.

B. Without in any manner limiting or restricting the general powers conferred by this chapter, the planning district commission may:

1. Adopt and have a common seal and to alter the same at pleasure.

2. Sue and be sued.

3. Adopt bylaws and make rules and regulations for the conduct of its business; however, a planning district commission shall not amend its budget once adopted during the applicable fiscal year except pursuant to an affirmative vote of the same number of the entire membership of the planning district commission required to adopt the budget.

4. Make and enter into all contracts or agreements, as it may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted under this chapter.

5. Apply for and accept, disburse and administer, for itself or for member localities so requesting, loans and grants of money or materials or property at any time from any private or charitable source or the United States of America or the Commonwealth, or any agency or instrumentality thereof.

6. Exercise any power usually possessed by private corporations, including the right to expend such funds as may be considered by it to be advisable or necessary in the performance of its duties and functions.

7. Employ engineers, attorneys, planners, such other professional experts and consultants and such general and clerical employees as may be deemed necessary, and prescribe their powers and duties and fix their compensation.

8. Do and perform any acts and things authorized by this chapter through or by means of its own officers, agents and employees, or by contracts with any persons.

9. Execute instruments and do and perform acts or things necessary, convenient or desirable for its purposes or to carry out the powers expressly given in this chapter.

10. Create an executive committee which may exercise the powers and authority of the planning district commission under this chapter. The chairman of the planning district commission shall serve as a member and as the chairman of the executive committee. The composition of the remaining membership of the executive committee, the term of office of its members and any alternate members, their method of selection or removal, the voting rights of members, procedures for the conduct of its meetings, and any limitations upon the general authority of the executive committee shall be established by the bylaws of the planning district commission. Any planning district commission may establish such other special and standing committees, advisory, technical, or otherwise, as it deems desirable for the transaction of its affairs.

1968, c. 224, § 15.1-1404; 1975, c. 83; 1986, c. 164; 1990, c. 722; 1995, cc. 732, 796; 1997, c. 587.

§ 15.2-4206.Additional powers of planning district commissions

Planning district commissions may, in addition to and not in limitation of all other powers granted by this chapter:

1. Acquire, lease, sell, exchange, donate and convey its projects, property or facilities in furtherance of the purposes of planning district commissions as set forth in this chapter;

2. Issue its bonds, notes or other evidences of indebtedness, whether payable solely out of the revenues and receipts derived or to be derived from the leasing, sale or other disposition or use of such projects, property or facilities or otherwise, for the purpose of carrying out any of its powers or purposes set forth in this chapter; and

3. As security for the payment of the principal of and premium, if any, and interest on any such bonds, notes or other evidences of indebtedness, mortgage and pledge its projects, property or facilities or any part or parts thereof and pledge the revenues therefrom or from any part thereof.

1989, c. 178, § 15.1-1404.1; 1995, cc. 732, 796; 1997, c. 587.

§ 15.2-4207.Purposes of commission

A. It is the purpose of the planning district commission to encourage and facilitate local government cooperation and state-local cooperation in addressing on a regional basis problems of greater than local significance. The cooperation resulting from this chapter is intended to facilitate the recognition and analysis of regional opportunities and take account of regional influences in planning and implementing public policies and services. Functional areas warranting regional cooperation may include, but shall not be limited to: (i) economic and physical infrastructure development; (ii) solid waste, water supply and other environmental management; (iii) transportation; (iv) criminal justice; (v) emergency management; (vi) human services; and (vii) recreation.

Types of regional cooperative arrangements that commissions may pursue include but are not limited to (i) the facilitation of revenue sharing agreements; (ii) joint service delivery approaches; (iii) joint government purchasing of goods and services; (iv) regional data bases; and (v) regional plans.

B. The planning district commission shall also promote the orderly and efficient development of the physical, social and economic elements of the district by planning, and encouraging and assisting localities to plan, for the future. If requested by a member locality or group of member localities and to the extent the commission may elect to act, the commission may assist the localities by carrying out plans and programs for the improvement and utilization of their physical, social and economic elements. The commission shall not, however, have a legal obligation to perform the functions necessary to implement the plans and policies established by it or to furnish governmental services to the district. Additionally, Planning District Commissions 1, 2, and 13 shall be designated as economic development organizations within the Commonwealth.

C. The authority of the commission includes the power, to the extent the commission may from time to time determine, when requested to do so by a member locality or group of member localities, (i) to participate in the creation or organization of nonprofit corporations to perform functions or operate programs in furtherance of the purposes of this chapter; (ii) to perform such functions and to operate

such programs itself; (iii) to contract with nonprofit entities, including localities, performing such functions or operating such programs to provide administrative, management, and staff support, accommodations in its offices, and financial assistance; and (iv) to provide financial assistance, including matching funds, to interdistrict entities which perform governmental or quasi-governmental functions directly benefiting the commission's district and which are organized under authority of the Commonwealth or of the federal government.

D. Nothing herein shall be construed to permit the commission to perform functions, operate programs, or provide services within and for a locality if the governing body of that jurisdiction opposes its doing so.

1968, c. 224, § 15.1-1405; 1972, c. 814; 1975, c. 381; 1984, c. 739; 1986, c. 164; 1991, c. 208; 1995, cc. 732, 796; 1997, c. 587; 1998, cc. 668, 686; 2009, c. 863.

§ 15.2-4208.General duties of planning district commissions

Planning district commissions shall have the following duties and authority:

1. To conduct studies on issues and problems of regional significance;

2. To identify and study potential opportunities for state and local cost savings and staffing efficiencies through coordinated governmental efforts;

3. To identify mechanisms for the coordination of state and local interests on a regional basis;

4. To implement services upon request of member localities;

5. To provide technical assistance to state government and member localities;

6. To serve as a liaison between localities and state agencies as requested;

7. To review local government aid applications as required by § 15.2-4213 and other state or federal law or regulation;

8. To conduct strategic planning for the region as required by §§ 15.2-4209 through 15.2-4212;

9. To develop regional functional area plans as deemed necessary by the commission or as requested by member localities;

10. To assist state agencies, as requested, in the development of substate plans;

11. To participate in a statewide geographic information system, the Virginia Geographic Information Network, as directed by the Department of Planning and Budget; and

12. To collect and maintain demographic, economic and other data concerning the region and member localities, and act as a state data center affiliate in cooperation with the Virginia Employment Commission.

1995, cc. 732, 796, § 15.1-1405.1; 1997, c. 587; 1998, cc. 668, 686.

§ 15.2-4209.Preparation and adoption of regional strategic plan

A. Except in planning districts in which regional planning also is conducted by multi-state councils of government, each planning district commission shall prepare a regional strategic plan for the guidance of the district. The plan shall concern those elements which are of importance in more than one of the localities within the district, as distinguished from matters of only local importance. The plan shall include regional goals and objectives, strategies to meet those goals and objectives and mechanisms for measuring progress toward the goals and objectives. The strategic plan shall include those subjects necessary to promote the orderly and efficient development of the physical, social and economic elements of the district such as transportation, housing, economic development and environmental management. The plan may be divided into parts or sections as the planning district commission deems desirable. In developing the regional strategic plan, the planning district commission shall seek input from a wide range of organizations in the region, including local governing bodies, the business community and citizen organizations.

B. In planning districts in which regional planning also is conducted by multi-state councils of government, each planning district commission may prepare a regional strategic plan for the guidance of the district. If prepared in accordance with this section, such plan shall conform with the requirements of subsection A and also shall include references to the relevant provisions of the most current regional strategic plan prepared by the multi-state council of governments that includes any of the area comprising the planning district.

C. Before the strategic plan is adopted, it shall be submitted to the Department of Housing and Community Development and to the governing body of each locality within the district for a period of not less than thirty days prior to a hearing to be held by the planning district commission thereon, after notice as provided in § 15.2-2204. Each such local governing body shall make recommendations to the planning district commission on or before the date of the hearing with respect to the effect of the plan within its locality. The Department of Housing and Community Development shall notify the planning district commission prior to the hearing as to whether the proposed strategic plan conflicts with plans of adjacent planning districts.

D. Upon approval of the strategic plan by a planning district commission after a public hearing, it shall be submitted to the governing body of each locality (excluding towns of less than 3,500 population unless members of the commission) within the district for review and possible adoption. The plan shall become effective with respect to all action of a planning district commission upon approval by the planning district commission. The plan shall not become effective with respect to the action of the governing body of any locality within the district until adopted by the governing body of such locality.

E. The adopted strategic plan shall be submitted within thirty days of adoption to the Department of Housing and Community Development for information and coordination purposes.

1968, c. 224, § 15.1-1406; 1976, c. 760; 1981, c. 315; 1995, cc. 732, 796; 1997, c. 587; 1998, cc. 668, 686; 2013, c. 607.

§ 15.2-4210.Commission to act only in conformity with regional strategic plan

When the strategic plan becomes effective as the district plan, the planning district commission shall not, except as provided in the plan, establish any policies or take any action which, in its opinion, is not in conformity with the plan.

1968, c. 224, § 15.1-1407; 1995, cc. 732, 796; 1997, c. 587; 1998, cc. 668, 686.

§ 15.2-4211.Amendment of regional strategic plan

The strategic plan may be amended in the same manner as provided for the original approval and adoption of the plan. However, if the planning district commission determines that a proposed amendment has less than districtwide significance, such amendment may be submitted only to the governing bodies of those localities which the planning district commission determines to be affected. The amended strategic plan shall be submitted within thirty days of amendment to the Department of Housing and Community Development.

1968, c. 224, § 15.1-1408; 1995, cc. 732, 796; 1997, c. 587.

§ 15.2-4212.Review of regional strategic plan by commission

At least once every five years the regional strategic plan shall be revised and formally approved by the planning district commission. The revised plan shall not become effective with respect to the action of the governing body of any locality within the district until adopted by the governing body of such locality.

1968, c. 224, § 15.1-1409; 1995, cc. 732, 796; 1997, c. 587.

§ 15.2-4213.Commission to be informed of applications for state or federal aid by local governing bodies

In each planning district in which a planning district commission has been organized, the governing body of each locality shall make available to the planning district commission a summary of applications to agencies of the state or federal government for loans or grants-in-aid for local projects. Submission of the summary of applications is for informational purposes only, unless otherwise directed by state or federal regulations or laws.

1968, c. 224, § 15.1-1410; 1972, c. 599; 1995, cc. 732, 796; 1997, c. 587.

§ 15.2-4214.Cooperation and consultation with other agencies

A planning district commission may cooperate with other planning district commissions, councils of governments, or the legislative and administrative bodies and officials of other districts or localities within or outside a district, so as to coordinate the planning, development and services of a district with the plans and services of other districts and localities and the Commonwealth. A planning district

commission may appoint committees and adopt rules to effect such cooperation. A planning district commission shall also cooperate with the Department of Housing and Community Development and use advice and information furnished by such Department and by other state and federal officials, departments and agencies. Such Department and such officials, departments and agencies having information, maps and data pertinent to the planning and development of a district may make the material, together with services and funds, available for use of a planning district commission.

All agencies of the Commonwealth shall notify the Department of Housing and Community Development prior to engaging in planning activities which will require planning district commission participation. State agencies are encouraged to consult with planning district commissions in the development of regional plans and services and for data collection.

1968, c. 224, § 15.1-1411; 1976, cc. 488, 760; 1977, c. 613; 1995, cc. 732, 796; 1997, c. 587.

§ 15.2-4215.Annual report required

Each planning district commission shall submit an annual report by September 1 to its member local governments and the Department of Housing and Community Development in accordance with a format prescribed by the Department. The annual report shall contain at a minimum a description of the activities conducted by the planning district commission during the preceding fiscal year, including how the commission met the provisions of this chapter, and information showing the sources and amounts of funding provided to the commission. The Department of Housing and Community Development shall summarize the annual reports in a report to be distributed in accordance with § 36-139.6.

1995, cc. 732, 796, § 15.1-1411.1; 1997, c. 587.

§ 15.2-4216.State aid

A. Upon the organization of a planning district commission, it shall be entitled to receive state financial support to assist it in carrying out its purposes. Such state aid shall be in an amount as provided in the general appropriations act. In order to be allocated such state aid, each planning district commission shall prepare and submit an annual report, as required in § 15.2-4215, which details its compliance with the provisions of this chapter, and an annual work program of activities proposed for the next fiscal year. The fiscal year of the planning district commission shall end June 30.

B. If two planning districts are merged pursuant to § 15.2-4221, the new district shall be entitled to receive the combined amount of aid to which the two districts it replaced separately would have been entitled for five years from the effective date of the merger.

1968, c. 224, § 15.1-1412; 1977, c. 613; 1985, c. 127; 1990, c. 722; 1995, cc. 732, 796; 1997, c. 587.

§ 15.2-4217.Regional Cooperation Incentive Fund created; administration thereof

A. There is hereby created a Regional Cooperation Incentive Fund for the purpose of encouraging inter-local strategic and functional area planning and other regional cooperative activities. In addition, the fund shall have the purpose of fostering inter-local service delivery consolidation or coordination where such consolidation or coordination will result in the more efficient use of local funds. The Fund shall be administered by the Department of Housing and Community Development. Fund availability is subject to the Appropriation Act.

B. From time to time the General Assembly and the Governor may designate specific functional areas or activities which are to be given highest priority for funding, including but not limited to economic development, criminal justice, solid waste management, water supply, emergency management and transportation.

C. Disbursements from the Regional Cooperation Incentive Fund shall be made on a matching grant basis to planning district commissions, or in the case of inter-local service delivery consolidation or coordination, to two or more cooperating localities. The Department of Housing and Community Development shall promulgate regulations for the administration of the funds, including application forms, eligibility requirements and terms and duration of grants. In establishing regulations, the following criteria shall be met:

1. The planning district commission or member localities must provide, at a minimum, a 25 percent match to the grant, or in the case of inter-local service delivery consolidation or coordination, the Regional Cooperation Incentive Fund may provide up to 50 percent of the cost of implementation; and

2. Any project for which a grant is sought shall use private initiative and enterprise insofar as feasible, and emphasize coordination of available governmental and private financial and technical resources.

D. The Department of Housing and Community Development shall require periodic reports from grant recipients concerning progress of the project and the use of funds.

1995, cc. 732, 796, § 15.1-1412.1; 1997, c. 587; 2012, c. 500.

§ 15.2-4217.1.Specialized Transportation Incentive Fund

The Specialized Transportation Incentive Fund (the "Fund") is established and shall be used to assist participating planning districts in the development of coordinated specialized transportation plans and projects. In order to be eligible to receive monies from the Fund, a planning district commission or single locality shall establish, in consultation with its metropolitan planning organization if one exists, an advisory transportation coordination committee and shall submit to the Disability Commission a plan for cost-effective coordination of specialized transportation services in the planning district or in localities within the planning district. Single localities may appoint an advisory transportation coordinating committee independent of the planning district commission and receive specialized transportation incentive funds if the locality is located in a regional planning district in which all other localities are recipients of the federal funds and subject to the provisions of Title II of the Americans

with Disabilities Act, Public Law 101-336 (42 U.S.C. § 12131 et seq.). The advisory transportation coordination committee shall guide planning for the coordination and administration of specialized transportation with human service agencies, participating public transportation systems and, where appropriate, with private for-profit and nonprofit transportation providers. Advisory transportation coordination committees shall be composed of, but not limited to, elderly and disabled persons, providers of specialized transportation systems, participating public transportation systems, and local private for-profit and nonprofit transportation providers. Localities and public transportation systems subject to Title II of the Americans with Disabilities Act, Public Law 101-336 (42 U.S.C. § 12131 et seq.), shall not be required to participate in coordinated specialized transportation plans, but may participate at their option.

2003, c. 454.

§ 15.2-4218.Local governing bodies authorized to appropriate or lend funds

The governing bodies of the localities within a planning district are authorized to appropriate or lend funds to the planning district commission.

1968, c. 224, § 15.1-1413; 1997, c. 587.

§ 15.2-4219.Exemption of commission from taxation

The planning district commission shall not be required to pay any taxes or assessments upon any project or upon any property acquired or used by it or upon the income therefrom. For purposes of subdivision 4 of § 58.1-609.1, a planning district commission is deemed a "political subdivision of this Commonwealth" as the term is used in that section.

1968, c. 224, § 15.1-1415; 1993, c. 310; 1997, c. 587.

§ 15.2-4220.Dual membership authorized

Any locality which is a member of a planning district commission may become a member of an additional planning district commission upon such terms and conditions as mutually agreed to by the locality and the additional planning district commission. The locality shall notify the Department of Housing and Community Development of its membership status in the additional planning district commission within thirty days of becoming a member. Whenever a state-directed activity is conducted by all the planning district commissions, the planning district boundaries identified by the Department of Housing and Community Development shall be used, unless alternative boundaries are agreed to by the localities and the planning district commissions affected. No additional state financial support shall be paid due to a locality becoming a member of an additional planning district commission.

1985, c. 109, § 15.1-1416; 1988, c. 263; 1991, c. 35; 1993, c. 797; 1994, c. 650; 1995, cc. 732, 796; 1997, c. 587.

§ 15.2-4221.Merger of two planning district commissions

The commissions of any two planning districts and a majority of the governing bodies of the localities comprising each district, upon finding that the community of interest, ease of communications and transportation, and geographic factors and natural boundaries among the localities of the two districts are such that the best interest of the localities would be served, may by resolutions concurrently adopted vote to merge into one district and request the Department of Housing and Community Development to declare the districts so merged. Upon such declaration, the commissions of the two districts shall be merged into one commission. The commission of the new district thereupon shall organize as provided in § 15.2-4203; however, nothing shall prevent the commissions of the two districts which are to be merged from agreeing to the terms of such organization prior to their vote to merge.

1990, c. 722, § 15.1-1416.1; 1997, c. 587.

§ 15.2-4222. Inconsistent laws inapplicable

All other general or special laws inconsistent with any provisions of this chapter are hereby declared to be inapplicable to the provisions of this chapter.

1968, c. 224, § 15.1-1452; 1997, c. 587.

Port Authority, Virginia

§ 62.1-128.Authority created

The Virginia Port Authority, hereinafter referred to as the Authority, is created as a body corporate and as a political subdivision of the Commonwealth. The Authority is hereby constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the Authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the Commonwealth.

Code 1950, § 62-106.1; 1952, c. 61; 1954, c. 667; 1958, c. 174; 1968, c. 659; 1970, c. 171; 1981, c. 589; 1997, c. 232.

§ 62.1-129.Board of Commissioners; members and officers; Executive Director; agents and employees

A. All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of Commissioners of the Virginia Port Authority, hereinafter referred to as the Board or Board of Commissioners. The Board shall consist of the State Treasurer, the Chief Executive Officer of the Virginia Economic Development Partnership, the Chief Executive Officer of the Virginia International Trade Corporation, and 11 members appointed by the Governor, subject to confirmation by the General Assembly. The terms of members of the Board of Commissioners appointed or reappointed by the Governor on or after January 1, 1981, shall be for five years. Any appointment to fill a vacancy shall be for the unexpired term. Members of the Board shall receive their expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on business of the Board. No member appointed by the Governor shall be eligible to serve more than two successive terms. A person appointed to fill a vacancy may be appointed to serve two additional terms. Beginning with those members of the Board of Commissioners appointed or reappointed by the Governor on or after January 1, 1981: (i) appointments shall be made by the Governor in such a manner as to ensure the widest possible geographical representation of all parts of the Commonwealth, and (ii) no resident of the Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, or Virginia Beach shall be eligible for appointment or reappointment to the Board of Commissioners if his appointment or reappointment would increase or maintain the number of members of the Board of Commissioners residing in such cities above the number of five. One of the members appointed or reappointed from the cities previously mentioned in this section shall be a resident of the City of Portsmouth or the City of Chesapeake, one of the members appointed or reappointed shall be a resident of the City of Norfolk or the City of Virginia Beach, one of the members appointed or reappointed shall be a resident of the City of Newport News or the City of Hampton, one of the members appointed or reappointed shall be a resident of Greater Hampton Roads, and one of the members appointed or reappointed shall be a resident of Greater Hampton Roads, but not a resident of any of the above-mentioned cities. Additionally, one member shall be appointed from the

City of Richmond or the County of Chesterfield, Hanover, or Henrico to serve as a member representing the Port of Richmond, and one member shall be appointed from the City of Winchester or the County of Clarke, Frederick, or Warren to serve as a member representing the Virginia Inland Port. Of the members appointed by the Governor, all members shall have executive level experience in any of the following industries: agriculture, distribution and warehousing, manufacturing, logistics and transportation, mining, marketing, legal, financial, or transportation infrastructure. In addition, the Governor shall appoint at least one member with maritime shipping experience from a list of at least three nominees provided by the Virginia Maritime Association, who shall not be a paid member of the Virginia Maritime Association or have any other conflict of interest with the Virginia Port Authority.

The Board shall elect from its membership a chairman and vice-chairman and may also elect from its membership, or appoint from its staff, a secretary and treasurer and prescribe their powers and duties.

The Board of Commissioners shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, who shall be known as the Executive Director and who shall serve at the pleasure of the Board. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. This compensation shall be established at a level which will enable the Authority to attract and retain a capable Executive Director.

The Board may also appoint from the staff an assistant secretary and an assistant treasurer, who shall, in addition to other duties, discharge such functions of the secretary and treasurer, respectively, as may be directed by the Board.

B. The Board may, at its discretion and from time to time, also form a Maritime Advisory Council, consisting of representatives from the maritime industry, to provide advice and counsel to the Board of Commissioners on all matters associated with the Authority with the exception of the annual budget and personnel matters.

Code 1950, § 62-106.2; 1952, c. 61; 1954, c. 667; 1956, c. 207; 1958, c. 174; 1968, c. 659; 1970, c. 171; 1978, c. 655; 1980, c. 728; 1981, c. 589; 1983, cc. 218, 298, 338; 1987, c. 688; 2012, cc. 846, 849; 2013, cc. 762, 794; 2014, c. 424; 2016, c. 749; 2017, cc. 801, 818.

§ 62.1-129.1.Employees; employment; personnel rules; health insurance; retirement plans

A. Employees of the Authority shall be employed on such terms and conditions as established by the Authority. The Board of Commissioners of the Authority shall develop and adopt personnel rules, policies, and procedures to give its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, religion, color, sex, sexual orientation, gender identity, or national origin.

B. The Authority shall issue a written notice to its employees regarding the Authority's status. The date upon which such written notice is issued shall be referred to herein as the "option date." Each employee may, by written request made within 180 days of the option date, elect not to become

employed by the Authority. Any employee of the Virginia Port Authority who: (i) elects not to become employed by the Authority and who is not reemployed by any other department, institution, board, commission or agency of the Commonwealth; (ii) is not offered the opportunity to remain employed by the Authority; or (iii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary, shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the Workforce Transition Act.

C. Any employee of the Authority who is a member of any plan providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2, shall continue to be a member of such health insurance plan under the same terms and conditions. Notwithstanding subsection A of § 2.2-2818, the costs of providing health insurance coverage to such employees who elect to continue to be members of the state employees' health insurance plan shall be paid by the Authority. Alternatively, an employee may elect to become a member of any health insurance plan established by the Authority. The Authority is authorized to: (i) establish a health insurance plan for the benefit of its employees and (ii) enter into agreements with the Department of Human Resource Management providing for the coverage of its employees under the state employees' health insurance plan, provided that such agreement requires the Authority to pay the costs of providing health insurance coverage under such plan.

D. Any retired employee of the Authority shall be eligible to receive the health insurance credit set forth in § 51.1-1400 provided the retired employee meets the eligibility criteria set forth in that section.

E. Any Authority employee who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1, shall continue to be a member of the Virginia Retirement System or other authorized retirement plan under the same terms and conditions. Alternatively, such employee may elect to become a member of the retirement program established by the Authority for the benefit of its employees pursuant to § 51.1-126.4. The following rules shall apply:

1. The Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or other such authorized retirement plan for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for any employee who elects to remain a member of the Virginia Retirement System or other such authorized retirement plan.

2. Employees who elect to become members of the alternative retirement plan established by the Authority pursuant to § 51.1-126.4 shall be given full credit for their creditable service as defined in § 51.1-124.3, and vesting and benefit accrual under the retirement plan. For any such employee,

employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or other retirement plan authorized pursuant to Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1.

3. For employees who elect to become members of the alternative retirement plan established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the alternative retirement plan established by the Authority, assets equal to the actuarially determined present value of the accrued basic benefits as of the transfer date. For purposes hereof, the "basic benefits" means the benefits accrued under the Virginia Retirement System or other such authorized retirement plan based on creditable service and average final compensation as defined in § 51.1-124.3. The actuarial present value shall be determined by using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or other such authorized retirement plan so that the transfer of assets to the alternative retirement plan established by the Authority will have no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan. The Authority shall reimburse the Virginia Retirement System for the cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who transfer to an Authority retirement plan.

4. The Authority may provide that employees of the Authority who are eligible to participate in the deferred compensation plan sponsored by the Authority shall be enrolled automatically in such plan, unless such employee elects, in a manner prescribed by the Board, not to participate. The amount of the deferral under the automatic enrollment and the group of employees to which the automatic enrollment shall apply shall be set by the Board; provided however, that such employees are provided the opportunity to increase or decrease the amount of the deferral in accordance with the Internal Revenue Code of 1986, as amended.

1997, c. 232; 2000, cc. 66, 657; 2008, cc. 325, 621; 2020, c. 1137.

§ 62.1-129.2.Trust for postemployment benefits authorized; administration

A. The Authority is hereby authorized to establish and maintain a trust or equivalent arrangement for the purpose of accumulating and investing assets to fund postemployment benefits other than pensions, as defined herein. Such trust or equivalent arrangement shall be irrevocable; the assets of such trust or similar arrangement shall be dedicated to providing benefits to retirees and their beneficiaries in accordance with the terms of the plan or programs providing postemployment benefits other than pensions; and the assets of such trust or equivalent arrangement shall be exempt from taxation and execution, attachment, garnishment or any other process against the Authority or a retiree or beneficiary. The funds of the trust or similar arrangement shall be deemed separate, and independent trust funds shall be segregated from all other funds of the Authority, and shall be invested and administered solely in the interests of the active or former employees (and their dependents or beneficiaries) entitled to postemployment benefits other than pensions covered by the Fund.

B. The Authority may make appropriations to any such trust or equivalent arrangement, and the Authority may require active and former employees covered by a postemployment benefit program to contribute to the trust or equivalent arrangement through payments or deductions from their wages, salaries, or pensions.

C. Nothing in this section shall be construed to inhibit the Authority's right to revise or discontinue its plans or programs providing such postemployment benefits other than pensions for its active and former officers and employees as it may deem necessary. If all plans or programs providing such postemployment benefits other than pensions for which the trust or equivalent arrangement is established are repealed or terminated by the Authority, then there shall be no continuing responsibility for the Authority to continue to make appropriations to such trust or equivalent arrangement, and the assets of such trust or equivalent arrangement shall be used to provide any benefits continuing to be due to active or former employees (and their dependents or beneficiaries) under such plans or programs. If there are no active or former employees (or dependents or beneficiaries) due a benefit under any plan or program providing such postemployment benefits other than pensions for which the trust or equivalent arrangement was established, then any remaining assets may revert to the Authority.

D. Postemployment benefits other than pensions shall be defined by the Authority pursuant to applicable accounting standards and law. Such benefits may include, but are not limited to, medical, prescription drug, dental, vision, hearing, life or accident insurance (not provided through a pension plan), long-term care benefits, long-term disability benefits (not covered under a pension plan) provided to individuals who have terminated their service and to the dependents of such individuals, and may be provided by purchasing insurance, by a program of self-insurance, or by a combination of both. However, postemployment benefits other than pensions shall not include defined benefit pension plans for retirees and eligible dependents of retirees, termination benefits or other pension benefits. Such postemployment benefits other than pensions may be provided to the officers and employees or to their dependents, estates, or designated beneficiaries. Any benefits arising from any postemployment benefits other than pension programs shall be clearly defined and strictly construed.

E. Notwithstanding any other provision of law, the moneys and other property comprising the trust or equivalent arrangement established hereunder and the moneys or other properties comprising the retirement program established pursuant to § 51.1-126.4 shall be invested, reinvested and managed by the Authority or the trust company or bank having powers of a trust company within or without the Commonwealth who is selected by the Board to act as a trustee for the fund, with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with the same aims. Such investments shall be diversified so as to minimize the risk of large losses

unless under the circumstances it is clearly prudent not to do so. Such investments shall not be limited by Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2.

2008, cc. 597, 622.

§ 62.1-130.Powers and duties of Executive Director

The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary, subject to the Board's approval. The Executive Director shall also exercise such of the powers and duties relating to ports conferred upon the Board as may be delegated to him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also exercise and perform such other powers and duties as may be lawfully delegated to him, and such powers and duties as may be conferred or imposed upon him by law.

Code 1950, § 62-106.3; 1952, c. 61; 1954, c. 667; 1968, c. 659; 1981, c. 589.

§ 62.1-131.Office and branch offices; title to property

The Authority shall, in the Hampton Roads Area, have and maintain its principal office, at which all of its records shall be kept, and from which its business shall be transacted. It may, if necessary, establish a branch office or offices within or without the Commonwealth or the United States. The title to all property of every kind belonging to the former Hampton Roads Port Commission or the former State Port Authority of Virginia or the former Division of Ports Department of Conservation and Development, shall be vested in the Commonwealth of Virginia for the Virginia Port Authority.

Code 1950, § 62-106.4; 1952, c. 61; 1958, c. 174; 1968, c. 659; 1970, c. 171; 1981, c. 589.

§ 62.1-132.Local authorities subordinate to Authority

Any conflict between any authority granted to the several port cities and towns or other entities of this Commonwealth, or the exercise of that authority, and the exercise of the authority granted to the Board of Commissioners under this chapter shall be resolved in favor of the exercise of such authority by the Board of Commissioners.

Code 1950, § 62-106.6; 1952, c. 61; 1968, c. 659; 1970, c. 171; 1981, c. 589.

§ 62.1-132.1.General powers

A. Except as provided in subsection B, the Authority is vested with the powers of a body corporate, including, without limitation, to:

1. Sue and be sued;

2. Make contracts;

3. Adopt and use a common seal, and alter such seal at its pleasure;

4. Procure insurance, participate in insurance plans, and provide self-insurance. The purchase of insurance, participation in an insurance plan, or the creation of a self-insurance plan by the Authority

shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its officers, directors, employees, or agents are otherwise entitled;

5. Develop policies and procedures generally applicable to the procurement of goods, services and construction based on competitive principles; and

6. Exercise all the powers that are conferred upon industrial development authorities created pursuant to Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, except that the power to effect a change in ownership or operation of the Port of Virginia shall be subject to the provisions of § 62.1-132.19.

B. Expenditures by the Authority for capital projects are restricted to projects located on real property that is owned, leased, or operated by the Virginia Port Authority, except those expenditures (i) as provided in § 62.1-132.13 or 62.1-132.14, (ii) on grants to local government for financial assistance for port facilities as approved by the Board in policies posted on the Authority's website, or (iii) to provide support for the types of projects eligible for funding under subsection A of § 33.2-1509, subsection A of § 33.2-1600, or § 33.2-1526.4.

1981, c. 589; 1997, c. 232; 2013, cc. 762, 794; 2015, c. 609; 2020, cc. 1230, 1275.

§ 62.1-132.2.Bylaws and organization

The Authority shall have the power to adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary or expedient.

1981, c. 589.

§ 62.1-132.3.Stimulation of commerce

It shall be the duty of the Authority, on behalf of the Commonwealth, to foster and stimulate the commerce of the ports of the Commonwealth and related facilities by serving as the United States Eastern Seaboard gateway for the global import and export of freight throughout the world, to promote the shipment of freight through the maritime and inland ports, to seek to secure necessary improvements of navigable tidal waters within the Commonwealth, and in general to perform any act or function that may be useful in developing, improving, or increasing the commerce, both foreign and domestic, of all maritime and inland ports of the Commonwealth and related facilities.

1981, c. 589; 2013, cc. 762, 794.

§ 62.1-132.3:1.Port Opportunity Fund

A. There is hereby created in the state treasury a special nonreverting fund that is a subfund of the Commonwealth Port Fund, known as the Port Opportunity Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be

paid into the state treasury and credited to the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director of the Virginia Port Authority or his designee. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Moneys in the Fund shall be used solely for the purposes enumerated in subsection C.

B. If the Authority's revenues from terminal operations during a fiscal year exceed its terminal operating expenditures for that year by at least five percent, the Authority shall request that the Treasurer transfer to the Port Opportunity Fund an amount of up to five percent of that year's revenues from terminal operations, not to exceed $2 million, unless the Secretary of Transportation determines that such a transfer is not in the long-term interest of the Authority. Such determination shall be made in writing by the Secretary of Transportation to the Executive Director of the Authority. Requests to transfer such revenues shall be made by August 30 of the ensuing fiscal year.

C. Moneys in the Fund shall be used to fund the development and implementation of a national and international marketing program and to provide incentives, as prescribed by the Board of Commissioners, for expanding the use of Virginia Port Authority facilities for the import and export of containerized and noncontainerized cargoes.

D. The Authority shall develop, and the Board of Commissioners approve, guidelines governing the use of incentives that comply with applicable Virginia laws.

2012, cc. 846, 849; 2016, c. 714.

§ 62.1-132.3:2.Port of Virginia Economic and Infrastructure Development Grant Fund and Program

A. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, and any funds transferred at the request of the Executive Director from the Port Opportunity Fund created pursuant to § 62.1-132.3:1, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Port of Virginia Economic and Infrastructure Development Grant Fund (the Fund), to be administered by the Virginia Port Authority. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director. Moneys in the Fund shall be used solely for the purpose of grants to qualified applicants to the Port of Virginia Economic and Infrastructure Development Grant Program.

B. As used in this section, unless the context requires a different meaning:

"New, permanent full-time position" means a job of an indefinite duration, created by a qualified company as a result of operations within the Commonwealth, requiring a minimum of 35 hours of an

employee's time per week for the entire normal year of the company's operations, which normal year shall consist of at least 48 weeks, or a position of indefinite duration that requires a minimum of 35 hours of an employee's time per week for the portion of the taxable year in which the employee was initially hired for the qualified company's location within the Commonwealth. "New, permanent full-time position" includes security positions as required within a foreign trade zone, established pursuant to Foreign Trade Zones Act of 1934, as amended (19 U.S.C. §§ 81a through 81u). "New, permanent full-time position" does not include seasonal or temporary positions, jobs created when a position is shifted from an existing location in the Commonwealth to the qualified company's new or expanded location, or positions in building and grounds maintenance or other positions that are ancillary to the principal activities performed by the employees at the qualified company's location within the Commonwealth.

"Qualified company" means a corporation, limited liability company, partnership, joint venture, or other business entity that (i) locates or expands a facility within the Commonwealth; (ii) creates at least 25 new, permanent full-time positions for qualified full-time employees at a facility within the Commonwealth during its first year of operation or during the year when the expansion occurs; (iii) is involved in maritime commerce or exports or imports manufactured goods through the Port of Virginia; and (iv) is engaged in one or more of the following: the distribution, freight forwarding, freight handling, goods processing, manufacturing, warehousing, crossdocking, transloading, or wholesaling of goods exported and imported through the Port of Virginia; ship building and ship repair; dredging; marine construction; or offshore energy exploration or extraction.

"Qualified full-time employee" means an employee filling a new, permanent full-time position in the qualified company's location within the Commonwealth. A "qualified full-time employee" does not include an employee (i) for whom a tax credit was previously earned pursuant to § 58.1-439 or 58.1-439.12:06 by a related party as listed in § 267(b) of the Internal Revenue Code or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code; (ii) who was previously employed in the same job function at an existing location in the Commonwealth by a related party as listed in § 267(b) of the Internal Revenue Code; or (iii) whose job function was previously performed at a different location in the Commonwealth by an employee of a related party as listed in § 267(b) of the Internal Revenue Code or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code.

C. Beginning January 1, 2014, but not later than June 30, 2025, and subject to appropriation, any qualified company that locates or expands a facility within the Commonwealth shall be eligible to apply for a one-time grant from the Fund, in an amount determined as follows:

1. One thousand dollars per new, permanent full-time position if the qualified company creates at least 25 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs;

2. Fifteen hundred dollars per new, permanent full-time position if the qualified company creates at least 50 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs;

3. Two thousand dollars per new, permanent full-time position if the qualified company creates at least 75 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs; and

4. Three thousand dollars per new, permanent full-time position if the qualified company creates at least 100 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs.

D. The maximum amount of grant allowable per qualified company in any given fiscal year is $500,000. The maximum amount of grants allowable among all qualified companies in any given fiscal year is $5 million.

E. To qualify for a grant pursuant to this section, a qualified company must apply for the grant not later than March 31 in the year immediately following the location or expansion of a facility within the Commonwealth pursuant to an application process developed by the Virginia Port Authority. Within 90 days after the filing deadline, the Executive Director shall certify to the Comptroller and the qualified company the amount of grant to which the qualified company is entitled under this section. Payment of each grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within 60 days of such certification and in the order that each completed eligible application is received. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund or $5 million, such grants shall be paid in the next fiscal year in which funds are available.

F. A qualified company that has received a grant in accordance with the requirements provided in this section shall be eligible for a second grant from the Fund if it (i) locates or expands an additional facility in a separate location, as determined by the Virginia Port Authority, within the Commonwealth; (ii) creates at least 300 new, permanent full-time positions at the additional facility over and above those agreed upon in the qualified company's original memorandum of understanding with the Virginia Port Authority; and (iii) increases cargo volumes through the Port of Virginia by at least five percent, not including any volume increase resulting from the original grant, from the additional facility. If the qualified company satisfies the requirements provided in this subsection and receives a grant consistent with the requirements of this section, then the qualified company shall enter into another separate memorandum of understanding with the Virginia Port Authority as provided in subsection G.

G. Prior to receipt of a grant, the qualified company shall enter into a memorandum of understanding with the Virginia Port Authority establishing the requirements for maintaining the number of new, permanent full-time positions for qualified employees at the qualified company's location within the

Commonwealth. If the number of new, permanent full-time positions for any of the three years immediately following receipt of a grant falls below the number of new, permanent full-time positions created during the year for which the grant is claimed, the amount of the grant must be recalculated using the decreased number of new, permanent full-time positions and the qualified company shall repay the difference.

H. No qualified company shall apply for a grant nor shall one be awarded under this section to an otherwise qualified company if (i) a credit pursuant to § 58.1-439 or 58.1-439.12:06 is claimed for the same employees or for capital expenditures at the same facility by the qualified company, by a related party as listed in § 267(b) of the Internal Revenue Code, or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code or (ii) the qualified company was a party to a reorganization as defined in § 368(b) of the Internal Revenue Code, and any corporation involved in the reorganization as defined in § 368(a) of the Internal Revenue Code previously received a grant under this section for the same facility or operations.

I. The Virginia Port Authority, with the assistance of the Virginia Economic Development Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the grant, including the affirmative determination that each applicant is a qualified company, as defined above, engaged in a port-related business. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). For the purposes of administering this grant program, the Virginia Port Authority and the Department of Taxation shall exchange information regarding whether a qualified company, a related party as listed in § 267(b) of the Internal Revenue Code, or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code has claimed a credit pursuant to § 58.1-439 or 58.1-439.12:06 for the same employees or for capital expenditures at the same facility.

2012, Sp. Sess. I, c. 3; 2013, cc. 549, 806; 2014, c. 470; 2015, c. 246; 2019, c. 565.

§ 62.1-132.3:3. Virginia Waterway Maintenance Fund

From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Virginia Waterway Maintenance Fund (the Fund), to be administered by the Authority. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director. Moneys in the Fund shall be used solely for the purpose of awarding grants to applicants to the Virginia Waterway Maintenance Grant Program pursuant to § 62.1-132.3:4.

2018, c. 642.

§ 62.1-132.3:4. Virginia Waterway Maintenance Grant Program

A. Once each fiscal year, the Authority shall award a grant of funds to a qualified applicant or applicants to support a dredging project or projects that have been approved by the Authority. The source of the grant funds shall be the Virginia Waterway Maintenance Fund created pursuant to § 62.1-132.3:3. Applicants shall be limited to political subdivisions and the governing bodies of Virginia localities.

B. The Authority shall develop guidelines establishing an application process, procedures for evaluating the feasibility of a proposed dredging project, and procedures for awarding grants. The guidelines and procedures shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). The guidelines and procedures shall provide that:

1. The Authority shall evaluate each application to determine its completeness, the sufficiency of its justification for the proposed project, the status of any necessary permits, the adequacy of its project management organization, and the potential beneficial use of dredged materials for the purpose of mitigation of coastal erosion, flooding, or other purposes for the common good.

2. The Authority shall not require any level of matching contributions from the applicant.

3. No award of a grant shall support any dredging project for a solely privately owned marina or dock.

4. Prior to receipt of a grant, the applicant shall enter into a memorandum of understanding with the Authority establishing the requirements for the use of the grant funds.

C. Projects for which the Authority may award grant funding include (i) feasibility and cost evaluations, pre-project engineering studies, and project permitting and contracting costs for a waterway project conducted by the Commonwealth; (ii) the state portion of a nonfederal sponsor funding requirement for a federal project, which may include the beneficial use of dredged materials that are not covered by federal funding; (iii) the Commonwealth's maintenance of shallow-draft navigable waterway channel maintenance dredging and the construction and management of areas for the placement of dredged material; and (iv) the beneficial use, for environmental restoration and the mitigation of coastal erosion or flooding, of dredged materials from waterway projects conducted by the Commonwealth.

2018, c. 642.

§ 62.1-132.4. Rates and rate structures

The Authority shall have power to establish a traffic bureau or other office to investigate and seek improvement in any rates, rate structures, practices, and charges affecting or tending to affect the commerce of the ports of the Commonwealth. Notwithstanding any provision of law to the contrary, the Authority shall not disclose proprietary information and data furnished to it in confidence, including but not limited to customer contracts, agreements, or information; ship tally sheets; ship manifests;

information relating to tonnages and cargoes; annual budgets; and other information furnished to it by any entity, including but not limited to any entity operating a terminal on behalf of the Virginia Port Authority.

1981, c. 589; 1997, c. 197; 2013, cc. 762, 794.

§ 62.1-132.5.Planning

The Authority shall initiate and further plans for the development of the ports of the Commonwealth, and, to this end, shall keep informed as to the present requirements and likely future needs of those ports.

1981, c. 589.

§ 62.1-132.6.Powers not restrictive; exemptions from Public Procurement Act and the Virginia Personnel Act

A. The Authority shall have the power to perform any act or carry out any function not inconsistent with state law, whether included in the provisions of this chapter, which may be, or tend to be, useful in carrying out the provisions of this chapter. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any of its powers in accordance with this chapter, provided the Authority implement, by policy or regulation adopted by the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of goods and services and in the administration of its capital outlay program. This exemption shall be applicable only so long as such policies and procedures meeting the requirements remain in effect.

B. The provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 shall not apply to the Authority.

C. Additionally, the provisions of §§ 2.2-1124, 2.2-1131.1, 2.2-1136, 2.2-1149, 2.2-1150, and 2.2-1153 through 2.2-1156 shall not apply to the Authority provided that (i) the Authority adopts and the Board approves policies or regulations governing the acquisition, lease, or sale of surplus and real property consistent with the provisions of the above-referenced sections; and (ii) any acquisition, lease, or sale of real property valued in excess of $20 million shall be approved by the Governor.

D. Additionally, the provisions of §§ 2.2-1117 and 53.1-47 shall not apply to the Authority.

1981, c. 589; 1997, cc. 232, 488; 2012, cc. 846, 849; 2013, cc. 762, 794; 2015, cc. 175, 383.

§ 62.1-132.7.Employment of personnel and legal counsel

A. The Authority may appoint, employ, dismiss, and fix and pay compensation to employees, officers, agents, advisers, and consultants, including financial and technical advisers, engineers, and public accountants within and without the Commonwealth and the United States without regard to whether such employees are citizens of the United States. The Authority shall determine the duties and compensation of its employees, officers, agents, advisers, and consultants without the approval of any other agency or instrumentality.

B. The authority may retain legal counsel, subject to the approval of the Attorney General, to represent the Authority in rate cases and all other hearings, controversies, or matters involving the interests of the Authority.

1981, c. 589; 1997, c. 232.

§ 62.1-132.8.Consolidation of terminal operations

The Authority shall effect consolidation of the water terminals of the several cities within the ports of the Commonwealth. It, specifically, shall bring about the centrally directed operation of all state-owned port facilities at Hampton Roads by such means as may prove necessary or desirable, not inconsistent with state law.

1981, c. 589.

§ 62.1-132.9.Foreign trade zones

The Authority is empowered to develop, maintain, and operate foreign trade zones under such terms and conditions as are or may be prescribed by law.

1981, c. 589.

§ 62.1-132.10.Publications of Authority

A. The Authority may issue periodicals and carry and charge for advertising therein.

B. The Authority may compile and disseminate in a single publication all port charges, rules, and practices in effect at the several ports in the Commonwealth.

1981, c. 589.

§ 62.1-132.11.Police powers; penalties

The Authority is empowered to adopt and enforce reasonable rules and regulations governing (i) the maximum and minimum speed limits of motor vehicles using Authority property, (ii) the kinds and sizes of vehicles which may be operated upon Authority property, (iii) materials which shall not be transported through or over Authority property, and (iv) other matters affecting the safety and security of Authority property. Such rules and regulations shall have the force and effect of law (i) after publication one time in full in a newspaper of general circulation in the city or county where the affected property is located, and (ii) when posted where the public using such property may conveniently see them. Violation of any rule or regulation which would have been a violation of law or ordinance if committed on a public street or highway shall be tried and punished as if it had been committed on a public street or highway. Any other violation of such rules and regulations shall be punishable as a Class 1 misdemeanor.

1981, c. 589.

§ 62.1-132.11:1.Prevention and suppression of fire

The Authority may take such steps as necessary, not inconsistent with other provisions of law, to prevent and suppress fires on the waters of Hampton Roads, its tributaries and other waters in the vicinity of Hampton Roads, and on property adjacent to such waters which is accessible to a fire boat. In furtherance of this purpose, the Authority may, out of such funds as may become available, purchase, equip, maintain, use, and provide and train a crew or crews for a fire boat or fire boats.

1983, c. 303.

§ 62.1-132.12.Employment, jurisdiction, and power of special police officers

A. The Authority may appoint and employ special police officers to enforce the laws of the Commonwealth and rules and regulations adopted pursuant to § 62.1-132.11 on property owned, leased, or operated by the Authority or any of its subsidiaries. By agreement with the locality within which the property is located, the concurrent jurisdiction and authority of such special police, upon order entered of record by the circuit court for the locality, may be extended to a specific place or places in a locality outside the geographic boundaries of Authority property. Such special police officers shall have the powers vested in police officers under §§ 15.2-1704 and 52-8. Such special police officers may issue summons to appear, or arrest on view or on information without warrant as permitted by law, and conduct before the court of the city or county of competent jurisdiction any person violating, upon property under the control of the Authority, any rule or regulation of the Authority, any law of the Commonwealth, or any ordinance or regulation of any political subdivision of the Commonwealth.

B. The court or courts having jurisdiction for the trial of criminal offenses of the city or county wherein the offense was committed shall have jurisdiction to try persons charged with violating any such laws, ordinances, rules, or regulations. Fines and costs assessed or collected for violation of any such law, ordinance, rule, or regulation shall be paid into the Literary Fund.

1981, c. 589; 2008, cc. 324, 529; 2015, cc. 74, 253.

§ 62.1-132.12:1.Agreements with private terminal operators

The Authority may enter into agreements with private maritime cargo terminal operators that require services comparable to services provided by the Authority to permit special police officers appointed and employed by the Authority pursuant to § 62.1-132.12 to provide and enforce safety and security on the operator's property. Such agreements shall require the private maritime cargo terminal operator to compensate the Authority for the direct and indirect costs of the services provided by the Authority.

2006, c. 220.

§ 62.1-132.13.Cooperation with federal agencies

The Authority is empowered to cooperate with, and to act as an agent for, the United States of America or any agency, department, corporation or instrumentality thereof in the maintenance,

development, improvement, and use of harbors and seaports of the Commonwealth, and in any other matter within the purposes, duties, and powers of the Authority.

1981, c. 589.

§ 62.1-132.14.Agreement of local cooperation with Corps of Engineers

The Authority, in addition to such other state agencies as the Governor may designate, is empowered, on behalf of and as an agent for the Commonwealth, with the approval of the Governor and after review by the Attorney General, to enter into contractual agreements, known as agreements of local cooperation, developed and tendered by the United States Army Corps of Engineers for signature by local nonfederal interests. Specifically, the Authority and other agencies designated by the Governor may contract under such agreements:

(1) To provide, free of cost to the United States, the fee simple title to lands, perpetual and/or temporary easements, rights of way and any other interest in lands for cut-off bends, the laying of pipelines, erection of dikes, sluiceways, spillways, dams, drains, deposit of dredged materials, and for other purposes, provided that the conveyance of fee simple title or perpetual easements in subaqueous beds of waterways of the Commonwealth shall require further authorization of the General Assembly;

(2) To alter existing structures on such areas;

(3) To simultaneously dredge designated areas not covered by the federal project when and where required;

(4) To construct and maintain public wharves and public roads leading thereto;

(5) To make contributions in money or property in lieu of providing disposal areas for dredged materials;

(6) To hold the United States safe and harmless against claims for damages arising out of the project or work incident thereto;

(7) To remove sewer pipes and submarine cables;

(8) To construct and maintain marine railways for the public use; and

(9) To provide or satisfy any other items or conditions of local cooperation as stipulated in the congressional document covering the particular project involved.

This section shall not be interpreted as limiting but as descriptive of the items of local cooperation, the accomplishment of which the Authority and other designated agencies are hereby authorized to bind themselves, subject to the lawful appropriation of funds required therefor; it being intended to authorize the Authority and other designated agencies to comply fully and completely with all of the

items of local cooperation as contemplated by Congress and as stipulated in the congressional acts or documents concerned.

1981, c. 589; 1982, c. 168.

§ 62.1-132.15.Grants and loans from federal agencies

The Authority may apply for and accept grants or loans of money or property from any federal agency for any purpose authorized in this chapter. It may expend or use such money or property in accordance with any directions, requirements, or conditions which may be imposed by the agency.

1981, c. 589.

§ 62.1-132.16.Fees and charges

Under such terms and conditions as may be prescribed by law, the Authority may fix, alter, charge, and collect tolls, fees, rentals, and any other charges for the use of, or for services rendered by, any Authority facility. The Authority may impose, levy, and collect such other fees and charges as may assist in defraying the expenses of administration, maintenance, development, or improvement of the ports of the Commonwealth, their cargo handling facilities, and harbors.

1981, c. 589.

§ 62.1-132.17.Grants of funds and property

Persons, counties, cities, and towns are hereby authorized to grant, and the Authority is empowered to accept, funds and property to use, within the scope of other powers and duties of the Authority, as stipulated by the grantor.

1981, c. 589.

§ 62.1-132.18.Acquisition of property

A. The Authority is authorized to acquire, construct, maintain, equip, and operate marine terminals, port facilities, wharves, docks, ships, piers, quays, elevators, compressors, refrigeration storage plants, warehouses, and other structures necessary for the convenient use of the same in the aid of commerce. The Authority is further authorized to undertake or make arrangements for the dredging of approaches to each facility and the construction of shipping facilities and transportation facilities incident thereto. The Authority shall have the power to issue revenue bonds for such acquisitions and purposes.

B. When such facilities or equipment is acquired from any political subdivision of the Commonwealth, the Authority is authorized to give written assurances, including agreements to reconvey properties to such political subdivision, for the installment payments for any terminals, facility, or equipment thus acquired.

1981, c. 589.

§ 62.1-132.19.Acquisition and lease of property

A. Except as provided in subsection D, the Authority is empowered to rent, lease, buy, own, acquire, construct, reconstruct, and dispose of harbors, seaports, port facilities, and such property, whether real or personal, as it may find necessary or convenient and issue revenue bonds therefor without pledging the faith and credit of the Commonwealth.

B. The Authority may lease to another such part or all of its real or personal property for such period and upon such terms and conditions as the Authority may determine.

C. The Authority shall neither expend funds nor incur any indebtedness for any improvement, repair, maintenance, or addition to any real or personal property owned by anyone other than the Authority, the Commonwealth, or a political subdivision of the Commonwealth, unless either (i) the use of such property is guaranteed to the Authority or the Commonwealth by a lease extending beyond the useful life of the improvement, repair, maintenance, addition, or new facility, or (ii) such expenditure or indebtedness is approved in writing by the Governor.

D. Notwithstanding any provision of law to the contrary, neither the Commonwealth nor the Authority shall accept any unsolicited proposal under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act (§ 56-575.1 et seq.) regarding the ownership or operation of any seaport or port facility.

1981, c. 589; 2013, cc. 762, 794.

§ 62.1-132.20.Craney Island Disposal Area

A. No agency of the Commonwealth, including the Virginia Port Authority, shall have the authority to expand the Craney Island Disposal Area northward or westward. However, the Commonwealth and the Virginia Port Authority are authorized to expend state funds for the construction and development of Craney Island to the east for an additional marine terminal.

B. The Virginia Port Authority is hereby directed, in coordination with other state and federal agencies, including the United States Army Corps of Engineers, to locate, establish, and use ocean disposal areas for ocean-suitable dredge materials from the Hampton Roads Harbor, or some other suitable site, and to use the existing Craney Island Disposal Area for dredge material suitable or unsuitable for alternate disposal, including ocean disposal, with priority given to materials dredged from the Southern Branch of the Elizabeth River. The construction of a marine terminal on the eastern side of Craney Island Disposal Area using dredge material to extend the disposal area eastward, as defined in the U.S. Army Corps of Engineers Feasibility Study approved on October 24, 2006, and authorized by Congress in the Water Resources Development Act of 2007, is hereby authorized.

C. Prior to the disposal of any dredged material either at an ocean area or on the Craney Island Disposal Area, after the Craney Island Disposal Area has attained its capacity limit, the appropriate state agencies shall investigate and consider the cost and availability of beneficial uses of the dredged material. The appropriate state agencies shall consult with state and federal agencies to

ensure the environmental acceptability of any beneficial use. When such environmentally acceptable beneficial use is available and economically feasible, the appropriate state agencies shall pursue such use.

For purposes of this section, "Craney Island Disposal Area" means that parcel of land lying and being in the body of water known as Hampton Roads Harbor, within the City of Portsmouth and adjacent to the City of Suffolk.

1991, c. 686; 1998, c. 543; 2009, c. 38; 2013, cc. 762, 794.

§ 62.1-134.1.Expediting shipment of coal

A. The Authority shall analyze the shipment of coal through the ports of the Commonwealth for the purpose of expediting such shipments. For this purpose, the Authority shall be authorized to collect, analyze, and require the furnishing of information, which is maintained in the ordinary course of business by the person, firm, or corporation providing such information, pertaining to the transportation of coal which has been moved to and from the ports of this Commonwealth, including:

1. From a railway company or any subsidiary thereof involved in the shipment or storage of coal -- the inland origin; the identity of any transshipper, the rail destination; the route; the car movement record, whether such movement was pursuant to permit or agreement; the date of issuance of permits; the date and time of vessel registration; the position in vessel queue at the time of registration and at the time such vessel was ordered to berth for loading; and date such vessel was loaded;

2. From any railway company, supplier, mining company, or transshipper -- the tonnage and classification of coal loaded aboard such vessel;

3. From any transshipper -- the identity of any supplier, broker, transshipper, or purchaser of coal for shipment by railway;

4. From any ship line, shipping company, ship agent, wholesaler, retailer, broker, transshipper, or operator of any coal storage facility -- the identity of any vessel loaded with coal, the date of such vessel's arrival at port, the date such vessel departed and the tonnage and classification of coal loaded aboard such vessel; and

5. From any of the parties mentioned in subdivisions 1, 2, 3, or 4 -- any other information which is relevant and necessary to such analysis of shipment of coal through the ports of the Commonwealth provided such information is maintained in the ordinary course of business of such person, firm, or corporation.

B. Notwithstanding any provisions of law to the contrary, any person, firm, corporation or agent thereof engaged in the mining, consignment, sale, transportation, loading, unloading, storage, or handling of coal for shipment through any port of this Commonwealth, whether as a mining company, railway company, ship line, shipping company, ship agent, wholesaler, retailer, broker, transshipper, operator

of any coal storage facility, or facility for the loading or unloading of railroad cars or ships, or any entity otherwise engaged in an activity which directly affects the transportation of coal to or from any port of this Commonwealth, within forty-five days after receiving a written request from the Authority, shall furnish the Authority with any such information as is described in subsection A of this section as is maintained in the ordinary course of business of the party requested to provide the information. In the event of willful noncompliance with the provisions of this section by any person, firm, or corporation, the Authority may petition an appropriate circuit court for injunctive relief or, in the alternative, for recovery of a civil penalty, payable to the Authority, in an amount no less than $100 per day and no more than $1,000 per day for each day noncompliance continues. Upon a finding that the defendant's noncompliance was willful, the court shall order compliance or payment of the civil penalty, as the case may be.

C. The aforesaid information and data shall be supplied to the Executive Director of the Authority and shall be for the exclusive use of the Executive Director and the staff of the Authority. Neither the Executive Director nor any staff member of the Authority shall disclose this information and data to any member of the Board of Commissioners of the Authority; nor to any person, firm, corporation or agent thereof engaged in the mining, consignment, sale, transportation, loading, unloading, storage, or handling of coal, whether such person, firm, corporation or agent be public or private and whether or not such person, firm, corporation, or agent be a subsidiary or unit of the Authority; nor to anyone outside the Authority.

D. In carrying out the functions heretofore described the Authority shall be deemed to be performing essential governmental functions as an agent of the Commonwealth of Virginia.

1981, c. 464.

§ 62.1-136.Power of eminent domain

The Authority is hereby vested with the power of eminent domain to acquire property or any interest therein, however held, but not property of the Commonwealth or its agencies, and may exercise the same for the purposes set forth in §§ 62.1-132.18 and 62.1-132.19 in the manner and to the extent set forth in, and subject to the provisions of, Chapter 2 (§ 25.1-200 et seq.) of Title 25.1; provided that the Authority shall have no power to condemn any property belonging to any other political subdivision of the Commonwealth, or to any common carrier, or public utility or other public service corporation which is being devoted to public use or service. Whether property is being devoted to public use or service in the case of a public service corporation, common carrier, or public utility, shall be decided by the State Corporation Commission in a proceeding under § 25.1-102; and in the case of a political subdivision shall be decided by the court in which the proceeding is brought.

Code 1950, § 62-106.8:1; 1962, c. 346; 1968, c. 659; 1981, c. 589; 2003, c. 940.

§ 62.1-138.Powers of State Corporation Commission not affected

Nothing contained in this chapter shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

Code 1950, § 62-106.9; 1952, c. 61; 1968, c. 659.

§ 62.1-139.Forms of accounts and records; annual report

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by governmental generally accepted accounting principles. Such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by enterprises.

B. The accounts of the Authority shall be audited annually by a certified public accounting firm selected by the Auditor of Public Accounts with the assistance of the Authority through a process of competitive negotiation. The cost of such audit and review shall be borne by the Authority.

C. The General Assembly may request the Auditor of Public Accounts to conduct audits at any time.

D. The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the preceding June 30.

E. The Authority shall submit a detailed annual operating plan and budget to the Secretary of Transportation and the Director of the Department of Planning and Budget by November 1 of each year. Notwithstanding any other provision of this chapter, the form and content of the operating plan and budget shall be determined by the Director of the Department of Planning and Budget and shall include information on salaries, expenditures, indebtedness, and other information as determined by the Director of the Department of Planning and Budget.

F. The Board of Commissioners, the General Assembly, or the Governor may at any time request that the Office of the Inspector General, created pursuant to § 2.2-308, review any area of the Authority's finances or operations.

Code 1950, § 62-106.11; 1954, c. 667; 1968, c. 659; 1984, c. 734; 1985, c. 146; 2004, c. 650; 2012, cc. 846, 849; 2013, cc. 762, 794.

§ 62.1-140.Definitions; bond resolution; form and requisites of bonds; sale and disposition of proceeds; temporary bonds

A. As used in this section and in §§ 62.1-141 through 62.1-146, the term "port facility" means harbors, seaports and all facilities used in connection therewith and shall include all those facilities named in §§ 62.1-132.18 and 62.1-132.19.

The term "cost" as used in this chapter embraces the cost of construction, the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the Authority for such construction, the cost of all machinery and equipment, financing charges, interest prior to and during

construction and, if deemed advisable by the Authority, for one year after completion of construction, engineering and legal expenses, cost of plans, specifications, surveys and estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing any port facility, administrative expense, the creation of a working capital fund for placing the port facility in operation and such other expense as may be necessary or incident to the construction of such port facility, the financing of such construction and the placing of the same in operation.

The term "bonds" as used in this chapter means obligations of the Authority for the payment of borrowed money. For purposes of the limitations imposed by subsections B and C of § 62.1-140, contingent obligations to reimburse providers for amounts drawn under credit facilities, letters of credit, lines of credit, guarantees, standby bond purchase agreements, or other credit or liquidity enhancement facilities, including any such enhancement facility obtained by the Authority for deposit into any reserve account or fund relating to any bonds, shall not constitute bonds.

For purposes of the limitations imposed by subsections B and C of § 62.1-140, the term "revenue bonds" means bonds for which only the revenues of port facilities are pledged to the payment of the principal of and interest on said bonds.

B. The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of bonds of the Authority for the purpose of paying all or any part of the cost of any Authority project for the acquisition, construction, reconstruction or control of port facilities or of any portion or portions thereof, provided that the total principal amount of bonds, including refunding bonds, outstanding at any time shall not exceed $200 million, excluding from such limit any revenue bonds.

All of the bonds of one or more series of the bonds of the Authority at any time outstanding may be refunded by the Authority by the issuance of its refunding bonds in such amount as the Authority may deem necessary, but not exceeding an amount sufficient to provide for the payment of the principal of the bonds so to be refunded, together with all unpaid interest accrued and to accrue and with any redemption premium thereon and all costs and expenses incident to the authorization and issuance of such bonds as determined by the Authority. The proceeds of any such refunding bonds may, in the discretion of the Authority, be applied to the purchase or retirement at maturity or redemption of such outstanding revenue bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof, and may, pending such application, be placed in trust in accordance with the provisions of § 62.1-143 of this chapter to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the Authority. All refunding bonds may have all of the attributes of revenue bonds to the extent that such other provisions of this chapter relating to revenue bonds may be applicable to refunding bonds.

C. The principal of and the interest on all bonds issued by the Authority pursuant to the provisions of this chapter shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at the prevailing rate of interest at the time, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth.

All bonds shall be signed by the Executive Director of the Authority or shall bear his facsimile signature, and the official seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the secretary of the Authority, and any coupons attached thereto shall bear the facsimile signature of the Executive Director of the Authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine will best effect the purposes of this chapter.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of acquisition, construction, reconstruction and control of port facilities or the portion thereof for which such bonds shall have been issued, or, in the case of refunding bonds, to refund such bonds including any unpaid interest accrued and to accrue and any redemption premium thereon and all costs and expenses incident to the authorization and issuance of such bonds as shall be determined by the Authority upon the issuance of such refunding bonds, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing

the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds, or, if such bonds shall have been issued for paying the cost of a portion of the project, such surplus may be applied to the payment of the cost of any remaining portion of the project.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

The Authority shall not issue any bonds, other than revenue bonds or any refunding bonds issued by the Authority pursuant to the second paragraph of subsection B of § 62.1-140, which are not specifically authorized by a bill or resolution passed by a majority vote of those elected to each house of the General Assembly. Refunding bonds may only be issued with the consent of the Governor. However, the Governor, in his sole discretion, may approve bonds which have not been authorized by the General Assembly if such bonds are to finance capital projects that emerge between legislative sessions, provided the debt is required to stimulate commerce consistent with § 62.1-132.3 and provided that:

1. The total amount of such bonds added to the total amount of Virginia Port Authority bonds currently authorized does not exceed the limit in § 62.1-140 B;

2. Funds are available within the appropriations, if needed, without adverse effect on other projects or programs, or from unappropriated nongeneral fund revenues or balances;

3. In the Governor's opinion such action may result in a measurable benefit to the Commonwealth;

4. The authorization includes a detailed description of the project, the project need, the total project costs, the estimated operating costs, and the fund sources for the project and its operating costs;

5. The requirements of Chapter 11.1 (§ 10.1-1182 et seq.), Title 10.1, regarding environmental impact statements, will be met as a precondition for the approval of the project; and

6. The authorization of any such debt as provided for in this section shall be promptly communicated to the Chairmen of the House Appropriations and Senate Finance Committees.

Code 1950, § 62-106.12; 1954, c. 667; 1958, cc. 174, 488; 1968, c. 659; 1972, c. 423; 1981, cc. 589, 590; 1991, c. 246; 1993, c. 656.

§ 62.1-141.Trust agreement securing bonds; provisions of agreement or bond resolution; depository of proceeds or revenues; expenses

In the discretion of the Authority any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any

trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received, but shall not convey or mortgage the port facilities or any part thereof; provided, however, the Authority may make a purchase-money agreement giving a chattel mortgage or lien on personal property or operating equipment purchased for use in its facilities. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the port facilities or the portion thereof in connection with which such bonds shall have been authorized, the rates to be charged, the custody, safeguarding and application of all moneys, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the port facilities or portion thereof.

Code 1950, § 62-106.13; 1954, c. 667; 1968, c. 659; 1974, c. 148.

§ 62.1-142.Charges for use of port facilities; sinking fund created from revenues for payment of bonds

The Authority is hereby authorized to fix and revise charges for the use of the port facilities under its control and the different parts or sections thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, and to fix the terms, conditions, rents and rates of charges for such use. Such charges shall be so fixed and adjusted in respect of the aggregate of charges from the port facility or the portion or portions thereof in connection with which revenue bonds or refunding bonds shall have been issued under the provisions of this chapter as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such port facility or portion or portions and (b) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth or of any municipality, county or other political subdivision of the Commonwealth. The charges and all other revenues derived from the port facility or portion or portions in connection with which such bonds shall have been issued except such part thereof as may be necessary to pay such

cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the charges and other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. In addition to all other powers granted to the Authority by this chapter, the Authority is hereby authorized to pledge to the payment of the principal of and the interest on any bonds under the provisions of this chapter any moneys received or to be received by it under any appropriation made to it by the General Assembly, unless the appropriation is restricted by the General Assembly to specific purposes of the Authority or such pledge is prohibited by the law making such appropriations; provided, however, that nothing herein shall be construed to obligate the General Assembly to make any such appropriation.

Code 1950, § 62-106.14; 1954, c. 667; 1958, c. 174; 1968, c. 659; 1981, c. 590.

§ 62.1-143.Proceeds of bonds and revenues held in trust for certain purposes

All moneys received pursuant to the provisions of this chapter, whether as proceeds from the sale of revenue bonds or refunding bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The Authority shall, in the resolution authorizing such bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds and the revenues to be received to a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, who shall act as trustee of the funds, and hold and apply the same to the purposes of this chapter, subject to such regulations as this chapter and such resolution or trust agreement may provide. In the case of the proceeds of the sale of revenue bonds or revenues, the trustee may invest and reinvest such funds pending their need for the construction of the project in securities that are legal investments under the laws of the Commonwealth for funds held by fiduciaries. In the case of the proceeds of the sale of refunding bonds, the trustee may invest and reinvest such funds in direct obligations of, or obligations

the principal of and the interest on which are guaranteed by, the United States of America. Such money and the interest, income and profits, if any, earned on such investment, shall be available for the payment of all or any part of the principal, interest, and redemption premium, if any, of the bonds being refunded. The proceeds of the sale of refunding bonds shall be so invested and applied as to assure that the principal, interest, and redemption premium, if any, on the bonds being refunded shall be paid in full on their respective maturity, redemption or interest payment dates. After the terms of the trust have been fully satisfied, and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the Authority for use by it in any lawful manner.

Code 1950, § 62-106.15; 1954, c. 667; 1968, c. 1981, c. 590.

§ 62.1-144.Remedies of bondholders and trustee

Any holder of bonds, notes, certificates or other evidences of borrowing issued under the provisions of this chapter or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this chapter or under such trust agreement or the resolution authorizing the issuance of such bonds, notes or certificates and may enforce and compel the performance of all duties required by this chapter or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof, including the fixing of charges and collection of the same.

Code 1950, § 62-106.16; 1954, c. 667; 1968, c. 659.

§ 62.1-145.Exercise of powers constitutes governmental functions; exemption from taxation

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience, and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the Authority under the provisions of this chapter or upon the income therefrom, including sales and use taxes on tangible personal property used in and about a marine terminal under the supervision of the Virginia Port Authority for handling cargo, merchandise, freight, and equipment; nor shall the agents, lessees, sublessees, or users of tangible personal property owned by or leased to the Authority be required to pay any sales or use tax upon such property or the revenue derived therefrom; and the bonds, notes, certificates, or other evidences of debt issued under the provisions of this chapter, their transfer and the income therefrom including any profit made on the sale thereof, shall be exempt from taxation by the Commonwealth and by any municipality, county, or other political subdivision thereof. The exemption from the retail sales and use tax shall apply to

property acquired or used by the Authority, or by a nonstock, nonprofit corporation that operates a marine terminal or terminals solely on behalf of the Authority. Service charge payments to any city, county, or town authorized pursuant to subsection D of § 58.1-3403 shall be paid from the general fund. Service charge payments to any county, city, or town authorized pursuant to subsection B of § 58.1-3403 shall be paid by the Authority.

Code 1950, § 62-106.17; 1954, c. 667; 1968, c. 659; 1974, c. 546; 1990, c. 694; 2000, c. 737; 2005, c. 581.

§ 62.1-146.Bonds as legal investments

Bonds issued by the Authority under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

Code 1950, § 62-106.18; 1954, c. 667; 1968, c. 659.

§ 62.1-147.Bonds not debt or pledge of credit of Commonwealth or political subdivision; payment of expenses

Bonds and refunding bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or of any such political subdivision, but shall be payable solely from the funds provided therefor from revenues. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth nor the Authority shall be obligated to pay the same or the interest thereon except from revenues of the port facility and that neither the faith and credit nor the taxing power of the Commonwealth or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this chapter.

Code 1950, § 62-106.19; 1954, c. 667; 1968, c. 659; 1981, c. 590; 1993, c. 656.

§ 62.1-147.1.Legalization of prior actions

Any bonds issued to refund bonds or other obligations of the Authority prior to the adoption of the amendments in this chapter relating to refunding bonds which could now be taken under this chapter are hereby approved, validated and ratified by the legislature of the Commonwealth.

1981, c. 590.

§ 62.1-147.1:1.Exemption of Authority from certain technology procedures

The provisions regulating the Virginia Information Technologies Agency (§ 2.2-2005 et seq.) shall not apply to the Authority in the exercise of any power conferred under this chapter.

2013, cc. 762, 794.

§ 62.1-147.2.Chapter liberally construed

This chapter shall constitute full and complete authority for the doing of the acts and things herein authorized and shall be liberally construed to effect the purposes hereof.

1997, c. 232.

Portsmouth Port and Industrial Commission

Created

1954 Acts of Assembly, c. 157, as Portsmouth Port Commission.

Amendments

1964, c. 29 (§ 1; name changed to Portsmouth Port and Industrial Commission)
1966, c. 468 (§§ 3, 6, 9, 10, 11, 12, 21)
1968, c. 688 (§§ 1, 2, 5 through 12, 14 through 19, 22 [added], 23 [added], 24 [added])
1970, c. 138 (§ 14)
1977, c. 420 (§§ 6, 9)
1978, c. 287 (§§ 3, 4)
2007, cc. 237, 339 (§ 25 [added])

§ 1. The creation, pursuant to this act, of the political subdivision of the Commonwealth now known as the Portsmouth Port and Industrial Commission, hereinafter called the Commission, is confirmed, and the Commission shall continue, as provided in § 2 hereof, under that name as such subdivision, with such public and corporate powers as are granted in this act. (1954, c. 157; 1964, c. 29; 1968, c. 688)

§ 2. The existence of the Commission shall continue until all its liabilities have been met and its bonds have been paid in full.

The provisions of this section shall not, however, be construed as requiring the dissolution of the Commission, or as automatically dissolving the Commission, upon the discharge of all such liabilities and the payment of all such bonds. (1954, c. 157; 1968, c. 688)

§ 3. The Commission shall be governed by seven commissioners, appointed by the council of the city of Portsmouth. The Commission may own and operate facilities located within or partly within and partly without the city of Portsmouth. All action and proceedings heretofore taken by the council of said city relating to said Commission are hereby ratified, validated and confirmed and the appointment of the present commissioners id dated and confirmed and the appointment of the present commissioners is hereby ratified, validated and confirmed, and all actions and proceedings taken by said commission to date are hereby ratified, validated and confirmed. (1954, c. 157; 1966, c. 468; 1978, c. 287)

§ 4. Appointment to the Commission shall be for five year terms and staggered so that no more than two appointments shall expire simultaneously. A vacancy to an unexpired term shall be filled by appointment for such unexpired term. Each commissioner shall before entering on his duties take and subscribe the oath prescribed by § 49-1 of the Code of Virginia. (1954, c. 157; 1978, c. 287)

§ 5. The commissioners shall elect from their membership a chairman and vice chairman, and from their membership or not, as they desire, a secretary and a treasurer or secretary-treasurer. The Commission may also elect, from their membership or not, as they desire, one or more assistant secretaries, one or more assistant treasurers or one or more assistant secretary-treasurers. The Commission shall meet at least monthly and at such times as may be required. A majority of the whole number of the commissioners, at a meeting duly held at a time fixed by any bylaw adopted by the Commission, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of the commissioners, shall constitute a quorum, and a majority of the whole number of the commissioners may perform and exercise the powers authorized and provided in this act. For the purpose of this section the words "whole number" shall be construed to mean the total number of commissioners which the Commission would have were there no vacancies and were none of the commissioners disqualified from acting. The Commission may delegate to one or more of its commissioners, or its agents, or employees, such powers and duties as it may deem proper. The commissioners shall receive no salary but shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties. The Commission shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually. Copies of each such audit shall be furnished to the council of the city of Portsmouth and shall be open to public inspection. In event of the dissolution of the Commission the council of the city of Portsmouth shall be the trustees thereof, with full power and authority to settle its affairs, collect all outstanding debts, sell and cause to be conveyed its property, real and personal, and to deliver the same to the city of Portsmouth, after paying all its debts. (1954, c. 157; 1968, c. 688)

§ 6. The Commission shall have the following powers:

(a) To contract and be contracted with; to sue and be sued; and to adopt and use a corporate seal, and to alter the same at pleasure;

(b) To acquire (whether by purchase, lease, grant, gift or otherwise), construct, reconstruct, hold, maintain, repair, sell, lease and dispose of, personal property necessary for its purposes;

(c) To acquire (whether by purchase, lease, grant, gift or otherwise) real property or rights, easements or estates therein necessary for its purposes; to hold the same; and to sell, lease and dispose of the same, or any portion thereof or interest therein;

(d) To acquire (whether by purchase, lease, grant, gift, exchange or otherwise), construct, reconstruct, hold, develop, improve, extend, enlarge, furnish, equip, maintain, repair and operate, landings, wharves, docks and piers, and the approaches to and appurtenances thereof, tracks, spurs, crossings, switchings, terminals, warehouses, and terminal facilities of every kind and description necessary or useful in the transportation and storage of goods, wares and merchandise; to perform any and all services at said facilities in connection with the receipt, delivery, shipment and transfer in transit, weighing, marking, tagging, ventilating, fumigating, refrigerating, icing, storing and handling of goods, wares, and merchandise; to prescribe and collect charges from vessels coming into or using any landings, wharves, docks and piers, operated and maintained by the Commission and from persons using any of its other facilities; and to lease any and all of such facilities or any concessions properly incident thereto for the maintenance and operation of any or all thereof on such terms and conditions as it may deem proper.

(e) To maintain and operate a foreign trade zone under such terms and conditions as may be prescribed by law.

(f) To sell or lease, or to acquire by purchase, lease, grant, gift, construction or otherwise, for sale or lease, on such terms and conditions as it may deem proper, factories, manufacturing facilities of any kind and description, or any of the facilities described in subparagraph (d) of this section, and approaches to and appurtenances thereof, and to reconstruct, hold, improve, extend, enlarge, furnish and equip any of the same owned or leased by the Commission.

(g) To fix, alter, charge and collect tolls, fees, rentals and any other charges for the use of, or for the services rendered by, any of the facilities it is authorized hereunder to maintain and operate.

(h) To employ a director and such other agents and employees as may be necessary, to serve at the pleasure of the Commission, and to fix their compensation and prescribe their duties.

(i) To borrow money and incur debt, and to issue its bonds, notes or other obligations in the manner and subject to the provisions hereinafter set forth in this chapter, for the purpose of carrying out any of its powers and purposes; to provide for the rights of the holders of such bonds, notes or other obligations and the securing of such rights and the payment of such bonds, notes and other

obligations as hereinafter provided; and to purchase such bonds, notes or other obligations for investment, resale or cancellation. All bonds, notes or other obligations heretofore issued by the Commission, and all acts and proceedings heretofore taken in connection with the authorization, issuance and sale of bonds, notes or other obligations of the Commission, are hereby ratified, validated and confirmed, and all such bonds, notes and other obligations heretofore issued and now outstanding shall constitute valid and legally binding obligations of the Commission payable in accordance with their terms.

(j) To receive and accept from any public or private source for any one or more of its purposes or in aid in carrying out any one or more of its purposes or in aid in carrying out any one or more of its powers, grants, aid or contributions of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants or contributions are made, and to expend the same for the purposes for which made.

(k) To make payments to the city of Portsmouth or the State of Virginia or agencies or instrumentalities thereof in reimbursement for grants, contributions or appropriations to the Commission made by such city or by the State or such agencies or instrumentalities or in reimbursement for the payment by the city or the State or such agencies and instrumentalities of the principal and interest of bonds issued by the city, or by the State or such agencies or instrumentalities, to obtain moneys to make such grants or contributions or appropriations to the Commission; and to make payments to the city of Portsmouth from the surplus revenues and income of the Commission not otherwise required by the Commission to carry out its purposes and powers.

(l) To make and enter into all contracts and agreements, execute all instruments, and do all other acts and things, which may be reasonably necessary and convenient to carry out its purposes and powers.

(m) To make bylaws or rules and regulations for the management and regulation of its affairs.

(n) The Commission has the right to acquire (whether by purchase, lease, grant gift, exchange or otherwise), construct, reconstruct, hold, develop, improve, extend, enlarge, equip, maintain, repair and operate on such terms as it may deem proper commercial, manufacturing and governmental facilities and properties of any kind and description, including specifically office buildings and structures necessary or appropriate for industrial ,commercial or governmental uses, and to sell, convey or lease any and all of such properties and facilities properly incident thereto on such terms and conditions as it may deem proper.

(o) The Commission is hereby vested with the power of eminent domain to acquire property or any interest therein, however held, but not property of the State or its agencies, and may exercise the same for any of its purposes in the manner and to the extent set forth in, and subject to the

provisions of, Title 25 of the Code of Virginia; provided that the Commission shall have no power to condemn any property belonging to any other political subdivision of the Commonwealth or to any common carrier, or public utility, or other public service corporation which is being devoted to public use or service and provided further that the Commission shall have no power to condemn any property lying within the County of Nansemond. Whether property is being devoted to public use or service in the case of a public service corporation, common carrier or public utility, shall be decided by the State Corporation Commission in a proceeding under § 25-233; and in the case of a political subdivision shall be decided by the court in which the proceeding is brought. (1954, c. 157; 1966, c. 468; 1968, c. 688; 1977, c. 420)

§ 7. The Commission shall foster and stimulate the commerce of the port of Portsmouth and the shipment of freight through such port, and may investigate and handle matters pertaining to all transportation rate structures affecting the commerce of the port. To this end, the Commission may appoint a Port Advisory Committee to advise it, consisting of such number of persons as it may deem advisable; such persons shall not receive any compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on business of the Commission. (1954, c. 157; 1968, c. 688)

§ 8. The Commission may foster and stimulate the development of industry in the area within its jurisdiction. To this end, the Commission may appoint an Industrial Advisory Committee to advise it, consisting of such number of persons as it may deem advisable; such persons shall not receive any compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on business of the Commission. (1954, c. 157; 1968, c. 688)

§ 9. The Commission may sell any property owned by it which it deems to be no longer useful or necessary in its operations, provided, how ever, that the Commission shall first advertise for bids therefor by publication of the notice of receipt of such bids, once in a newspaper, published in or having a general circulation in the city of Portsmouth at least ten days prior to the receipt of such bids. The Commission shall have the right to reject any and all bids. Notwithstanding, and without being subject to the foregoing provisions of this section, the Commission may lease, assign, convey or otherwise transfer or dispose of to the Commonwealth of Virginia or any authority, commission or political subdivision thereof any of its property, real or personal, upon such terms as may be agreed upon, and may also lease, assign, convey or otherwise transfer or dispose of to any person, firm or corporation the facilities described in subparagraphs (d), (f) and (n) of § 6 of this act upon such terms as may be agreed upon. (1954, c. 157; 1966, c. 468; 1968, c. 688; 1977, c. 420)

§ 10. The council of the city of Portsmouth is authorized and empowered to transfer to the Commission the operation and maintenance of such suitable facilities as are now or may be hereafter owned by the city, on such terms and conditions which it may prescribe; but this section shall not be construed as authorizing the Commission to maintain and operate such facilities unless and until the

operation thereof has been transferred by the council. The council of the city of Portsmouth is also authorized and empowered by ordinance or resolution to lease, assign, convey or otherwise transfer or dispose of to the Commission any property, real or personal, or rights or estates therein, now or hereafter owned by the city, on such terms and conditions which the council may prescribe and no provision of the charter of the city, or any other law to the contrary, shall be applicable to such lease, assignment, conveyance or disposition. Any and all leases, assignments, conveyances, transfers or other dispositions of personal or real property heretofore made by the city of Portsmouth to the Commission, and the making thereof, are hereby validated, ratified and confirmed. (1954, c. 157; 1966, c. 468; 1968, c. 688)

§ 11. The city of Portsmouth is authorized and empowered to make appropriations and to provide funds for the carrying out by the Commission of any of its powers and purposes, and any such appropriations heretofore made by the city of Portsmouth to the Commission are hereby validated, ratified and confirmed. The Commission shall pay to the city of Portsmouth in lieu of taxes a sum equal to five per cent per annum of the net annual income received by the Commission exclusive of the proceeds of bonds, notes, or other obligations of the Commission and any grants or contributions received from the federal government, the Commonwealth of Virginia, or any political subdivision thereof or from any other source, public or private; provided, however, that the council of the city of Portsmouth may, from time to time, by resolution, waive the payment by the Commission of all or any part of such payment in lieu of taxes on all or any part of the income of the Commission for such period of time as may be prescribed therein. For the purposes of this paragraph "net annual income" shall mean the income received by the Commission in any year remaining after there shall have been deducted from the gross income of the Commission for such year the costs to the Commission of operation, repair and maintenance of its facilities and properties, including the administrative costs of the Commission; payment of, or accruals for the payment of, principal of and interest on its bonds, notes or other obligations of indebtedness; amounts required by its resolution or resolutions or trust agreements or indentures authorizing or securing its bonds, notes or other obligations, to establish, maintain or replenish the reserves required by such resolutions, trust agreements or indentures; payments to the State or any agency or instrumentality thereof or to the city of Portsmouth in reimbursement for grants, contributions or appropriations made to the Commission by the State or such agency or instrumentality or by said city, including therein any reimbursement by the Commission to the State or its agencies or instrumentalities or to said city, for the payment by the State or its agencies or instrumentalities or by the city, for the principal and interest of any bonds issued by the State or its agencies or instrumentalities or by said city, to derive the funds or moneys so granted, contributed or appropriated to the Commission. (1954, c. 157; 1966, c. 468; 1968, c. 688)

§ 12. The Commission shall have the power to issue bonds from time to time in its discretion for any of its purposes or to carry out any of its powers, including, without limiting the generality of the foregoing,

the payment or retirement of notes or obligations issued by it in anticipation of the issuance of its bonds. The Commission may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest, from any one or more of the following or any combination thereof: (a) from its income and revenues generally; (b) exclusively from the income and revenues of a "particular facility", which term shall mean a particular building or structure or particular buildings or structures, including all equipment, appurtenance and accessories necessary or appropriate for the operation of such facility; or (c) exclusively from the income and revenues of certain designated facilities. The bonds may be payable from any one or more, or combination, of the foregoing, income and revenues whether or not the facility or facilities from which is derived such revenue and income have been, or are, financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from the federal government, Commonwealth of Virginia, or any authority, commission or political subdivision thereof, or a pledge of any income or revenues of the Commission, or a mortgage of any particular facility or facilities or other property of the Commission.

Without limiting in any way the provisions of this section as to the purposes for which the Commission may issue bonds, notes or other obligations, the proceeds of the sale of bonds, notes or other obligations of the Commission may be applied to the creation, maintenance or augmenting of such reserves as may be required to be created, maintained or increased by the resolution authorizing such bonds, notes or obligations or the trust agreement or indenture securing the same, which reserves may include (but shall not be limited to) reserves for costs of operation and maintenance, reserves for the payment of the principal of and interest on the bonds and reserves for extraordinary repairs and expenses. Such proceeds may also be applied to the payment of the cost of any facility or facilities of the Commission, and the word "cost" as used in this sentence and as applied to any facility or extension or addition thereto may include the purchase price of any facility or property acquired by the Commission or the cost of acquiring all the capital stock of any corporation, owning such facility or property so acquired and the amount to be paid to discharge all of its obligations in order to vest title to such facility or property or any part thereof in the Commission (which corporation shall be dissolved as soon as practicable after the acquisition by the Commission of such capital stock); the cost of construction or reconstruction; the cost of all labor, materials, machinery, furnishing and equipment, the cost of all lands, property, rights, easements, estates and franchises acquired; financing charges; interest prior to, during and after construction for such period as the Commission may determine; costs of plans, and specifications, surveys and estimates of costs and of revenues; cost of engineering services; cost of legal services; cost of all other expenses necessary or incident to determine the feasibility or practicality of such acquisition, construction, reconstruction; administrative expense; and such other expenses as may be necessary or incident to the financing of any facility. Any obligation or expense incurred by or for or &n behalf of the Commission in connection with any of the foregoing

items of cost may be regarded as a part of such cost and be reimbursed out of the proceeds of the bonds.

The Commission may borrow money for temporary use for any purpose for which it is authorized above to issue bonds, and in evidence of such borrowing may issue from time to time notes or other obligations. Any such temporary borrowing may be made in anticipation of the issuance and sale of bonds, and in such event the principal proceeds from the sale of such bonds shall, to the extent necessary, be used for the payment of the principal of and interest on the notes or other obligations issued in anticipation of the issuance and sale of such bonds. Such notes or other obligations may be renewed from time to time, either by the issuance of renewal notes or other obligations in exchange for the outstanding notes or obligations or by the issuance and sale of the renewal notes or obligations and the application of the proceeds of such sale in payment of the outstanding notes or obligations. The Commission, in its discretion, may also retire any notes or obligations by means of the application thereto of any moneys available for such purpose. All notes and obligations issued pursuant to this paragraph and the issuance and details thereof shall be governed by the provisions of this chapter with respect to bonds insofar as the same may be applicable; and, without limiting the generality of the provisions of this sentence, the provisions of sections 13, 14, 15, 16,17,18,22 and 23 of this chapter shall be equally applicable to such notes or other obligations.

For the purpose of paying and retiring any of its bonds heretofore or hereafter issued, the Commission may from time to time issue its refunding bonds with which to pay, call and redeem all or any part of its outstanding bonds, and may include various series and issues of such outstanding bonds in a single issue of refunding bonds and may include refunding bonds and bonds otherwise to be issued by the Commission under this chapter in a single issue of bonds. Refunding bonds may be issued to pay principal, any redemption premium and interest to accrue and become payable on the outstanding bonds being refunded. The interest rate or rates of the refunding bonds shall not be limited by the interest rate or rates borne by any of the bonds to be refunded thereby. The refunding bonds may be issued and delivered at or at any time before the maturity or redemption date of the bonds to be refunded that the Commission determines to be in its best interest. The refunding bonds shall be issued in accordance with the provisions of this chapter applicable to the issuance of bonds, and all of the provisions of sections 12, 13, 14, 15, 16, 17, 18, 22 and 23 of this chapter shall be equally applicable to such refunding bonds; provided that, notwithstanding the provisions of Section 14 as to the sale of bonds issued under this chapter, in the discretion of the Commission refunding bonds may be exchanged at not less than the par value of such refunding bonds for an equal amount of the bonds to be refunded under the provisions of this chapter at not more than the par value of the bonds to be refunded. In the event of the sale of refunding bonds, the proceeds therefor shall be applied solely to the payment of the bonds to be refunded under the provisions of this Chapter, but nothing in this sentence shall prohibit the issuance and sale of a single issue of bonds, both for refunding purposes

and for other purposes of the Commission. All bonds so refunded and redeemed by the issue and sale or issue and exchange of refunding bonds shall be cancelled. (1954, c. 157; 1966, c. 468; 1968, c. 688)

§ 13. Neither the commissioners of the Commission nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the Commission (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof other than the Commission and neither the Commonwealth nor any political subdivision thereof other than the Commission shall be liable thereon, nor, shall such bonds or obligations be payable out of any funds or properties other than those of the Commission. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of the Commission are declared to be issued for an essential public and governmental purpose. (1954, c. 157)

§ 14. Bonds of the Commission shall be authorized by resolution adopted by the Commission and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be of such tenor, be in such denomination or denominations be in such form, either bearer, coupon or registered, carry such conversion or registration privileges, have such rank or priority, be payable in such medium. of payment at such place or places within or without the Commonwealth, and be subject to such terms of redemption (with or without premium) as such resolution or the trust agreement or indenture or mortgage securing such bonds may provide. To secure the payment of the principal of and interest on the bonds the Commission shall have power to execute and deliver a trust agreement or indenture by and between it and any trust company, or any bank having the powers of a trust company, within or without the Commonwealth. Any such resolution, trust agreement or indenture and the provisions thereof shall be a part of the contract with the holders of the bonds. The bonds may be sold in such manner, either at public or private sale, and for such price, as the Commission may determine to be for its best interests. (1954, c. 157; 1968, c. 688; 1970, c. 138)

§ 15. The bonds and coupons and any certification or endorsement thereon may be executed with an engraved, imprinted, stamped or otherwise reproduced facsimile of any signature, seal or other means of authentication, certification or endorsement thereon, if so authorized by the Commission, so long as at least one signature thereon shall be manually subscribed, which manual signature may be that of any authenticating or certifying person, agent or trustee. In case any of the commissioners or officers of the Commission whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued

pursuant to this act shall be fully negotiable within the meaning and for all the purposes of Chapter 10 of Title 6 of the Code of Virginia. (1954, c. 157; 1968, c. 688)

§ 16. In order to secure the payment of such bonds the Commission shall have power by provision or provisions included in any resolution authorizing such bonds or in any trust agreement or indenture made to secure their payment:

(a) To pledge all or any part of its gross or net rents, fees, revenues, and other income to which its right then exists or may thereafter come into existence, and whether or not the facility or facilities from which such rents, fees, revenues and income are, or shall be, derived have been, or are, financed from the proceeds of such bonds.

(b) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(c) To covenant against pledging all or any part of its rents, fees, revenues or other income, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it, and as to the limitations on the issuance of additional bonds by it.

(d) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use, investment and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(e) To covenant as to the rents and fees to be charged in the operation of a facility or facilities, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use, investment and disposition to be made thereof; to create or to authorize the creation and maintenance of special funds for moneys held for construction or operating costs, debt services, sinking funds, reserves, or other purposes, and to covenant as to the use, investment and disposition of the money held in such funds and reserves.

(f) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(g) To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(h) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenant securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by the Commission, to take possession and use, operate and manage any facility or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the Commission with said trustee; to provide for the powers and duties of a trustee or trustees or the holders of bonds or any proportion of them who may enforce any covenant or rights securing or relating to the bonds and the restrictions, if any, upon the individual right of action by the holders of the bonds; and otherwise to provide for the rights and remedies of the holders of the bonds and any trustee or trustees therefor.

(j) To exercise all or any part or combination of the powers herein granted; to include in such resolution, trust agreement or indenture such covenants and provisions other than and in addition to the covenants and provisions herein expressly authorized, of like or different character as the Commission may deem reasonable and proper for the security of the holders of the bonds; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of said Commission, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein. (1954, c. 157; 1968, c. 688)

§ 17. An obligee of the Commission shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action or proceeding at law or in equity to compel the Commission and the commissioners, officers, agents or employees thereof to perform each and every term, provision, covenant and agreement contained in any contract, bond resolution, trust agreement or indenture of the Commission with or for the benefit of such obligee, and to require the carrying out of any or all such terms, provisions, covenants and agreements of the Commission and the fulfillment of all duties imposed upon the Commission by this chapter.

(b) By suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the Commission. (1954, c. 157; 1968, c. 688)

§ 18. The Commission shall fix and revise from time to time the rents, fees and other charges to be paid by persons for the use of the various facilities of the Commission and from any other service

furnished or provided by the Commission. Such rents, fees and charges shall be fixed so as to provide at least sufficient funds: to pay the cost of maintaining, repairing and operating such facilities and principal and interest of any bonds issued by the Commission or other debts contracted as the same shall become due and payable; to establish, maintain and increase any reserves required by the resolution authorizing such bonds, or the trust agreement or indenture securing the same, to be established, maintained or increased; and to carry out all other terms, provisions, covenants and agreements of such resolution, trust agreement or indenture. A reserve or reserves may be accumulated and maintained out of the proceeds of the sale of bonds or the revenues of such Commission, or both, for operation and maintenance costs, the payment of the principal of and interest on the bonds, for extraordinary repairs and expenses and for such other purposes as may be provided in any resolution authorizing a bond issue or in any trust agreement or indenture securing such bonds. Subject to such provisions and restrictions as may be set forth in the resolution or in the trust agreement or indenture authorizing or securing any of the bonds or other obligations issued hereunder, the Commission shall have exclusive control of the revenues derived from any facility or facilities operated and controlled by it and the right to use such revenues in the exercise of its powers and duties set forth in this section. Unless otherwise provided in the resolution or trust agreement or indenture authorizing or securing its bonds, all deposits of moneys or funds of the Commission shall be secured in the manner provided by law for securing deposits of the City of Portsmouth, and all banks and trust companies are hereby authorized to give such security for such deposits. No part of the net earnings of the Commission remaining after the payment of its expenses and debts shall enure to the benefit of any individual, firm or corporation except the Commonwealth of Virginia and the agencies, instrumentalities and political subdivisions thereof, and no individual firm, association or corporation other than the Commonwealth of Virginia and the agencies, instrumentalities and political subdivisions thereof shall receive any profit or dividend from the revenues, earnings or other funds or assets of the Commission other than for the payment of bonds, for debts contracted, for services rendered, for materials and supplies furnished and for other value actually received by the Commission. (1954, c. 157; 1968, c. 688)

§ 19. In addition to the other powers conferred by this act, the Commission shall have the power to borrow money and to accept contributions, grants and other financial assistance from the federal government and agencies or instrumentalities thereof, or the Commonwealth of Virginia or agencies or instrumentalities thereof, for or in aid of the construction and equipment of its facilities or the retirement or refunding of its bonds. To these ends the Commission shall have the power to comply with such conditions and to execute such mortgages, trust indentures and agreements as may be necessary, convenient or desirable. (1954, c. 157; 1968, c. 688)

§ 20. Nothing contained in this act shall be deemed to authorize the Commission to occupy or use any land, streets, buildings, structures or other property of any kind, owned or used by any political

subdivision within its jurisdiction, or any public improvement or facility maintained by such political subdivision for the use of its inhabitants, without first obtaining the consent of the governing body thereof. (1954, c. 157)

§ 21. The powers granted and the duties imposed in this act shall be construed to be independent and severable. If any one or more sections, subsections, sentences, or parts of any of this act shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid. (1954, c. 157; 1966, c. 468)

§ 22. The creation of the Commission and the carrying out of its corporate purposes shall be in all respects a public purpose and the Commission will be performing an essential governmental function in the exercise of the powers conferred upon it by this act. The Commission shall not be required to pay any taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession, operation or supervision or upon the income and revenues therefrom, except as provided in Section 11 of this act, and the bonds issued hereunder, their transfer and the interest and income therefrom, including my profit made on the sale thereof, shall at all times be free and exempt from taxation within the Commonwealth of Virginia. (1968, c. 688)

§ 23. Bonds issued by the Commission under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth of Virginia and its political subdivisions, all insurance companies, trust companies, banking institutions, investment companies, executors, administrators, trustees and other fiduciaries, savings banks and savings institutions, including savings and loan associations, in the Commonwealth, may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1968, c. 688)

§ 24. Without in any manner limiting the general powers granted by this act, the Commission shall have power:

(a) To adopt and enforce reasonable rules and regulations which after publication one time in full in a newspaper of general circulation published in or having general circulation in the city of Portsmouth and when posted where the using public may conveniently see the same, shall have the force and effect of law as to (1) maximum and minimum speed limits applicable to motor vehicles using such project and other property under control of the Commission, (2) the types, kinds and sizes of the vehicles which may use such project, (3) the nature, size, type or kind of materials or substances which shall not be transported through or over such project, and (4) such other rules

and regulations as may be necessary or expedient in the interest of public safety with respect to the use of such project.

(b) The violation of any such rules and regulations shall be punishable as follows:

(1) If such a violation would have been a violation of law or ordinance if committed on any public road, street, highway or turnpike m the county or municipality in which such violation occurred, it shall be tried and punished in the same manner as if it had been committed on such public road, street, highway or turnpike.

(2) All other violations shall be punishable as a misdemeanor.

(c) To appoint and employ policemen to enforce within the area under the control of the Commission the rules and regulations adopted by the Commission and the laws of this Commonwealth. Such police shall have the powers vested in police officers under § 15.1-138 and § 52-8 of the Code of Virginia which sections shall apply, mutatis mutandis, to police appointed under this act.

Such policemen appointed by the Commission may issue summons to appear, or arrest on view or on information without warrant as permitted by law, within the jurisdiction of this State, and conduct before the Municipal Court of the City of Portsmouth any person violating, within or upon the project or other property under the control of the Commission, any rule or regulation of the Commission or any law of this Commonwealth pertaining to the regulation and control of highway traffic m any pier or project owned or operated by the Commission.

(d) For the purpose of enforcing such laws, rules and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the city of Portsmouth shall have jurisdiction to try any person charged with the violating of any such laws, rules and regulations. Fines and costs assessed and collected for violation of any regulation, statue or ordinance not being a law adopted by the General Assembly or promulgated by a State agency under authority thereof shall be paid to the court trying such case for the benefit of the city of Portsmouth; provided that fines and costs assessed for violation of any criminal law of the State, Title 46.1 of the Code, or any other State law, or regulation promulgated by a State agency shall be paid into the literary fund. (1968, c. 688)

§ 25. Without in any manner limiting the general powers granted by this Act, the Commission shall have the power:

(a) To provide financing by leasing, selling, which shall include selling by pocket deeds, or making loans for facilities for a § 501(c)(3) organization, including all items of cost for such facilities and for working capital for use by such § 501(c)(3) organization, and to adopt such resolutions and to enter into indentures, contracts, instruments and agreements as may be expedient to issue qualified § 501(c)(3) bonds and to provide for such loans and any security therefor. Such loans shall be made

only from revenues of the Commission that have not been pledged or assigned for the payment of any of the Commission's other bonds or notes. All bonds or notes issued by the Commission for the benefit of a § 501(c)(3) organization shall be payable solely from the revenues and receipts derived from the leasing or sale by the Commission of such facilities or from payments received by the Commission in connection with loans financing such facilities. Facilities may be located within or without the City of Portsmouth. The Commission shall not have the power to operate any facilities for a § 501(c)(3) organization other than as a lessor.

(b) To charge to conduit borrowers an administrative fee upon the issuance of its bonds and notes, whether issued to finance facilities for a § 501(c)(3) organization or to finance projects authorized elsewhere in Chapter 157, as amended, which administrative fee shall comply with the limitations imposed by § 148 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated in connection therewith, and to enter into agreements with other bond-issuing authorities or localities to share or allocate administrative fee payments on such terms as may be agreed upon, either in a standing agreement or in separate agreements for each financing.

For purposes of this section:

"Cost," "facilities," and "loans" shall have the respective meanings ascribed thereto in § 15.2-4902 of the Code of Virginia, as amended;

"Qualified § 501(c)(3) bond" shall have the meaning ascribed thereto in § 145 of the Internal Revenue Code of 1986, as amended;

"§ 501(c)(3) organization" means an organization, other than an organization organized and operated exclusively for religious purposes, which is described in § 501(c)(3) of the Internal Revenue Code of 1986, as amended, and which is exempt from federal income taxation pursuant to § 501(a) of such Internal Revenue Code. (2007, cc. 237, 339)

Potomac River Basin Commission of Virginia

§ 62.1-64.Authority to execute compact to create Potomac Valley Conservancy District and Interstate Commission on the Potomac River Basin

The Governor is hereby authorized and directed to execute, on behalf of the Commonwealth of Virginia, a compact with the states of Maryland and West Virginia, the Commonwealth of Pennsylvania and the District of Columbia, or with such of the same as shall, by their respective legislative bodies, enact legislation with like provisions to those of this chapter, but not with such of the same as shall not so enact such legislation, which compact shall be in form substantially as set out in § 62.1-65.

Code 1950, § 62-62; 1968, c. 659.

§ 62.1-65.Form and terms of compact

Whereas it is recognized that abatement of existing pollution and the control of future pollution of interstate streams can best be promoted through a joint agency representing the several states located wholly or in part within the area drained by any such interstate stream; and

Whereas the Congress of the United States has given its consent to the states of Maryland and West Virginia, the Commonwealths of Pennsylvania and Virginia, and the District of Columbia to enter into a compact providing for the creation of a conservancy district to consist of the drainage basin of the Potomac River and the main and tributary streams therein, for the purpose of regulating, controlling, preventing, or otherwise rendering unobjectionable and harmless the pollution of the waters of said Potomac drainage area by sewage and industrial and other wastes; and

Whereas the regulation, control and prevention of pollution is directly affected by the quantities of water in said streams and the uses to which such water may be put, thereby requiring integration and coordination of the planning for the development and use of the water and associated land resources through cooperation with, and support and coordination of, the activities of federal, state, local and private agencies, groups, and interests concerned with the development, utilization and conservation of the water and associated land resources of the said conservancy district:

Now, therefore, the states of Maryland and West Virginia, the Commonwealths of Pennsylvania and Virginia, and the District of Columbia, hereinafter designated signatory bodies, do hereby create the Potomac Valley Conservancy District, hereinafter designated the Conservancy District comprising all of the area drained by the Potomac River and its tributaries; and also, do hereby create, as an agency of each signatory body, the Interstate Commission on the Potomac River Basin, hereinafter designated the Commission, under the articles of organization as set forth below.

Article I

The Interstate Commission on the Potomac River Basin shall consist of three members from each signatory body and three members appointed by the President of the United States. Said Commissioners, other than those appointed by the President, shall be chosen in a manner and for the terms provided by law of the signatory body from which they are appointed and shall serve without compensation from the Commission but shall be paid by the Commission their actual expenses incurred and incident to the performance of their duties.

(A) The Commission shall meet and organize within thirty days after the effective date of this compact, shall elect from its number a chairman and vice-chairman, shall adopt suitable bylaws, shall make, adopt, and promulgate such rules and regulations as are necessary for its management and control, and shall adopt a seal.

(B) The Commission shall appoint and, at its pleasure, remove or discharge such officers and legal, engineering, clerical, expert and other assistants as may be required to carry the provisions of this compact into effect, and shall determine their qualifications and fix their duties and compensation. Such personnel as may be employed shall be employed without regard to any civil service or other similar requirements for employees of any of the signatory bodies. The Commission may maintain one or more offices for the transaction of its business and may meet at any time or place within the area of the signatory bodies.

(C) The Commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report thereof and shall in such report set forth in detail the operations and transactions conducted by it pursuant to this compact. The Commission, however, shall not incur any obligations for administrative or other expenses prior to the making of appropriations adequate to meet the same nor shall it in any way pledge the credit of any of the signatory bodies. Each of the signatory bodies reserves the right to make at any time an examination and audit of the accounts of the Commission.

(D) A quorum of the Commission shall, for the transaction of business, the exercise of any powers, or the performance of any duties, consist of at least six members of the Commission who shall represent at least a majority of the signatory bodies; provided, however, that no action of the Commission relating to policy or stream classification or standards shall be binding on any one of the signatory bodies unless at least two of the Commissioners from such signatory body shall vote in favor thereof.

Article II

The Commission shall have the power:

(A) To collect, analyze, interpret, coordinate, tabulate, summarize and distribute technical and other data relative to, and to conduct studies, sponsor research and prepare reports on, pollution and other water problems of the Conservancy District.

(B) To cooperate with the legislative and administrative agencies of the signatory bodies, or the equivalent thereof, and with other commissions and federal, local governmental and nongovernmental agencies, organizations, groups and persons for the purpose of promoting uniform laws, rules or regulations for the abatement and control of pollution of streams and the utilization, conservation and development of the water and associated land resources in the said Conservancy District.

(C) To disseminate to the public information in relation to stream pollution problems and the utilization, conservation and development of the water and associated land resources of the Conservancy District and on the aims, views, purposes and recommendations of the Commission in relation thereto.

(D) To cooperate with, assist, and provide liaison for and among, public and nonpublic agencies and organizations concerned with pollution and other water problems in the formulation and coordination of plans, programs and other activities relating to stream pollution or to the utilization, conservation or development of water or associated land resources, and to sponsor cooperative action in connection with the foregoing.

(E) In its discretion and at any time during or after the formulation thereof, to review and to comment upon any plan or program of any public or private agency or organization relating to stream pollution or the utilization, conservation, or development of water or associated land resources.

(F) (1) To make, and, if needful from time to time, revise and to recommend to the signatory bodies, reasonable minimum standards for the treatment of sewage and industrial or other wastes now discharged or to be discharged in the future to the streams of the Conservancy District, and also, for cleanliness of the various streams in the Conservancy District.

(2) To establish reasonable physical, chemical and bacteriological standards of water quality satisfactory for various classifications of use. It is agreed that each of the signatory bodies through appropriate agencies will prepare a classification of its interstate waters in the District in entirety or by portions according to present and proposed highest use, and for this purpose technical experts employed by appropriate state water pollution control agencies are authorized to confer on questions relating to classification of interstate waters affecting two or more states. Each signatory body agrees to submit its classification of its interstate waters to the Commission with its recommendations thereon.

The Commission shall review such classification and recommendations and accept or return the same with its comments. In the event of return, the signatory body will consider the comments of the Commission and resubmit the classification proposal, with or without amendment, with any additional comments for further action by the Commission.

It is agreed that after acceptance of such classification, the signatory body through its appropriate state water pollution control agencies will work to establish programs of treatment of sewage and

industrial wastes which will meet or exceed standards established by the Commission for classified waters. The Commission may from time to time make such changes in definitions of classifications and in standards as may be required by changed conditions or as may be necessary for uniformity and in a manner similar to that in which these standards and classifications were originally established.

It is recognized, owing to such variable factors as location, size, character and flow and the many varied uses of the waters subject to the terms of this compact, that no single standard of sewage and waste treatment and no single standard of quality of receiving waters is practical and that the degree of treatment of sewage and industrial wastes should take into account the classification of the receiving waters according to present and proposed highest use, such as for drinking water supply, bathing and other recreational purposes, maintenance and propagation of fish life, industrial and agricultural uses, navigation and disposal of wastes.

Article III

For the purposes of dealing with the problems of pollution and of water and associated land resources in specific areas which directly affect two or more, but not all, signatory bodies, the Commission may establish sections of the Commission consisting of the Commissioners from such affected signatory bodies; provided, however, that no signatory body may be excluded from any section in which it wishes to participate. The Commissioners appointed by the President of the United States may participate in any section. The Commission shall designate, and from time to time may change, the geographical area with respect to which each section shall function. Each section shall, to such extent as the Commission may from time to time authorize, have authority to exercise and perform with respect to its designated geographical area any power or function vested in the Commission, and in addition may exercise such other powers and perform such functions as may be vested in such section by the laws of any signatory body or by the laws of the United States. The exercise or performance by a section of any power or function vested in the Commission may be financed by the Commission, but the exercise or performance of powers or functions vested solely in a section shall be financed through funds provided in advance by the bodies, including the United States, participating in such section.

Article IV

The moneys necessary to finance the Commission in the administration of its business in the Conservancy District shall be provided through appropriations from the signatory bodies and the United States, in the manner prescribed by the laws of the several signatory bodies and of the United States, and in amounts as follows:

The pro rata contribution shall be based on such factors as population; the amount of industrial and domestic pollution; and a flat service charge, as shall be determined from time to time by the

Commission, subject, however, to the approval, ratification and appropriation of such contribution by the several signatory bodies.

Article V

Pursuant to the aims and purposes of this compact, the signatory bodies mutually agree:

1. Faithful cooperation in the abatement of existing pollution and the prevention of future pollution in the streams of the Conservancy District and in planning for the utilization, conservation and development of the water and associated land resources thereof.

2. The enactment of adequate and, insofar as is practicable, uniform legislation for the abatement and control of pollution and control and use of such streams.

3. The appropriation of biennial sums on the proportionate basis as set forth in Article IV.

Article VI

This compact shall become effective immediately after it shall have been ratified by the majority of the legislatures of the states of Maryland and West Virginia, the Commonwealths of Pennsylvania and Virginia, and by the Commissioners of the District of Columbia, and approved by the Congress of the United States; provided, however, that this compact shall not be effective as to any signatory body until ratified thereby.

Article VII

Any signatory body may, by legislative act, after one year's notice to the Commission, withdraw from this compact.

Code 1950, § 62-63; 1968, cc. 542, 659.

§ 62.1-66.Potomac River Basin Commission of Virginia

There is hereby created a Commission of three members to be known as the Potomac River Basin Commission of Virginia, but the Commission shall not come into being unless and until the Governor shall have executed the compact hereinabove authorized.

Code 1950, § 62-64; 1968, c. 659.

§ 62.1-67.Appointment, terms and qualifications of members; alternate members

The Commission shall consist of three members as follows: one legislative member of the Commission on Intergovernmental Cooperation who resides in the Potomac River drainage basin, appointed by the Joint Rules Committee; one nonlegislative citizen member at large who resides in the Potomac River drainage basin, appointed by the Governor; and the executive director of the State Water Control Board. Appointments to fill vacancies shall be made for the respective unexpired terms. One of the members shall be designated by the Governor as chairman. The Governor and the Joint Rules Committee shall appoint alternate members for their appointees to the Commission, who shall

reside in the Potomac River drainage basin, and each alternate shall have power to act in the absence of the person for whom he is alternate. The legislative member and executive director of the State Water Control Board shall serve terms coincident with their terms of office and the member appointed by the Governor shall serve a term of four years. The terms of each alternate shall run concurrently with the term of the member for whom he is alternate. All members may be reappointed.

Code 1950, § 62-65; 1968, cc. 542, 659; 1979, c. 114; 1981, c. 308; 2006, cc. 516, 556.

§ 62.1-68. Expenses of members

The members of the Commission shall be paid their expenses incurred in the performance of their duties as such in such manner and amount as shall be provided in the compact hereinabove authorized to be executed.

Code 1950, § 62-66; 1968, c. 659.

§ 62.1-69. Duties of Commission; powers and duties of Water Control Board not affected; dams or structures for production of electric power

The Potomac River Basin Commission of Virginia shall, if and when it shall come into existence as hereinabove provided, act jointly with commissions appointed for a like purpose by the states of West Virginia and Maryland, the Commonwealth of Pennsylvania and the District of Columbia, or by such of the same as shall enter into the compact and with an additional three members to be appointed by the President of the United States, as a unit of the Interstate Commission on the Potomac River Basin which shall be constituted as provided by the compact hereinabove mentioned. The Potomac River Basin Commission of Virginia shall perform such further duties as shall be provided by the compact.

No provision of this chapter or application thereof shall operate to repeal, limit, affect or impair any provision or application of Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1; and no provision of this chapter shall have any effect upon the powers and duties of the State Water Control Board created by Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 and the operation of such Board over the waters of the Commonwealth subject to its jurisdiction. Members of the Potomac River Basin Commission of Virginia are prohibited from voting in favor of any measure before the Interstate Potomac River Basin Commission which might have any effect upon the powers and duties of the State Water Control Board without the consent of such Board first had and obtained. Members of the Potomac River Basin Commission of Virginia are prohibited from voting in favor of the construction, with public funds, of any dam or other structure upon the Potomac River or its tributaries in Virginia, which dam or other structure is used or is capable of being used, directly or indirectly, in whole or in part and whether as a single or multiple purpose, for the production by any government or any agency or instrumentality thereof, of electric power and energy.

Code 1950, § 62-67; 1968, cc. 542, 659.

Public Building Authority, Virginia

§ 2.2-2201.Short title; definitions

A. This article shall be known and may be cited as the "Virginia Commercial Space Flight Authority Act."

B. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Commercial Space Flight Authority.

"Board" means the board of directors of the Authority.

"Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility or the provision for or funding of any activity that will further the purposes described in § 2.2-2202.

1995, c. 758, §§ 9-266.1, 9-266.2; 2001, c. 844; 2012, cc. 779, 817.

§ 2.2-2202.Declaration of public purpose; Virginia Commercial Space Flight Authority created

The General Assembly has determined that there exists in the Commonwealth a need to promote industrial and economic development and scientific and technological research and development through the development and promotion of the commercial and government aerospace industry.

In order to facilitate and coordinate the advancement of these needs, there is hereby created the Virginia Commercial Space Flight Authority, with the powers and duties set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public functions, and the exercise by the Authority of the powers and duties conferred by this article shall be deemed and held to be the performance of an essential government function of the Commonwealth and a public purpose.

1995, c. 758, § 9-266.3; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2203.Board of directors; members and officers; Executive Director

The Authority shall be governed by a board of directors consisting of nine members, two of whom shall be the Secretary of Transportation and the Director of the Virginia Department of Aviation or their respective designees. The remaining seven members shall be appointed by the Governor and shall have experience in at least one of the following fields: (i) the aerospace industry, (ii) the financial industry, (iii) the marketing industry, (iv) scientific and technological research and development; or (v) higher education. Members of the Board appointed by the Governor shall be appointed for terms of four years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members shall serve at the pleasure of the Governor and shall be confirmed by the General Assembly. Members of the Board shall receive reimbursement for their

expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on Board business.

The Board shall annually elect one of its members as chairman and another as vice-chairman and may also elect from its membership, or appoint from the Authority's staff, a secretary and a treasurer and prescribe their powers and duties. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings. Five members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also serve as the Chief Executive Officer of the Authority and exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. Such compensation shall be established at a level that will enable the Authority to attract and retain a capable Executive Director. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary to carry out the powers and duties of the Authority.

1995, c. 758, § 9-266.4; 1999, cc. 412, 421, 433; 2001, c. 844; 2009, c. 82; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2204.Powers of the Authority

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the power to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board;

4. Adopt a strategic plan pursuant to § 2.2-2203.2 and plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain and operate projects pursuant to such plan;

5. Adopt an annual budget for the Authority's capital improvements and operations;

6. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the power of the Authority shall be exercised and its duties performed. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary and expedient. Such bylaws, rules, and regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.);

7. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of projects of, the sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority; the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties; the payment of the costs accomplishing its purposes set forth in § 2.2-2202; the payment of the principal of and interest on its obligations; and the creation of reserves for such purposes, for other purposes of the Authority and to pay the cost of maintaining, repairing and operating any project and fulfilling the terms and provisions of any agreements made with the purchasers or holders of any such obligations and any other purposes as set forth in this article;

8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2202 or for refunding bonds previously issued by the Authority, whether such outstanding bonds have matured or are then subject to redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof, by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to provide for the security for said bonds and the rights of holders thereof. However, the total principal amount of bonds, including refunding bonds, outstanding at any time shall not exceed $50 million, excluding from such limit any revenue bonds. The Authority shall not issue any bonds, other than revenue bonds, that are not specifically authorized by a bill or resolution passed by a majority vote of those elected to each house of the General Assembly;

9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including interstate compacts that have been authorized by the General Assembly and where necessary consented to by the United States Congress and agreements with any person or federal agency;

10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as

may be necessary, and to fix their compensation to be payable from funds made available to the Authority;

11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants, donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made;

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; foster the utilization of scientific and technological research, information discoveries and data and obtain patents, copyrights and trademarks thereon; coordinate the scientific and technological research efforts of public institutions and private industry and collect and maintain data on the development and utilization of scientific and technological research capabilities;

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority; and

15. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

1995, c. 758, § 9-266.5; 1996, c. 111; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2260.Short title; definition

A. This article may be cited as Virginia Public Building Authority Act of 1981.

B. As used in this article, unless the context requires a different meaning:

"Construction" or "to construct" means acquisition and construction, all in such manner as may be deemed desirable.

"Cost" means as applied to a project financed under the provisions of this article, the sum total of all costs reasonable and necessary for carrying out all works and undertakings necessary or incident to accomplish a project, including, but not limited to the cost of all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or

other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the vendor of such land, buildings or improvements, site preparation and development including demolition or removal of existing structures, construction, and reconstruction, furnishing of a project, the reasonable cost of financing incurred in the course of the development of a project, carrying charges during construction to the occupancy date, interest on bonds issued to finance a project to a date subsequent to the estimated date of completion of a project, necessary expenses incurred in connection with the initial occupancy of a project, the cost of reimbursing the Central Capital Planning Fund, established under § 2.2-1520, for payments made for pre-planning or detailed planning of all projects that have been approved for construction by the General Assembly, the funding of such funds and accounts as the Authority determines to be reasonable and necessary and the cost of such other items as the Authority determines to be reasonable and necessary.

"Fixtures" and "furnishings" means any fixtures, leasehold improvements, equipment, office furniture and furnishings whatsoever necessary or desirable for the use and occupancy of such project, and the terms "to furnish" and "furnishing" means the acquisition and installation of such fixtures, equipment and furnishings.

"Improvement" or "to improve" means extension, enlargement, improvement, and renovation, all in such manner as may be deemed desirable.

"Major Employment and Investment project" or "MEI project" means a high-impact regional economic development project in which a private entity is expected to make a capital investment in real and tangible personal property exceeding $250 million and create more than 400 new full-time jobs, and is expected to have a substantial direct and indirect economic impact on surrounding communities.

"Personal property" means all items of equipment, fixtures, and furnishings, including items affixed to real property.

"Project" means any structure, facility, personal property or undertaking that the Authority is authorized to finance, refinance, construct, improve, furnish, equip, maintain, acquire, or operate under the provisions of this article.

1981, c. 569, §§ 2.1-234.10, 2.1-234.11; 1992, c. 878; 1994, c. 823; 1996, c. 835; 1998, cc. 498, 504; 2000, cc. 67, 279; 2001, c. 844; 2008, Sp. Sess. I, cc. 1, 2; 2009, cc. 246, 311.

§ 2.2-2261.Virginia Public Building Authority created; purpose; membership; terms; expenses; staff

There is created a political subdivision of the Commonwealth to be known as the "Virginia Public Building Authority." The Authority is created for the purpose of constructing, improving, furnishing, maintaining, acquiring, financing, refinancing, and operating public buildings for the use of the Commonwealth (heretofore or hereafter constructed), state arsenals, armories, and military reserves, state institutions of every kind and character (heretofore and hereafter constructed), additions and

improvements to public institutions of higher education, including land grant colleges and medical colleges, and the purchase of lands for rehabilitation purposes in connection with state institutions and for use of state colleges, and museum facilities for a trust instrumentality of the United States, and the purchase of lands for the development of public buildings that may be authorized by the General Assembly in the future, the acquisition of items of personal property for the use of the Commonwealth, the constructing, improving, maintaining, acquiring, financing, and refinancing of major information technology projects as defined in § 2.2-2006, the financing or refinancing of capital projects that benefit the Commonwealth and any of its agencies, authorities, boards, departments, instrumentalities, institutions, or regional or local authorities, the provision of financing on behalf of any of the Commonwealth's agencies, authorities, boards, departments, instrumentalities, institutions, or regional or local authorities or governments of land, buildings, infrastructure, and improvements for the benefit of an MEI project incentive package endorsed by the MEI Project Approval Commission created pursuant to § 30-309, and the financing or refinancing of reimbursements to localities or governmental entities of all or any portion of the Commonwealth's share of the costs for capital projects made pursuant to other applicable provisions of Virginia law, and the refinancing of (i) obligations issued by other state and local authorities or political subdivisions of the Commonwealth where such obligations are secured by a lease or other payment agreement with the Commonwealth or (ii) the Commonwealth's obligations under such leases or payment agreements, the purpose and intent of this article being to benefit the people of the Commonwealth by, among other things, increasing their commerce and prosperity.

The Authority shall be comprised of the State Treasurer or his designee, the State Comptroller, and five additional members appointed by the Governor, subject to confirmation by the General Assembly, who shall serve at the pleasure of the Governor. Unconfirmed appointments shall expire 30 days after the convening of the General Assembly. Members of the Authority shall be entitled to no compensation for their services as members, but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825. The term of each member appointed by the Governor shall be five years.

Vacancies in the membership of the Authority shall be filled by appointment for the unexpired portion of the term. The Governor shall designate one member of the Authority as chairman who shall serve a two-year term. No member shall be eligible to serve more than two consecutive terms as chairman. The Department of the Treasury shall serve as staff to the Authority.

1981, c. 569, § 2.1-234.12; 1995, c. 841; 1998, cc. 498, 504; 2001, c. 844; 2002, cc. 501, 542; 2003, cc. 981, 1021; 2009, cc. 246, 311; 2011, cc. 691, 714.

§ 2.2-2262.Board of directors

The powers of the Authority shall be exercised by a governing body consisting of the members of the Authority acting as a board. The Board shall elect from its membership a vice-chairman, treasurer and

secretary. The offices of secretary and treasurer may be combined. The Board may elect such other officers who need not be a member of the Board.

Four members shall constitute a quorum of the Board for the purpose of organizing the Authority, conducting its business, and for all other purposes. All actions shall be taken by vote of a majority of the members of the Board, unless Authority bylaws require a larger number.

The Board shall have full authority to manage the properties and business of the Authority, and to prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Authority may be conducted, and the powers granted to it may be exercised. The Board may assign to the Treasury Board or the State Treasurer such powers and duties as it deems proper.

1981, c. 569, § 2.1-234.25; 1993, Sp. Sess., c. 1; 1996, c. 835; 1998, cc. 498, 504; 2001, c. 844.

§ 2.2-2263. Powers and duties of Authority; limitations

A. The Authority is granted all powers necessary or convenient for carrying out its purposes, including, but not limited to, the following powers to:

1. Have perpetual existence as a corporation.

2. Sue and be sued, implead and be impleaded, complain and defend in all courts.

3. Adopt, use, and alter at will a corporate seal.

4. Acquire, purchase, hold and use any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee, with the approval of the Governor, any property, real, personal or mixed, or any interest therein for a term not exceeding 99 years at a nominal rental or at such annual rental as may be determined; with the approval of the Governor, lease as lessor to the Commonwealth and any city, county, town or other political subdivision, or any agency, department, or public body of the Commonwealth, or land grant college, any project at any time constructed by the Authority and any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed; with the approval of the Governor, sell, transfer and convey to the Commonwealth, any project at any time constructed by the Authority; and, with the approval of the Governor, sell, transfer and convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority.

5. Acquire by purchase, lease, or otherwise, and construct, improve, furnish, maintain, repair, and operate projects.

6. Adopt bylaws for the management and regulation of its affairs.

7. Fix, alter, charge, and collect rates, rentals, and other charges for the use of the facilities of, or for the services rendered by, the Authority, or projects thereof, at reasonable rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority, the construction, improvement, repair, furnishing, maintenance, and operation of its facilities and properties, the payment of the principal of and interest on its bonds, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such bonds.

8. Borrow money; make and issue bonds of the Authority and such bonds as the Authority may determine to issue for the purpose of refunding obligations previously issued by the Authority; secure the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues, rentals, and receipts; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority deems advisable; and in general, provide for the security for the bonds and the rights of holders thereof.

The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year containing, at a minimum, the annual financial statements of the Authority for the year ending the preceding June 30.

9. Make contracts of every name and nature, and to execute all instruments necessary or convenient to carry out its business.

10. Borrow money and accept grants from, and enter into contracts, leases or other transactions with, any federal agency.

11. Have the power of eminent domain.

12. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the bonds of the Authority.

13. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

14. Acquire, by assignment from the Commonwealth or the Virginia Retirement System, all contracts, including those that are not completed, which involve constructing, improving, furnishing, maintaining, and operating the structures, facilities, or undertakings similar to those designated herein as projects.

15. Enter into contractual agreements with localities or governmental entities undertaking a capital project that benefits the Commonwealth for which the financing or refinancing of reimbursements of all or any portion of the Commonwealth's share of the costs of such project will be made pursuant to other applicable provisions of Virginia law.

16. Provide for the financing or assist in the financing by any of the Commonwealth's agencies, authorities, boards, departments, instrumentalities, institutions, or regional or local authorities or governments of land, buildings, infrastructure, and improvements for the benefit of an MEI project incentive package endorsed by the MEI Project Approval Commission created pursuant to § 30-309.

B. The Authority shall not undertake or finance or refinance any projects or MEI projects that are not specifically included in a bill or resolution passed by a majority of those elected to each house of the General Assembly, authorizing such projects or MEI projects or the reimbursement of all or any portion of the Commonwealth's share of the costs of such projects or MEI projects and, as to any project relating to a public institution of higher education in the Commonwealth, not specifically designated by the governing board of that institution as a project to be undertaken by the Authority.

C. Except as otherwise provided by law, when projects are to be constructed, improved, furnished, maintained, repaired or operated for the use of any department of the Commonwealth, no plans or specifications therefor shall be presented for quotations or bids until the plans and specifications have been submitted to and approved by the Department of General Services and any other department of the Commonwealth having any jurisdiction over the projects, so that the project will conform to standards established by such departments.

1981, c. 569, § 2.1-234.13; 1984, c. 734; 1985, c. 146; 1987, cc. 11, 616; 1988, cc. 23, 731, 761, 830; 1990, cc. 815, 876; 1991, c. 656; 1992, c. 878; 1993, Sp. Sess., c. 1; 1994, c. 823; 1995, c. 841; 1996, c. 835; 1998, cc. 498, 504; 2000, cc. 67, 279; 2001, c. 844; 2002, cc. 501, 542; 2004, c. 650; 2009, cc. 246, 311.

§ 2.2-2264. Revenue bonds generally

The Authority may, with the consent of the Governor, provide for the issuance of revenue bonds of the Authority for the purpose of paying all or any part of the cost of any one or more projects or portions thereof. The principal of and the interest on such bonds shall be payable solely from the funds provided in this article for such payment. Any bonds of the Authority issued pursuant to this article shall not constitute a debt of the Commonwealth, or any political subdivision thereof other than the Authority, and shall so state on their face. Neither the members of the Authority nor any person executing the bonds shall be liable personally by reason of the issuance thereof. The bonds of each issue shall be dated, shall bear interest, shall mature at such time not exceeding forty years from their date as determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price and under such terms and conditions as determined by the Authority, prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denominations of the bonds and the places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of the bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds may be issued in coupon or in registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for

the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in a manner, either at public or private sale, and for such price as it determines will best effect the purposes of this article.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the projects for which such bonds shall have been issued, and shall be disbursed in the manner and under the restrictions, if any, the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement securing the bonds. If the proceeds of the bonds of any issue, by error of estimates or otherwise, is less than the cost, additional bonds may be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds, shall be deemed to be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds, or may be applied to the payment of the cost of any additional projects.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this article without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things that are specifically required by this article.

1981, c. 569, § 2.1-234.14; 1998, cc. 498, 504; 2001, c. 844.

§ 2.2-2265.Trust agreement securing bonds

In the discretion of the Authority any bonds issued under the provisions of this article may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. The trust agreement or the resolution providing for the issuance of the bonds may pledge or assign the revenues to be received, but shall not convey or mortgage any project or any part thereof. The trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the acquisition, construction, establishment, improvement, extension, enlargement, maintenance, repair, operation and insurance of the project in connection with which the bonds have been authorized, the rates and fees to be charged, the custody, safeguarding and application of all moneys, and conditions or limitations with respect to the issuance

of additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish the indemnifying bonds or to pledge the securities required by the Authority. Any such trust agreement may set forth the rights of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority deems reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of a trust agreement or resolution may be treated as a part of the cost of the operation of the project.

1981, c. 569, § 2.1-234.15; 2001, c. 844.

§ 2.2-2266.Rents, fees and charges for financing or refinancing, services or use of facilities; use and disposition of revenues

The Authority may fix, revise, charge, and collect rates, fees, and other charges for the financing or refinancing of, the use of or for the services and facilities furnished by each project and the different parts thereof, and to contract with any agency, commission, political subdivision or other entity desiring the use of any part thereof, and to fix the terms, conditions, rents, and rates of charges for such use or financing or refinancing. Such rates, fees, and other charges shall be fixed and adjusted so that revenues of the Authority, together with any other available funds, will be sufficient at all times to pay (i) the cost of maintaining, repairing and operating such project and (ii) the principal of and the interest on the related bonds as they become due and payable, and to create reserves for such purposes. Such rates, fees, and other charges shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the Commonwealth. The revenues derived from the project in connection with which the bonds have been issued, except such part thereof as may be necessary to pay the cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the bonds, shall be set aside at such regular intervals as may be provided in the resolution or trust agreement in a sinking fund which is pledged to, and charged with, the payment of the principal of and the interest on such bonds as they become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made, the revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of the bonds or of the trust agreement. Except as

may otherwise be provided in the resolution or trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

1981, c. 569, § 2.1-234.16; 1998, cc. 498, 504; 2001, c. 844.

§ 2.2-2267.Moneys received deemed trust funds

All moneys received pursuant to the authority of this article, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this article. The resolution authorizing the bonds of any issue or the trust agreement securing the bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as a trustee of the moneys and shall hold and apply the same for the purposes hereof, subject to the regulations as this article and the resolution or trust agreement may provide.

1981, c. 569, § 2.1-234.17; 2001, c. 844.

§ 2.2-2268.Proceedings by bondholder or trustee to enforce rights

Any holder of bonds issued under the provisions of this article or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the trust agreement or the resolution authorizing the issuance of the bonds, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under the trust agreement or resolution, and may enforce and compel the performance of all duties required by this article or by the trust agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging, and collecting of rates, fees, and other charges.

1981, c. 569, § 2.1-234.18; 2001, c. 844.

§ 2.2-2269.Bonds made securities for investment and deposit

Bonds issued by the Authority under the provisions of this article shall be securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds shall be securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is now or may be authorized by law.

1981, c. 569, § 2.1-234.19; 2001, c. 844.

§ 2.2-2270.Revenue refunding bonds; bonds for refunding and for cost of additional projects

The Authority may provide for the issuance of revenue refunding bonds of the Authority for the purpose of refunding any obligations then outstanding which have been issued under the provisions of this article or by other state and local authorities or political subdivisions of the Commonwealth where such obligations are secured by a lease or other payment agreement with the Commonwealth, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the obligations, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions, or enlargements of the project in connection with which the obligations to be refunded have been issued. The Authority may provide by resolution for the issuance of its revenue obligations for the combined purpose of (i) refunding any obligations then outstanding that have been issued under the provisions of this article or by other state and local authorities or political subdivisions of the Commonwealth where such obligations are secured by a lease or other payment agreement with the Commonwealth, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such obligations, and (ii) paying all or any part of the cost of any additional project or any portion thereof. The issuance of the bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority shall be governed by the provisions of this article insofar as they may be applicable.

1981, c. 569, § 2.1-234.20; 1998, cc. 498, 504; 2001, c. 844; 2002, cc. 501, 542.

§ 2.2-2271.Grants or loans of public or private funds

The Authority may accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, including proceeds of the Authority's bonds, made available by grant or loan or both, to accomplish, in whole or in part, any of the purposes of this article. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth.

1981, c. 569, § 2.1-234.23; 1998, cc. 498, 504; 2001, c. 844.

§ 2.2-2272.Moneys of Authority; audit

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts, and each of such special accounts shall be continuously secured by a pledge of direct obligations of the United States or of the Commonwealth, having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account. Such securities shall either be deposited with the treasurer or be held by a trustee or agent satisfactory to the Authority. All banks and trust companies are authorized to give such security for such deposits. The moneys in such accounts shall be paid out on the warrant or

other order of the treasurer of the Authority, or of such other persons as the Authority may authorize to execute such warrants or orders.

The Auditor of Public Accounts or his legally authorized representatives may examine the accounts and books of the Authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other matters relating to its finances, operation and affairs.

1981, c. 569, § 2.1-234.26; 2001, c. 844.

§ 2.2-2273.Contracts, leases and other arrangements

A. In connection with the operation of a facility owned or controlled by the Authority, the Authority may enter into contracts, leases, and other arrangements with any person (i) granting the privilege of using or improving the facility or any portion or facility thereof or space therein consistent with the purposes of this article; (ii) conferring the privilege of supplying goods, commodities, things, services, or facilities at the facility; (iii) making available services to be furnished by the Authority or its agents at the facility; and (iv) providing for the payment therefor.

In each case the Authority may establish the terms and conditions and fix the charges, rentals, or fee for the privilege or service, which shall be reasonable and uniform for the same class of privilege or service at each facility and shall be established with due regard to the property and improvements used and the expenses of operation to the Authority.

B. Except as may be limited by the terms and conditions of any grant, loan or agreement authorized by § 2.2-2271, the Authority may by contract, lease, or other arrangements, upon a consideration fixed by it, grant to any qualified person, for a term not to exceed thirty years, the privilege of operating, as agent of the Authority or otherwise, any facility owned or controlled by the Authority; provided that no person shall be granted any authority to operate a facility other than as a public facility or to enter into any contracts, leases, or other arrangements in connection with the operation of the facility that the Authority might not have undertaken under subsection A.

C. In connection with a project leased to or financed or refinanced for a trust instrumentality of the United States where payments or contributions by the Commonwealth and any political subdivision, together with amounts pursuant to an agreement with such trust instrumentality to pay rent or other amounts, are sufficient to pay the principal of and interest on the Authority's bonds issued to finance or refinance such project, the Authority may agree that such trust instrumentality shall assume all responsibility for the acquisition, construction, operation, maintenance, and repair of the project and may further agree that when the principal of all such bonds of the Authority and the interest thereon have been paid in full or provision made therefor satisfactory to the Authority, the trust instrumentality may acquire the Authority's interest in such project without payment of additional consideration.

1981, c. 569, § 2.1-234.21; 1990, c. 815; 1998, cc. 498, 504; 2001, c. 844.

§ 2.2-2274.Resolutions, rules and regulations, etc

The Authority may adopt, amend, and repeal such reasonable resolutions, rules, regulations, and orders as it deems necessary for the management, government, and use of any facility owned by it or under its control. No rule, regulation, order, or standard prescribed by the Authority shall be inconsistent with, or contrary to, any law of the Commonwealth or act of the Congress of the United States or any regulation adopted or standard established pursuant thereto. The Authority shall keep on file at the principal office of the Authority for public inspection a copy of all its rules and regulations.

1981, c. 569, § 2.1-234.22; 2001, c. 844.

§ 2.2-2275.Competition in award of contracts; contractors to give surety; terms of contracts

If any project or any portion thereof or any improvement thereof shall be constructed, or furnished pursuant to a contract and the estimated cost thereof exceeds $10,000, such contract with the Authority shall be awarded to the lowest responsible bidder after advertisement for bids. The Authority may make rules and regulations for the submission of bids and the construction, furnishing, or improvement of any project or portion thereof to be owned by the Authority, the Commonwealth or any agency, institution, or department thereof. No contract shall be entered into by the Authority for construction, furnishing, or improvement of any project, or portion thereof, or for the purchase of materials, unless the contractor gives an undertaking with a sufficient surety approved by the Authority, and in an amount fixed by the Authority in accordance with § 2.2-4337, for the faithful performance of the contract. Such contract shall be accompanied by an additional bond for the protection of those who furnish labor and material or rental equipment for such amount and subject to the same terms and conditions as established by the Authority in accordance with § 2.2-4337. All construction contracts shall provide, among other things, that the person or corporation entering into such contract with the Authority will pay for all materials furnished, rental equipment used and services rendered for the performance of the contract, and that any person or corporation furnishing such materials, rental equipment or rendering such services may maintain an action to recover for the same against the obligor in the undertaking as though such person or corporation was named therein, provided the action is brought within one year after the time the cause of action accrued. The additional bond shall be conditioned upon the prompt payment of actual equipment rentals and shall not be conditioned upon or guarantee payment of equipment rentals, all or any part of which, directly or indirectly, apply on the purchase price of such equipment under the terms of a bailment lease or conditional sales contract or by any other arrangement by which title to the equipment will be transferred to the contractor and the rentals form any part of the consideration.

Subject to the foregoing, the Authority may, but without intending by this provision to limit any powers of the Authority, enter into and carry out such contracts, or establish or comply with such rules and regulations concerning labor and materials to rental equipment and other related matters in connection with any project, or portion thereof, as the Authority deems desirable.

1981, c. 569, § 2.1-234.27; 1998, cc. 498, 504; 2001, c. 844.

§ 2.2-2276.Eminent domain; right of entry

The Authority is vested with the power of eminent domain and may exercise it for the purposes set forth in this article. If the owner, lessee, or occupier of any property to be condemned or otherwise acquired refuses to remove his property therefrom or give up possession, the Authority may proceed to obtain possession in any manner provided by law.

1981, c. 569, § 2.1-234.28; 2001, c. 844.

§ 2.2-2277.Jurisdiction of suits against Authority; service of process

The Circuit Court of the City of Richmond shall have exclusive jurisdiction of any suit brought in Virginia against the Authority, and process in any such suit shall be served either on the State Treasurer or the chairman of the Authority.

1993, Sp. Sess., c. 1, § 2.1-234.28:1; 2001, c. 844.

§ 2.2-2278.Exemption from taxes or assessments

The exercise of the powers granted by this article shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of projects by the Authority constitutes the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, and any bonds issued under the provisions of this article, their transfer and the income therefrom (including any profit made on the sale thereof), shall at all times be free from taxation within the Commonwealth. The exemption granted in this section shall not be construed to extend to persons conducting on the premises of a facility businesses for which local or state taxes would otherwise be required.

1981, c. 569, § 2.1-234.24; 2001, c. 844.

Public Recreational Facilities Authorities Act

§ 15.2-5600.Short title

This chapter shall be known and may be cited as the "Public Recreational Facilities Authorities Act."

Code 1950, § 15-714.13; 1962, c. 393, § 1, § 15.1-1271; 1997, c. 587.

§ 15.2-5601.Definitions

As used in this chapter, the following words and terms shall mean, unless the context indicates otherwise:

"Authority" means an authority created under the provisions of § 15.2-5602 or, if any such authority shall be abolished the entity succeeding to the principal functions thereof.

"Bonds" or "revenue bonds" means bonds, notes, certificates or other evidences of borrowing.

"Cost" means, as applied to any project, all or any part of the cost of acquisition, construction, alteration, enlargement, reconstruction and remodeling of a project or portion thereof, including the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the authority for such construction, additions or expansion, the cost of demolishing or removing any building or structure on land so acquired, including the cost of acquiring any lands to which such building or structures may be removed, the cost of all labor, materials, machinery and equipment, financing charges, insurance, interest on all bonds prior to and during such construction, and during the construction of any addition or expansion, and if deemed advisable by the authority, for a period not exceeding one year after completion of such construction, addition or expansion, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, provisions for working capital, the cost of surveys, engineering and architectural expenses, borings, plans and specifications and other engineering and architectural services, legal expenses, studies, estimates of cost and revenues, administrative expenses and such other expenses as may be necessary or incident to the construction of the project, and of such subsequent additions thereto or expansion thereof, the cost of financing such construction, additions or expansion and placing the project and such additions or expansion in operation.

"Federal agency" means the United States of America and any department, bureau, agency or instrumentality thereof.

"Project" or "projects" means any one or more of the following: auditorium, theater, concert or entertainment hall, coliseum, convention center, arena, field house, stadium, fairground, campground, land conservation project, including but not limited to the holding of conservation easements, sports facilities, including racetracks, amusement park or center, garden, park, zoo and museum, as such terms are generally used, and parking, transportation, utility and restaurant facilities and concessions in connection with any of the foregoing, including any and all buildings, structures, approaches,

roadways, and other facilities and appurtenances thereto which the authority may deem necessary or desirable, together with all property, rights, easements and interests which may be acquired by the authority for the construction, improvement and operation of any of the foregoing. The transportation facilities hereinabove mentioned may be principally for the use and benefit of the inhabitants of the locality creating the authority so long as they are incidentally related to the acquisition and construction of any of the foregoing and may be financed contemporaneously with, prior to or subsequent to the acquisition and construction of any of the foregoing.

Code 1950, § 15-714.14; 1962, c. 393, § 2, § 15.1-1272; 1973, c. 238; 1974, c. 132; 1986, c. 442; 1997, c. 587; 1999, cc. 502, 528.

§ 15.2-5602.Creation of authorities

A. A locality may by ordinance or resolution, or two or more localities, may by concurrent ordinances or resolutions, signify their intention to create an authority under an appropriate name and title containing the word "authority." Each participating locality shall hold a public hearing, notice of which shall be given by publication at least once, not less than ten days prior to the date fixed for the hearing, in a newspaper having general circulation in the locality. The notice shall contain a brief statement of the substance of the proposed authority, shall set forth the proposed articles of incorporation of the authority and shall state the time and place of the public hearing. The locality, by resolution, may call for a referendum on the question of the creation of an authority, which shall be held as provided by § 24.2-681 et seq. When a referendum is to be held in more than one locality, the referendum shall be held on the same date in all of such localities.

B. The articles of incorporation shall set forth:

1. The name of the authority and address of its principal office.

2. A statement that the authority is created under this chapter.

3. The name of each participating locality.

4. The names, addresses and terms of office of the first members of the authority.

5. The purpose or purposes for which the authority is to be created.

C. Passage of such ordinance or resolution by the governing body or governing bodies shall constitute the authority a body politic and corporate of the Commonwealth.

D. Any locality may become a member of an existing authority, and any locality which is a member of an existing authority may withdraw therefrom, but no locality shall be permitted to withdraw from any authority that has outstanding obligations unless United States securities have been deposited for their payment or without the unanimous consent of all holders of the outstanding obligations.

E. Having specified the initial purpose or purposes of the authority in the articles of incorporation, the governing bodies of the participating localities may, from time to time by subsequent ordinance or resolution, after public hearing, modify the articles of incorporation and the purpose or purposes specified therein. Such modification may be made either with or without a referendum.

Code 1950, § 15-714.15; 1962, c. 393, § 3, § 15.1-1273; 1975, c. 517; 1996, c. 1021; 1997, c. 587.

§ 15.2-5603.Board to exercise powers of authority

The powers of each authority created hereunder shall be exercised by a board which shall consist of not less than five nor more than seventeen members who shall be appointed by the participating localities and who shall be selected in the manner and for the terms provided by the ordinance or resolution creating the authority. Officers and employees of the participating localities may be appointed to the board and may constitute a majority of the members of the board. The members of the board shall elect one of their number chairman and shall elect a secretary and treasurer who need not be members of the board. The offices of secretary and treasurer may be combined. A majority of the members of the board shall constitute a quorum and the vote of a majority of such members shall be necessary for any action taken by the authority. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. The members of the board shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. The localities may provide for compensation of the members of the board; provided no compensation shall be paid for meetings not attended.

Alternate members of the board may also be selected. Such alternates shall be selected in the same manner as the members. The term of each alternate shall be the same as the term of the member for whom each serves as an alternate; however, the alternate's term shall not expire because of the member's death, disqualification, resignation or termination of employment with the member's locality. If a member is not present at a meeting of the authority, the alternate for the member shall have all the voting and other rights of a member and shall be counted for purposes of determining a quorum at any meeting of the authority.

Code 1950, § 15-714.16; 1962, c. 393, § 4, § 15.1-1274; 1974, c. 132; 1986, c. 442; 1995, c. 626; 1996, c. 1021; 1997, c. 587.

§ 15.2-5604.Powers of authority generally

Each authority created hereunder shall be a political subdivision of the Commonwealth Virginia and shall be an instrumentality exercising public and essential governmental functions to provide for the public health and welfare. Each authority is authorized and empowered:

1. To have existence for such term of years as specified by the participating localities;

2. To contract and be contracted with; to sue and be sued; to make and from time to time amend and repeal bylaws, rules and regulations not inconsistent with general law to carry out its purposes; and to adopt a corporate seal and alter the same at its pleasure;

3. To acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain projects within or outside any of the participating localities; and to acquire by gift or purchase lands or rights in land in connection therewith and to sell, lease as lessor, transfer or dispose of any property or interest therein acquired by it, at any time;

4. To lease all or any part of any project upon any such terms or conditions and for such term of years as it may deem advisable to carry out the provisions of this chapter;

5. To regulate the uses of all lands and facilities under control of the authority;

6. To fix and revise from time to time and to charge and collect fees, rents and other charges for the use of any project or facilities thereof owned or controlled, and to establish and revise from time to time regulations in respect of the use, operation and occupancy of any such project or facilities thereof;

7. To enter into contracts with any participating locality, the Commonwealth, or any other political subdivision, agency or instrumentality thereof, any federal agency or with any person providing for or relating to any project, including contracts for the management or operation of all or any part of a project;

8. To accept grants and gifts from any participating locality, the Commonwealth or any other political subdivision, agency or instrumentality thereof, any federal agency and from any person;

9. To issue bonds and refunding bonds of the authority, such bonds to be payable solely from funds of the authority; and from such other sources of payment as are authorized by § 15.2-5607;

10. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including a trust agreement or trust agreements securing any bonds or refunding bonds issued hereunder; and

11. To do all acts and things necessary or convenient to carry out the powers granted by this chapter.

Code 1950, § 15-714.17; 1962, c. 393, § 5, § 15.1-1275; 1973, c. 238; 1986, c. 442; 1997, c. 587.

§ 15.2-5605.Transfers of property, appropriations and contracts by participating localities

Each participating locality is authorized and empowered:

1. To transfer jurisdiction over, to lease, lend, grant or convey to the authority at its request, with or without consideration, such real or personal property as may be necessary or desirable to carry out the purposes of the authority, upon such terms and conditions as such participating locality shall determine to be for its best interests;

2. To make appropriations and to provide funds for any purpose of the authority, including the acquisition, construction, improvement and operation of any project or facilities thereof and payment of principal and interest on its indebtedness;

3. To enter into contracts agreeing to carry out any of the provisions set forth in subdivisions 1 or 2, providing for the operation and maintenance of all or any part of a project or otherwise facilitating the construction, development, operation or financing of all or any part of a project; and

4. To enter into leases with the authority pursuant to which a project or any part thereof is leased to the locality. The lease may be for a term ending not later than the end of the then current fiscal year of the locality and renewable for additional terms of one fiscal year each or as may be agreed upon by the parties provided that the total of the original term and any renewals shall in no event exceed fifty years. Each renewal shall be at the option of such locality and the lease may provide that it is renewed for an additional term if the locality fails to cancel the lease in writing on or prior to sixty days before the end of the then current term. Rentals under such lease may be computed at fixed amounts or by a formula based on any factors provided therein and the rentals payable may include provision for all or any part of or a share of the amounts necessary (i) to pay or provide for the expenses of operation and maintenance of a project, (ii) to provide for the payment of principal and interest on any bonds of the authority, and (iii) to maintain such reserves or sinking funds as may be required by the terms of any contract of the authority or as may be deemed necessary or desirable by the authority. Such payments shall be payable only from revenues of the locality available during the fiscal year during which the lease is in effect. Notwithstanding the provisions of § 15.2-5606 or any other provision hereof the authority or the locality leasing the project may contract with a person as sublessee or operator of the project at a compensation to be agreed upon by the parties.

Code 1950, § 15-714.18; 1962, c. 393, § 6, § 15.1-1276; 1973, c. 238; 1975, c. 109; 1997, c. 587.

§ 15.2-5606.Acquisition, maintenance and operation of projects; revenues from projects

The authority may acquire or construct and maintain and operate any one or more projects under this chapter in such manner as the authority may determine, and the authority may operate each project separately or it may operate one or more projects together. The authority shall have exclusive control over the revenues derived from its operations and may use revenues from one project in connection with any other project. No person shall receive any profit or dividend from the revenues, earnings or other funds or assets of the authority other than for debts contracted, for services rendered, for materials and supplies furnished and for other value actually received by the authority.

Code 1950, § 15-714.19; 1962, c. 393, § 7, § 15.1-1277; 1997, c. 587.

§ 15.2-5607.Authority to issue bonds; source of payment

The authority is authorized to issue bonds from time to time in its discretion for the purpose of paying all or any part of the cost of acquiring, purchasing, constructing, reconstructing, improving or extending

any project and acquiring necessary land and equipment therefor. The authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable as to principal and interest: (i) from its revenues generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds.

Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating locality, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, or a pledge of any income or revenues of the authority, or a mortgage on any project or other property of the authority, or any contract obligation or undertaking, whether in the nature of a guaranty or otherwise, of any participating locality. However, any such contract obligation or undertaking by any participating locality which is a city or town shall not be considered an indebtedness within the meaning of any debt limitation or restriction and that any such contract obligation or undertaking by a participating locality which is a county shall be authorized in accordance with the provisions of Article VII, Section 10 (b) of the Constitution of Virginia.

Neither the members of the board of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the authority (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof other than the participating localities which have entered into contract obligations or other undertakings with respect to the repayment thereof as authorized in the preceding paragraph, and neither the Commonwealth nor any political subdivision thereof other than the authority and, to the extent provided in the preceding paragraph, participating localities, shall be liable thereon, nor shall such bonds or obligations be payable out of any funds or properties other than those of the authority and those created by contract obligations or undertakings of any participating localities entered into pursuant to the preceding paragraph. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of the authority are declared to be issued for an essential public and governmental purpose.

Code 1950, § 15-714.20; 1962, c. 393, § 8, § 15.1-1278; 1986, c. 442; 1997, c. 587.

§ 15.2-5608.Bond resolution; terms, conditions, form and execution of bonds; sale; interim receipts or temporary bonds

Bonds of the authority shall be authorized by resolution of the board and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds.

The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this chapter or any recitals in any bonds issued under the provisions of this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the authority.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

Bonds may be issued under the provisions of this chapter without obtaining the consent of any commission, board, bureau or agency of the Commonwealth or of any political subdivision thereof, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this chapter.

Code 1950, § 15-714.21; 1962, c. 393, § 9, § 15.1-1279; 1973, c. 238; 1997, c. 587.

§ 15.2-5609.Trust indenture or agreement to secure payment of bonds

In the discretion of the authority, any bonds issued under the provisions of this chapter may be secured by a trust indenture by way of conveyance, deed of trust or mortgage of any project or any other property of the authority, whether or not financed in whole or in part from the proceeds of such bonds, or by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth or by both such conveyance, deed of trust or mortgage and indenture or trust agreement. Such trust indenture or agreement, or the resolution providing for the issuance of such bonds may pledge or assign fees, rents, charges and receipts, collected by, payable to or otherwise derived by the authority, and all other moneys and income of whatever kind or character collected by, payable to or otherwise derived from any project. Such trust indenture or agreement, or resolution providing for the issuance of such bonds, may contain such provisions for protecting and enforcing the rights and

remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and issuance of any project or other property of the authority, and the rates of fees, rents and other charges to be charged, and the custody, safeguarding and application of all moneys of the authority, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of such bonds or of other revenues of the authority to furnish indemnifying bonds or to pledge such securities as may be required by the authority. Such trust indenture or agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders.

In addition to the foregoing, such trust indenture or agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust indenture or agreement or resolution may be treated as a part of the cost of a project.

Code 1950, § 15-714.22; 1962, c. 393, § 10, § 15.1-1280; 1973, c. 238; 1997, c. 587.

§ 15.2-5610.Fees, rents and other charges; reserves

The authority is authorized to fix, revise, charge and collect fees, rents and other charges for the use of any project and the facilities thereof. The fees, rents and other charges shall be fixed and adjusted so as to provide funds, which when added to other funds, are sufficient to pay: (i) the cost of maintaining, repairing and operating the project and (ii) the principal and any interest on the bonds as the same shall become due and payable. Reserves may be accumulated and maintained out of the revenues and receipts of the authority for extraordinary repairs and expenses and for such other purposes as may be provided in any resolution authorizing a bond issue or in any trust indenture securing the authority's bonds. Such fees, rents and charges shall not be subject to supervision or regulation by any commission, board, bureau or agency of the Commonwealth or any participating locality.

Code 1950, § 15-714.23; 1962, c. 393, § 11, § 15.1-1281; 1973, c. 238; 1986, c. 442; 1997, c. 587.

§ 15.2-5611.Moneys received deemed trust funds

All moneys received pursuant to the provisions of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter.

Code 1950, § 15-714.24; 1962, c. 393, § 12, § 15.1-1282; 1997, c. 587.

§ 15.2-5612.Remedies of bondholders and trustee

Any holder of bonds, notes, certificates or other evidences of borrowing or any coupons appertaining thereto issued under the provisions of this chapter and the trustee under any trust indenture or

agreement, except to the extent of the rights herein given may be restricted by such trust indenture, or agreement may protect and enforce their rights under (i) the laws of the Commonwealth; (ii) this chapter; (iii) the trust indenture or agreement; or (iv) the resolution authorizing the issuance of such bonds, notes or certificates. Such holder and trustee may enforce and compel the performance of all duties required by this chapter or by such trust indenture or agreement or resolution to be performed by the authority or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges.

Code 1950, § 15-714.25; 1962, c. 393, § 13, § 15.1-1283; 1997, c. 587.

§ 15.2-5613.Authority to exercise a governmental function; exemption from taxation

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, and as the operation and maintenance of any project which the authority may undertake will constitute the performance of an essential governmental function, no authority shall be required to pay any taxes or assessments upon any project acquired and constructed by it under the provisions of this chapter. The bonds, notes, certificates or other evidences of debt issued under the provisions of this chapter, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof.

Code 1950, § 15-714.26; 1962, c. 393, § 14, § 15.1-1284; 1997, c. 587.

§ 15.2-5614.Bonds legal investments

Bonds issued by the authority are securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are securities which legally may be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is, or may hereafter be, authorized by law.

Code 1950, § 15-714.27; 1962, c. 393, § 15, § 15.1-1285; 1997, c. 587.

§ 15.2-5615.Chapter to constitute complete authority for acts authorized; liberal construction

This chapter shall constitute full and complete authority, without regard to the provisions of any other law, for the doing of the acts and things herein authorized. This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof.

Code 1950, § 15-714.28; 1962, c. 393, § 16, § 15.1-1286; 1973, c. 238; 1997, c. 587; 2015, c. 709.

§ 15.2-5616.Dissolution of authority; disposition of property

Whenever the board of the authority shall by resolution determine that the purposes for which the authority was formed have been substantially complied with and all bonds therefore issued and all obligations theretofore incurred by the authority have been fully paid or adequate provisions have been made for the payment, the board shall execute and file for record with the participating localities a resolution declaring such facts. If the participating localities are of the opinion that the facts stated in the authority's resolution are true and the authority should be dissolved, they shall so resolve and the authority shall stand dissolved as of the date on which the last participating locality adopts such resolution. Upon such dissolution, the title to all funds and properties owned by the authority at the time of such dissolution shall vest in the participating localities.

1986, c. 442, § 15.1-1286.1; 1997, c. 587.

Public School Authority, Virginia

§ 22.1-162.Definitions

As used in this chapter:

1. "Authority" means the Virginia Public School Authority.

2. "Board of Commissioners" means the Board of Commissioners of the Authority.

3. "Bonds of the Authority" includes notes and other obligations issued by the Authority for any of its purposes.

4. "Local school bonds" means bonds or other obligations issued by counties, cities and towns under the provisions of Chapter 26 (§ 15.2-2600 et seq.) of Title 15.2 solely for the purpose of financing capital projects for public schools.

1980, c. 559.

§ 22.1-163.Authority created; public body corporate and agency of Commonwealth

The Virginia Public School Authority is created as a public body corporate and an agency and instrumentality of the Commonwealth.

Code 1950, § 22-29.3; 1962, c. 194; 1980, c. 559; 1998, cc. 4, 900.

§ 22.1-164.Board of Commissioners; membership; terms; compensation and expenses; chairman and vice-chairman; quorum; employees, agents, etc

All powers, rights and duties conferred by this chapter or other provisions of law upon the Authority shall be exercised by the Board of Commissioners of the Virginia Public School Authority. The Board of Commissioners shall consist of the State Treasurer, the State Comptroller, the Superintendent of Public Instruction or his designee, and five additional members to be appointed by the Governor, subject to confirmation by the General Assembly, who shall serve at the pleasure of the Governor for terms of six years each. Appointments to fill vacancies other than by expiration of term shall be made for the unexpired terms. The chairman and members of the Board of Commissioners shall receive such compensation as provided for by law.

The Governor shall designate one member of the Board of Commissioners as chairman who shall serve a two-year term. No member shall be eligible to serve more than two consecutive terms as chairman. The chairman shall be the chief executive officer of the Authority and shall receive such compensation as the Governor shall fix. The State Treasurer, the State Comptroller, the Superintendent of Public Instruction and his designee shall be ineligible to serve as chairman. The chairman shall sign and execute all vouchers for the disbursement of funds belonging to the Authority upon authorization by the Board. Five members of the Board of Commissioners shall constitute a quorum for the transaction of all business of the Authority. The Board of Commissioners shall elect

one of its members as vice-chairman, who shall exercise the powers of the chairman when so directed by the chairman.

The Board of Commissioners may employ or retain such employees, agents, financial advisers and attorneys as it may deem necessary and fix their compensation.

Code 1950, § 22-29.4; 1962, c. 194; 1972, c. 745; 1976, c. 22; 1980, cc. 559, 728; 2011, cc. 691, 714.

§ 22.1-165. Management and administration of moneys, etc., transferred from Literary Fund

The Authority shall manage and administer as provided in this chapter all moneys or obligations that may be set aside and transferred to it from the principal of the Literary Fund by the General Assembly for public school purposes pursuant to Article VIII, Section 8 of the Constitution of Virginia and any funds authorized by the General Assembly from the Literary Fund or otherwise appropriated by the General Assembly for public school purposes.

Code 1950, § 22-29.5; 1962, c. 194; 1971, Ex. Sess., c. 1; 1980, c. 559; 1990, c. 909.

§ 22.1-166. Purchase and sale of local school bonds

The Authority is authorized to purchase local school bonds with any funds of the Authority available for such purpose, at public or private sale and for such price and on such terms as it shall determine. The Authority may pledge to the payment of the interest on and the principal of any bonds of the Authority all or any part of the local school bonds so purchased, including payments of principal and interest thereon as they shall become due. The Authority may also, subject to any such pledge, sell any such local school bonds so purchased and apply the proceeds of such sale in the purchase of other like local school bonds or for such purpose and in such manner as shall be provided by any resolution authorizing the issuance of bonds of the Authority, or the Authority may transfer such proceeds to the Literary Fund. For the purpose of Article VII, Section 10(b) of the Constitution of Virginia, the Authority shall be deemed a state agency authorized to purchase bonds issued with the consent of the school board and the governing body of the county by or on behalf of a county or district thereof for capital projects for school purposes.

Notwithstanding the provisions of any general or special law to the contrary, any city completely surrounded by a county having the urban county executive form of government may finance capital projects for school purposes through the Authority without the requirement of a voter referendum if the financing for the capital project is requested by both the city council and the school board.

The proceeds of all local school bonds issued pursuant to this chapter prior to July 1, 1975, may be used for any capital project for public schools as provided in the resolution by which their issuance was authorized.

Code 1950, § 22-29.6; 1962, c. 194; 1971, Ex. Sess., c. 87; 1972, c. 745; 1975, c. 434; 1976, c. 491; 1980, c. 559; 1989, c. 456.

§ 22.1-166.1.Loans to local school boards

The Authority is authorized to make loans or loan interest rate subsidy payments, from any of the funds of the Authority available for such purpose, to local school boards for the purpose of acquiring and installing capital projects for school purposes for which loans from the Literary Fund are not immediately available. For the purpose of this section and § 22.1-166.2, capital projects for school purposes shall mean motor vehicles and educational technology equipment.

A. No loan from the Authority shall exceed 100 percent of the cost of the capital project for school purposes for which such loan is made.

B. A loan from the Authority shall be evidenced by notes payable to the Authority, executed or signed by the chairman of the school board, with the approval of the local governing body, attested by the clerk thereof and deposited with the State Treasurer. Payments of interest and principal on such notes shall be made to the State Treasurer. Any loan from the Authority shall be repayable in installments as shall be approved by the local school board, as appropriate, with the final installment being due not more than thirty years after the date of such loan. The time of payment may be extended in the discretion of the Authority.

C. The local governing bodies and the local school boards of the several school divisions are authorized to borrow money from the Authority, at such rate or rates, fixed or variable, as shall be approved by the local school board; any local school board to borrow from the Authority shall first make written application to the Authority for such loan on a form to be prescribed by the Authority.

D. The governing body of any county, city, or town, if the town constitutes the school division, in which the local school board has borrowed money from the Authority shall include in its levies, and appropriate to the local school board, a fund sufficient to meet the liabilities of the local school board on such loan if and to the extent such liabilities are not otherwise provided for by the General Assembly. The governing body of any county in which the local school board has borrowed money from the Authority for capital projects located in a town in such county constituting a separate school division shall have authority to include, in its levies for such town, a levy sufficient to meet the liabilities of the local school board on such loan if and to the extent such liabilities are not otherwise provided for by the General Assembly and shall levy a separate tax in the rest of the county to meet its liabilities on any contract for capital projects outside such town. In the event that such local school board shall fail to pay any installment of interest or principal promptly, upon notice in writing to that effect from the State Treasurer, the county, city, or town treasurer shall pay to the State Treasurer any such past due installment of interest or principal out of the funds in his hands belonging to such county, city, or town. The failure of such governing body to provide for the payment of such loan or the interest thereon when and as due shall be deemed a cause for removal of the members thereof from office on motion before the circuit court having jurisdiction in such county, city, or town, instituted by

the attorney for the Commonwealth of such county or city or by the Attorney General where the attorney for the Commonwealth refuses or neglects to act after demand on him to proceed.

E. The local school board of any school division composed of part or all of a county, with the approval of the governing body of the county, is authorized to borrow from the Authority for the purpose of financing capital projects in such county to serve a portion of such county. Taxes on property in the magisterial districts served by such capital projects shall be levied by the governing body of the county and collected for the purpose of repaying such loan; for the purposes of this section, a magisterial district shall not include a town constituting a separate school division but the governing body of the county may levy a separate tax on property in a town in such county constituting a separate school division to repay money borrowed by such county from the Authority for the purpose of financing capital projects in such town. Except as otherwise provided by this subsection, all other provisions of law relating to loans from the Authority shall apply to a loan authorized by this subsection.

F. Any local school board which is indebted for any money borrowed from the Authority may anticipate the payment of the principal amount of any such loans, or any part thereof, by the payment of such principal amount with interest thereon to the date of such anticipated payment and may borrow money and issue bonds for the purpose of raising funds to pay any notes or other obligations of the local school board now and hereafter held by the Authority.

1990, c. 909.

§ 22.1-166.2. Grants to local school boards

The Authority is authorized to make grants of money, from any of the funds of the Authority available for such purpose, to local school boards for the purchase of capital projects for school purposes.

1990, c. 909.

§ 22.1-167. Issuance of bonds of Authority

In order to provide funds for the purchase of local school bonds as authorized by § 22.1-166, to provide funds for the making of loans to local school boards as authorized by § 22.1-166.1, or to provide funds for the making of grants to local school boards as authorized by § 22.1-166.2, the Board of Commissioners is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds of the Authority in such amount or amounts as the Board of Commissioners shall determine. Such bonds of the Authority shall be payable solely from funds of the Authority, including, without limitation, all or any combination of the following sources: (i) payments of principal of and interest on local school bonds purchased by the Authority, (ii) the proceeds of the sale of any such local school bonds, (iii) payments of principal of and interest on obligations transferred to the Authority from the Literary Fund, (iv) the proceeds of the sale of any such obligations, (v) any moneys transferred to the Authority from the Literary Fund, (vi) payments of principal of and interest on loans

made to local school boards, and (vii) any funds authorized by the General Assembly from the Literary Fund or otherwise appropriated by the General Assembly, as shall be provided by the resolution of the Board of Commissioners authorizing any such bonds. Bonds of the Authority issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the faith or credit of the Commonwealth, and all bonds of the Authority shall contain on the face thereof a statement to the effect that neither the faith and credit nor the taxing power of the Commonwealth or of any political subdivision thereof is or shall be pledged to the payment of the principal of or the interest on such bonds.

The bonds of each issue shall be dated, shall bear interest and shall mature at such time or times, not exceeding thirty years from their date or dates, as may be determined by the Board of Commissioners and may be made redeemable before maturity, at the option of the Board of Commissioners, at such price or prices and under such terms and conditions as may be fixed by the Board of Commissioners prior to the issuance of the bonds. The principal and interest of such bonds may be made payable in any lawful medium. The Board of Commissioners shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof, which may be at the office of the State Treasurer or at any bank or trust company within or without the Commonwealth. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this chapter shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon or in registered form or both, as the Board of Commissioners may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest and for the reconversion of any bonds registered as to both principal and interest into coupon bonds. The Board of Commissioners may sell such bonds in such manner, either at public or at private sale, and for such price as it may determine to be for the best interests of the Authority. The proceeds of such bonds shall be disbursed for the purposes for which such bonds were issued under such restrictions, if any, as the resolution authorizing the issuance of such bonds or the trust indenture provided for in § 22.1-171 may provide. Prior to the preparation of definitive bonds, the Board of Commissioners may under like restrictions issue temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Board of Commissioners may also provide for the replacement of any bond which shall become mutilated or shall be destroyed or lost. Such bonds may be issued without any other proceedings or the happening of any other conditions or things than the proceedings, conditions, and things which are specified and required by this chapter.

Code 1950, § 22-29.7; 1962, c. 194; 1972, c. 745; 1980, c. 559; 1990, c. 909.

§ 22.1-167.1.Refunding issues; pass-through of savings realized

A. In the event the Authority refunds any bonds previously issued to finance the purchase of local school bonds, the Authority shall pass-through to the issuers of such local school bonds, an allocable share of any savings realized. Such pass-through shall be accomplished, at the option of the Authority, by means of a debt service reduction over the remaining term of the local school bonds, by a lump sum payment of the present value of such allocable share of the savings, or by such other method as the Authority shall determine to be in the mutual best interests of the issuers of the local school bonds and the Authority.

B. For the purposes of this section, "savings" means the net reduction in debt service, if any, to be realized by the Authority, after subtracting the total costs, expenses, and equity contributions associated with the refunding and with the pass-through of such savings to the issuers of the local school bonds and of any Authority funds transferred, or required to be transferred, by mandate of the General Assembly, other than to the issuers of the local school bonds.

Notwithstanding the provisions of this section, no savings shall be passed-through to the issuers of local school bonds for which an interest rate subsidy has been paid or which were issued at below market interest rates. The savings in connection with the refunding of bonds issued by the Authority and allocable to local school bonds for which an interest rate subsidy has been paid, to the extent such subsidy was paid from the Literary Fund, shall be transferred to the Literary Fund and used exclusively for Literary Fund loans to local school boards pursuant to Chapter 10 (§ 22.1-142 et seq.) of Title 22.1.

C. This section shall have no application if it conflicts with a preexisting trust indenture.

D. Whenever the Authority shall defease its bonds previously issued to finance the purchase of local school bonds, the Authority may, consistent with the provisions of this section respecting the return of savings to the issuers of the related local school bonds, designate to such issuers of local school bonds which issues, series and maturities with which interest rates shall be deemed by the Authority to have been paid. Immediately upon such designation, the local school bonds so designated shall likewise be deemed defeased and no longer outstanding, the same as if the defeasance had occurred in accordance with the provisions of § 15.2-2623. Such defeasance shall not require any action by the issuer of the affected local school bonds, shall be effective immediately, and shall be duly noted on the records of the Authority which shall no longer have any right to payment with respect to the issues, series and maturities so deemed by the Authority to have been paid. The elected officials and financial officers of the affected locality are hereby authorized to execute and deliver such federal tax forms, certificates, and other documents as the Authority may request in connection with the defeasance of its local school bonds and the bonds of the Authority.

1994, c. 272; 2006, c. 223.

§ 22.1-167.2.Security for payment; appropriations

A. The Authority is authorized to issue bonds to finance and refinance acquisition of bonds, notes and other obligations of counties, cities and towns (local school bonds) issued for the purpose of financing and refinancing capital projects for school purposes and to pledge to the bonds all or any combination of the following sources: (i) payments of principal and interest on the local school bonds purchased by the Authority; (ii) payments to the localities by the Commonwealth as contemplated under the provisions of § 15.2-2659 (state aid intercept) of the Code of Virginia; (iii) funds in the Literary Fund available and appropriated for such purpose; and (iv) any funds in the general fund of the Commonwealth appropriated for such purpose.

B. The Governor's Budget Bill presented each year to the General Assembly shall include an appropriation to the Authority of a sum sufficient first, from funds in the Literary Fund available for such purpose, and second, from the general fund of the Commonwealth, to cure any shortfall in pledged primary revenues on any debt service payment date on the bonds of the Authority described by this section. A shortfall in pledged primary revenues shall exist when the sum of the payments made on local school bonds due on or before such date and any proceeds derived from the implementation of § 15.2-2659 (state aid intercept) of the Code of Virginia as of such date is less than required to pay the debt service due on the Authority's bonds on such date.

C. The Literary Fund and the general fund of the Commonwealth shall be subrogated to the rights of the Authority to the extent of any such funds paid to the Authority and shall be entitled to enforce the Authority's remedies with respect to the local school bonds and to full recovery of the amount of such shortfall.

D. On or before September 30 of each year, the Authority shall submit to the Governor and the chairmen of the House Appropriations Committee and the Senate Finance Committee a report as of the end of the prior fiscal year detailing the total amount of the Authority's outstanding bonds secured by appropriations as described in subsection B. The report shall also describe any instances where any such appropriation has been used.

1998, cc. 4, 900.

§ 22.1-167.3.Bonds or notes issued for the purpose of making grants; security for payment; appropriations

A. The Authority is authorized to pledge to the bonds or notes of the Authority (i) authorized under the provisions of a resolution adopted subsequent to June 30, 2000, for the purpose described in § 22.1-166.2, (ii) issued subsequent to June 30, 2000, and (iii) not benefiting from the provisions of either clause (iii) or (iv) of § 22.1-168, or § 22.1-168.1, in addition to other sources available for such purpose, any funds in the general fund of the Commonwealth appropriated for such purpose.

B. The Governor's budget bill presented each year to the General Assembly pursuant to § 2.2-1509 shall include an appropriation to the Authority of a sum sufficient from the general fund of the Commonwealth to cure any shortfall in pledged primary revenues on any debt service payment date on the bonds or notes of the Authority described by this section. A shortfall in pledged primary revenues shall exist when the available moneys in the Literary Fund as of such date are less than the amount required to pay the debt service due on such bonds or notes on such date. For purposes of this subsection "available moneys in the Literary Fund" means moneys remaining after the payment, or provision for payment, of debt service on bonds or notes like those described in this section and payable from the Literary Fund, but issued prior to July 1, 2000.

C. On or before September 30 of each year, the Authority shall submit to the Governor and the chairmen of the House Appropriations Committee, House Finance Committee and the Senate Finance Committee a report as of the end of the prior fiscal year detailing the total amount of the Authority's outstanding bonds and notes secured by an appropriation of a sum sufficient from the general fund of the Commonwealth as described in subsection B. The report shall also describe any instances where any such appropriation has been used.

2001, cc. 431, 456.

§ 22.1-168.Security for payment and bonds; provisions of trust indenture or resolution of Board

In the discretion of the Board of Commissioners any bonds issued under the provisions of this chapter may be secured by a trust indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust indenture or the resolution providing for the issuance of such bonds may pledge or assign all or any part of the funds of the Authority available for such purpose including, but without limitation, all or any combination of the following sources: (i) payments of principal of and interest on local school bonds purchased by the Authority, (ii) the proceeds of the sale of any such local school bonds, (iii) payments of principal of and interest on obligations transferred to the Authority from the Literary Fund, (iv) the proceeds of the sale of any such obligations, (v) any moneys transferred to the Authority from the Literary Fund, (vi) payments of principal of and interest on loans made to local school boards, and (vii) any funds authorized by the General Assembly for such purpose from the Literary Fund or otherwise appropriated by the General Assembly. Such trust indenture or resolution providing for the issuance of such bonds may provide for the creation and maintenance of such reserves as the Board of Commissioners shall determine to be proper and may include covenants setting forth the duties of the Board of Commissioners in relation to the acquisition of any local school bonds, the substitution of any local school bonds as security for payment of the bonds of the Authority, the collection of payments of principal and interest on (i) any local school bonds, (ii) on any obligations transferred to the Authority from the Literary Fund, and (iii) on any loans made to local school boards. Such trust indenture or resolution may include provisions requiring the

Authority or the trustee under such trust indenture or any depository to file a petition with the Governor and to take any and all other action required under § 15.2-2659 to secure payment of all sums necessary to cover any default as to any bonds or the interest thereon held by the Authority or by such trustee or depository to which § 15.2-2659 shall be applicable. Such trust indenture or resolution may contain provisions respecting the custody, safeguarding and application of all moneys and securities including local school bonds purchased by the Authority and obligations transferred to the Authority from the Literary Fund and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of any other funds or obligations received on behalf of the Authority to furnish such indemnifying bonds or to pledge such securities as may be required by the Board of Commissioners. Any such trust indenture or resolution may contain such other provisions as the Board may deem reasonable and proper for the security of the bondholders. Any reference in this chapter to a resolution of the Board of Commissioners shall include any trust indenture authorized thereby.

Code 1950, § 22-29.8; 1962, c. 194; 1972, c. 745; 1980, c. 559; 1990, c. 909.

§ 22.1-168.1.Reserve fund; limitations

A. If the Board of Commissioners deems it proper to create a reserve fund or funds from bond proceeds to support an issuance of bonds in accordance with the provisions of this section, all moneys held in such reserve fund, except as hereinafter provided, shall be pledged solely for the payment of the principal and interest on the bonds secured in whole or in part by such a fund. Any income or interest earned on, or increment to, any reserve fund may be transferred by the Board of Commissioners to other funds or accounts of the Authority to the extent it does not reduce the amount of the reserve fund below its minimum requirement.

B. The Board of Commissioners shall not at any time issue bonds secured in whole or in part by any reserve fund referred to in subsection C, if upon the issuance of the bonds, the amount in the reserve fund will be less than its minimum requirement unless the Board of Commissioners, at the time of issuance of the bonds, deposits in the fund an amount which, together with the amount then in the fund, will not be less than the fund's minimum reserve requirement.

C. In order to ensure further the maintenance of reserve funds established in accordance with the provisions of this section, the chairman of the Board of Commissioners shall annually, on or before December 1, make and deliver to the Governor and the Secretary of Administration a certificate stating the sum, if any, required to restore each reserve fund to its minimum requirement. Within five days after the beginning of each session of the General Assembly, the Governor shall submit to the presiding officer of each house of the General Assembly printed copies of a budget including the sum, if any, required to restore each reserve fund to its minimum requirement. All sums, if any, which may

be appropriated by the General Assembly for any restoration and paid to the Authority shall be deposited by the Authority in the applicable reserve fund. All amounts paid to the Board of Commissioners by the Commonwealth pursuant to the provisions of this section shall constitute and be accounted for as advances by the Commonwealth to the Authority and, subject to the rights of the holders of any bonds of the Authority, shall be repaid to the Commonwealth without interest from available revenues of the Authority in excess of the amounts required for the payment of bonds or other obligations of the Authority, the maintenance of reserve funds, and operating expenses.

D. Excluding bonds issued prior to July 1, 1991, the total principal amount of bonds outstanding at any one time, issued by the Board of Commissioners in accordance with the provisions of this section, shall not exceed the sum of $800 million without the prior approval of the General Assembly.

E. Nothing in this section shall be construed as limiting the power of the Board of Commissioners to issue bonds (i) not secured by a reserve fund or (ii) secured by a reserve fund not described in this section.

1991, c. 543; 1995, cc. 188, 233.

§ 22.1-169.Investment of funds

Any funds held by the Authority or by the trustee under any trust indenture under the provisions of this chapter may be invested and reinvested in securities that are legal investments under the laws of the Commonwealth for funds held by fiduciaries.

Code 1950, § 22-29.9; 1962, c. 194; 1980, c. 559.

§ 22.1-170.Repayments to Literary Fund

All assets heretofore or hereafter transferred to the Authority from the Literary Fund pursuant to § 22.1-175 shall remain assets of the Literary Fund and shall be repaid to the Literary Fund pursuant to this section but, until so repaid, may be used for all purposes by the Authority to the same extent as if such assets were the sole property of the Authority.

On or before January 10 in each year the Authority shall set aside and repay to the Literary Fund an amount equal to the excess of the principal and interest collected by the Authority in the preceding year on account of obligations transferred to the Authority from the Literary Fund over such portion of such principal and interest as shall have been pledged by any trust indenture or resolution authorizing bonds of the Authority.

The principal collected by the Authority on account of obligations transferred to the Authority from the Literary Fund shall remain part of the principal of the Literary Fund subject to the provisions of Article VIII, Section 8 of the Constitution of Virginia and of this chapter, and the interest collected by the Authority on account of such obligations shall be deemed to be interest on the Literary Fund subject to the provisions of Article VIII, Section 8 of the Constitution of Virginia and of this chapter; provided,

however, that any such collected principal and interest pledged by any trust indenture or resolution authorizing bonds of the Authority shall continue to be held by the Authority until no longer so required by the terms of such trust indenture or resolution; and further provided that, on the next succeeding tenth day of January, any amount of such collected principal and interest no longer required to be held by the Authority shall be set aside and repaid to the Literary Fund as if it had been collected at the time it became no longer required to be held.

Code 1950, § 22-29.10; 1962, c. 194; 1964, c. 146; 1971, Ex. Sess., cc. 1, 241; 1980, c. 559.

§ 22.1-171.Powers of Authority enumerated

A. In order to enable the Authority to carry out the purposes for which it is established, the Authority is vested with the powers of a body corporate including the power to sue and be sued, to make contracts, to adopt and use a common seal and to alter the same and is authorized and empowered:

1. To collect, or to authorize the trustee under any trust indenture securing any bonds of the Authority to collect, as the same shall become due, the principal of and the interest on all obligations transferred to the Authority from the Literary Fund;

2. To collect, or to authorize the trustee under any trust indenture securing any bonds of the Authority to collect, as the same shall become due, the principal of and the interest on all local school bonds purchased by the Authority;

3. To pay the compensation of the chief executive officer of the Authority and all such employees, agents, financial advisers and attorneys as may be employed by the Authority either from moneys received by the Authority under the provisions of this chapter or from appropriations made by the General Assembly for such purpose;

4. To issue bonds of the Authority as authorized by this chapter and to refund any of such bonds;

5. To adopt or alter or repeal any bylaws, rules or regulations as the Authority may deem necessary or expedient; and

6. To do any and all other acts and things necessary, appropriate or incidental in carrying out the purposes of this chapter.

B. The Authority is further authorized and empowered to issue notes and other obligations for any of its purposes in such form as may be authorized by resolution of the Authority. The issuance of such notes or other obligations shall be governed by the provisions of this chapter insofar as the same may be applicable.

C. The Board of Commissioners shall submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall contain, at a minimum, the annual financial statements of the Authority for the year ending the preceding June 30.

Code 1950, § 22-29.11; 1962, c. 194; 1972, c. 745; 1980, c. 559; 1984, c. 734; 1985, c. 146; 2004, c. 650.

§ 22.1-172.Bonds exempt from taxation

The bonds issued by the Authority under the provisions of this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county, or any other political subdivision thereof.

Code 1950, § 22-29.12; 1962, c. 194; 1980, c. 559.

§ 22.1-173.Bonds legal investments

All bonds issued by the Authority under the provisions of this chapter are hereby made securities in which all public officers and bodies of the Commonwealth, counties, cities, towns, municipal subdivisions, insurance companies and associations, savings banks and savings institutions, including savings and loan associations, trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees and other fiduciaries in the Commonwealth may properly and legally invest funds under their control.

Code 1950, § 22-29.13; 1962, c. 194; 1980, c. 559.

§ 22.1-174.Jurisdiction of suits against Authority; service of process

The Circuit Court of the City of Richmond shall have exclusive jurisdiction of any suit brought in Virginia against the Authority, and process in such suit shall be served either on the State Comptroller or the Chairman of the Board of Commissioners.

Code 1950, § 22-29.14; 1962, c. 194; 1980, c. 559.

§ 22.1-175.Transfers from Literary Fund to Authority

On January 1 and July 1 of each year or at such other times as requested by the Authority, there shall be set aside and transferred from the Literary Fund to the Virginia Public School Authority for public school purposes all notes bearing fixed maturity dates and representing amounts loaned by the Literary Fund to local school boards pursuant to Chapter 10 (§ 22.1-142 et seq.) of this title, to be held and administered by the Virginia Public School Authority as provided by law. The Board of Education, the State Treasurer and the State Comptroller are hereby authorized and directed to take all necessary steps to accomplish such transfer.

Code 1950, § 22-29.15; 1962, c. 195; 1971, Ex. Sess., cc. 127, 241; 1980, c. 559; 1988, c. 259.

Rappahannock River Basin Commission

§ 62.1-69.25.Definitions

As used in this chapter, unless the context requires a different meaning:

"Rappahannock River Basin" means that land area designated as the Rappahannock River Basin by the State Water Control Board pursuant to § 62.1-44.38 and which is also found in the Fourth, Seventeenth, Twenty-fourth, Twenty-sixth, Twenty-seventh, and Twenty-eighth Senatorial Districts or the Eighteenth, Twenty-eighth, Thirtieth, Thirty-first, Fifty-fourth, Fifty-eighth, Eighty-eighth, Ninety-eighth, and Ninety-ninth House of Delegates Districts, as those districts exist on January 1, 2012.

1998, c. 553; 2000, cc. 386, 456; 2002, cc. 496, 523; 2013, c. 173.

§ 62.1-69.26.Rappahannock River Basin Commission; establishment

The Rappahannock River Basin Commission, hereinafter referred to as the "Commission," is hereby created as an independent local entity without political subdivision status, and shall be established upon passage by two-thirds of the Rappahannock River Basin's localities of a resolution that commits them to participate in the Commission as described in this chapter. The resolution shall contain the following language:

"The (jurisdiction's governing body) does hereby agree to become a member of and participate in the Rappahannock River Basin Commission as described in Chapter 553 of the Acts of Assembly of 1998."

1998, c. 553; 2000, cc. 386, 456; 2004, c. 471.

§ 62.1-69.27.Commission purposes and mission

The Commission's purposes and mission shall be to provide guidance for the stewardship and enhancement of the water quality and natural resources of the Rappahannock River Basin. The Commission shall be a forum in which local governments and citizens can discuss issues affecting the Basin's water quality and quantity and other natural resources. Through promoting communication, coordination and education, and by suggesting appropriate solutions to identified problems, the Commission shall promote activities by local, state and federal governments, and by individuals, that foster resource stewardship for the environmental and economic health of the Basin.

1998, c. 553; 2000, cc. 386, 456.

§ 62.1-69.28.Rappahannock River Basin Commission powers

A. The Commission shall have no regulatory authority.

B. To carry out its purposes and mission, the Commission shall have the power to:

1. Communicate, including through legislative recommendations, Commission views to local, state and federal legislative and administrative bodies, and to others as it deems necessary and appropriate.

2. Undertake studies and prepare, publish and disseminate information in reports and in other forms related to the water quality and natural resources of the Basin and to further its purposes and mission.

3. Enter into contracts and execute all instruments necessary or appropriate.

4. Perform any lawful acts necessary or appropriate.

5. Establish a nonprofit corporation as an instrumentality to assist in the details of administering its affairs and in raising funds.

6. Seek, apply for, accept and expend gifts, grants and donations, services and other aids, from public or private sources. Other than those from member jurisdictions and those appropriated by the General Assembly, funds may be accepted by the Commission only after an affirmative vote by the Commission or by following such other procedure as may be established by the Commission for the conduct of its business.

7. Establish balanced advisory committees that may include representation from agricultural, environmental, resources-based, industrial, recreational, riparian landowner, development, educational and other interests as it deems necessary and appropriate.

8. Develop rules and procedures for the conduct of its business or necessary to carry out its purposes and mission, including, but not limited to, selecting a chair and vice-chairs, rotating chairmanships, calling meetings and establishing voting procedures. Rules and procedures developed pursuant to this subdivision shall be effective upon an affirmative vote by a majority of the Commission members.

1998, c. 553; 2000, cc. 386, 456.

§ 62.1-69.29.Membership; terms; vacancies

The membership of the Commission shall consist of 32 members, which includes 15 legislative members and 17 nonlegislative citizen members, to be appointed as follows: nine members of the House of Delegates, one member each of the Eighteenth, Twenty-eighth, Thirtieth, Thirty-first, Fifty-fourth, Fifty-eighth, Eighty-eighth, Ninety-eighth, and Ninety-ninth House of Delegates Districts, as those districts existed on January 1, 2012; six members of the Senate, one member each of the Fourth, Seventeenth, Twenty-fourth, Twenty-sixth, Twenty-seventh, and Twenty-eighth Senatorial Districts, as those districts existed on January 1, 2012; one member or designee of each of the 16 governing bodies of the jurisdictions in which not less than two percent of the jurisdiction is found wholly or partially within the Rappahannock River Basin, that at any time pass a resolution containing the language required by § 62.1-69.26, to be appointed by the respective local governing body; and one member or designee of a Soil and Water Conservation District found wholly or partially within the

Rappahannock River Basin, to be appointed jointly by the Soil and Water Conservation Districts found wholly or partially within the Rappahannock River Basin. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth of Virginia.

All members of the Commission shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. Vacancies shall be filled in the same manner as the original appointments.

For the purposes of this section, "nonlegislative citizen member" means a member of one of the local governing bodies or the Soil and Water Conservation Districts of the jurisdictions found wholly or partially within the Rappahannock River Basin.

1998, c. 553; 2000, cc. 386, 456; 2004, c. 471; 2009, c. 601; 2013, c. 173.

§ 62.1-69.30.Chairman and vice-chairman; quorum; meetings

The Commission shall elect a chairman and vice-chairman from among its membership. Eleven members of the Commission shall constitute a quorum. The Commission shall meet no more than four times each year. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request. Each member of the Commission shall have an equal vote.

1998, c. 553; 2000, cc. 386, 456; 2004, c. 471; 2013, c. 173.

§ 62.1-69.31.Staffing and support

The local governing bodies and Planning District Commissions found wholly or partially in the Rappahannock River Basin shall provide staff support for the Commission as the localities determine appropriate. Additional staff support may be hired or contracted for by the Commission through funds raised by or provided to it. The Commission is authorized to determine the duties of such staff and fix staff compensation within available resources.

All agencies of the Commonwealth shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its purposes and mission. The Secretary of Natural Resources or his designee shall act as the chief liaison between the administrative agencies and the Commission.

1998, c. 553; 2000, cc. 386, 456.

§ 62.1-69.32.Withdrawal; dissolution

A. A locality may withdraw from the Commission one year after providing a written notice to the Commission of its intent to do so.

B. The Commission may dissolve itself upon a two-thirds vote of all members.

C. The Commission may be dissolved by repeal or expiration of this chapter.

D. The Commission shall be dissolved if the membership of the Commission falls below two-thirds of those eligible.

E. Upon the Commission's dissolution, all funds and assets of the Commission shall be divided on a pro rata basis. The Commonwealth's share of the funds and assets shall be transferred to the Office of the Secretary of Natural Resources for appropriate distribution.

1998, c. 553; 2000, cc. 386, 456.

§ 62.1-69.33.Funding

A. The Commission shall annually adopt a budget, which shall include the Commission's estimated expenses. The funding of the Commission shall be a shared responsibility of state and local governments. The Commonwealth's contribution shall be set through the normal state appropriations process. The Commission's local government members shall determine a process for distribution of costs among the local government members.

B. The Commission shall annually designate a fiscal agent.

C. The accounts and records of the Commission showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by similar enterprises. The accounts and records of the Commission shall be subject to an annual audit by the Auditor of Public Accounts or his legal representative, and the costs of such audit services shall be borne by the Commission. The results of the audits shall be delivered to the chief elected officer in each of the Commission's member jurisdictions, the members of the House of Delegates and the Senate who serve on the Commission, the chairmen of the House Appropriations Committee and the Senate Finance Committee, and the Secretary of Natural Resources. The Commission's fiscal year shall be the same as the Commonwealth's.

1998, c. 553; 2000, cc. 386, 456.

§ 62.1-69.33:1.Compensation; expenses

Notwithstanding any law to the contrary, members of the Commission shall not be eligible for compensation. All members may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties from such funds as may be available to the Commission.

2004, c. 471.

§ 62.1-69.33:2.Chairman's executive summary of activity and work of the Commission

The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of

the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

2004, c. 471.

Recreational Facilities Authority Act, Virginia

§ 10.1-1600.Definitions

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Recreational Facilities Authority.

"Board" means the board of directors of the Authority.

"Bonds" means notes, bonds, certificates and other evidences of indebtedness or obligations of the Authority.

"Federal agency" means the United States of America, the President of the United States of America, and any department, corporation, agency, or instrumentality created, designated, or established by the United States of America.

"Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility that will further the purposes of the Authority, together with all property, rights, easements and interests which may be acquired by the Authority.

1986, c. 360, § 10-158.2; 1988, c. 891.

§ 10.1-1601.Authority created

In order to (i) provide a high quality recreational attraction in the western part of the Commonwealth; (ii) expand the historical knowledge of adults and children; (iii) promote tourism and economic development in the Commonwealth; (iv) set aside and conserve scenic and natural areas along the Roanoke River and preserve open-space lands; and (v) enhance and expand research and educational programs, there is created a political subdivision of the Commonwealth to be known as "The Virginia Recreational Facilities Authority." The Authority's exercise of the powers conferred by this chapter shall be deemed to be the performance of an essential governmental function.

1986, c. 360, § 10-158.3; 1988, c. 891.

§ 10.1-1602.Board of directors

The Authority shall be governed by a board of directors consisting of 19 members who shall be appointed as follows: two members of the Senate to be appointed by the Senate Committee on Rules; four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; and 13 nonlegislative citizen members to be appointed by the Governor, upon consideration of the recommendation of the River Foundation, if any, and subject to confirmation by the General Assembly. Nonlegislative citizen members of the Authority shall be citizens of the Commonwealth.

Legislative members shall serve terms coincident with their terms of office. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of five years. Vacancies in the membership of the Board shall be filled for the unexpired portion of the term in the same manner as original appointments are made. All members may be reappointed.

Immediately after appointment, the directors shall enter upon the performance of their duties. The Board shall annually elect a chairman and vice-chairman from its members, and shall also elect annually a secretary, who may or may not be a member of the Board. The Board may also elect other subordinate officers who may or may not be members of the Board, as it deems proper. Seven directors shall constitute a quorum for the transaction of the business of the Authority, and no vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The Board may employ an executive director to direct the day-to-day activities of the Authority and carry out the powers and duties delegated to him. The executive director shall serve at the pleasure of the Board. The executive director and employees of the Authority shall be compensated in the manner provided by the Board and shall not be subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.).

Legislative members of the Authority shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Virginia Recreational Facilities Authority.

1986, c. 360, § 10-158.4; 1988, c. 891; 1989, c. 226; 1990, c. 210; 2005, c. 768; 2006, c. 22.

§ 10.1-1603.Powers of Authority

The Authority is granted all powers necessary or convenient for carrying out its statutory purposes, including the following rights and powers:

1. To acquire by gift, devise, purchase, or otherwise, absolutely or in trust, and to hold, use, lease as lessee and unless otherwise restricted by the terms of the gift or devise, to lease as lessor, convey, sell or otherwise dispose of any property, real or personal, or any estate or interest therein including water rights. However, the Authority shall have no power to encumber its real property or create any estate or interest therein other than encumbrances on structures not extending to the real property upon which such structures are constructed.

2. To make and enter into any contracts and agreements with any appropriate person or federal agency. Such contracts include but are not limited to (i) agreements with the Commonwealth, or any agency thereof, to lease property owned or controlled by the Commonwealth, for the purpose of construction, improvement, maintenance, or operation of any project or activity that will further the

purposes described in this chapter; and (ii) agreements with any person to sublease property owned or controlled by the Commonwealth or to issue licenses for the purpose of construction, improvement, maintenance, or operation of any project or activity that will further the purposes described in this chapter.

3. To plan, develop, carry out, construct, improve, rehabilitate, repair, furnish, maintain, and operate projects.

4. To promulgate regulations concerning the use of properties under its control to protect such property and the public thereon.

5. To fix, alter, charge, and collect rates, rentals, and other charges for the use of projects of, or for the sale of products of or for the services rendered by the Authority. Such charges shall be used to pay the expenses of the Authority, the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties, the costs of accomplishing its purposes set forth in § 10.1-1601, and the principal of and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations. Such fees, rents and charges shall not be subject to supervision or regulation by any commission, board, or agency of the Commonwealth or any political subdivision thereof.

6. To borrow money, make and issue bonds including bonds that the Authority may determine to issue for the purposes set forth in § 10.1-1601 or of refunding bonds previously issued by the Authority. The Authority shall have the right to secure the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, tangible or intangible, or any interest therein. However, the Authority shall have no power to encumber its real property or create any estate or interest therein other than encumbrances on structures not extending to the real property upon which such structures are located. The bonds may be secured by a pledge of any grant or contribution from a person or federal agency. The Authority shall have the power to make agreements with the purchasers or holders of the bonds or with others in connection with the bonds, whether issued or to be issued, as it deems advisable, and in general to provide for the security for the bonds and the rights of the bond holders.

7. To employ consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their compensation to be payable from funds made available to the Authority.

8. To receive and accept from any federal agency, foundation, or person, grants, loans, gifts or contributions of money, property, or other things of value, to be held, used and applied only for the purposes for which the grant or contribution is made or to be expended in accomplishing the objectives of the Authority.

9. To develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific research, continuing education, and in-service training, provided that credit towards a degree, certificate or diploma shall be granted only if the education is provided in conjunction with an institution of higher education authorized to operate in the Commonwealth; and to foster the utilization of scientific research information, discoveries and data.

10. To pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority.

11. To do all acts and things necessary or convenient to carry out the powers granted by this chapter or any other acts.

1986, c. 360, § 10-158.5; 1988, c. 891; 1991, c. 706.

§ 10.1-1604.Form, terms, and execution of bonds

A. The bonds of each issue shall be dated, shall bear interest at rates fixed by the Authority, shall mature at a time not exceeding forty years from their date, as determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at a price and under terms and conditions fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of bonds and manner of execution of the bonds and shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at any bank or trust company.

B. The bonds shall be signed by the chairman or vice-chairman of the Authority, or if authorized by the Authority, shall bear his facsimile signature, and the official seal of the Authority, or, if authorized by the Authority, a facsimile signature thereof shall be impressed or imprinted thereon and attested by the secretary or any assistant secretary of the Authority, or, if authorized by the Authority, with the facsimile signature of such secretary or assistant secretary. Any coupons attached to bonds issued by the Authority shall bear the signature or facsimile signature of the chairman or vice-chairman of the Authority. If any officer whose signature or facsimile signature appears on any bonds or coupons ceases to be an officer before the delivery of the bonds, the signature or facsimile shall nevertheless be valid for all purposes. Any bonds may bear the facsimile signature of, or may be signed by, persons who are the proper officers to sign the bonds at the actual time of the execution of such bonds although at the date of the bonds such persons may not have been officers.

1986, c. 360, § 10-158.6; 1988, c. 891.

§ 10.1-1605.Issuance and sale of bonds

The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in the manner, either at public or private sale, and for the price, that it determines

will best effect the purposes of this chapter. Bonds may be issued under the provisions of this chapter without obtaining the consent of any commission, board or agency of the Commonwealth or of any political subdivision, and without any other proceedings or conditions other than those which are specifically required by this chapter.

1986, c. 360, § 10-158.6; 1988, c. 891.

§ 10.1-1606.Use of bond proceeds

The proceeds of the bonds of each issue shall be used solely for the purposes of the Authority provided in the resolution authorizing the issuance of the bonds or in the trust agreement authorized in this chapter.

1986, c. 360, § 10-158.6; 1988, c. 891.

§ 10.1-1607.Interim receipts or temporary bonds

The Authority is authorized to issue interim receipts or temporary bonds as provided in § 15.2-2616 and to execute and deliver new bonds in place of bonds mutilated, lost or destroyed, as provided in § 15.2-2621.

1986, c. 360, § 10-158.6; 1988, c. 891.

§ 10.1-1608.Faith and credit of Commonwealth or political subdivision not pledged

No obligation of the Authority shall constitute a debt, or pledge of the faith and credit, of the Commonwealth or of any political subdivision, but shall be payable solely from the revenue and other funds of the Authority which have been pledged. All such obligations shall contain on the face a statement to the effect that the Commonwealth, political subdivisions, and the Authority shall not be obligated to pay the obligation or the interest except from revenues and other funds of the Authority which have been pledged, and that neither the faith and credit nor the taxing power of the Commonwealth or of any political subdivision is pledged to the payment of the principal of or the interest on such obligations.

1986, c. 360, § 10-158.6; 1988, c. 891.

§ 10.1-1609.Expenses of the Authority

All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the provisions of this chapter and no liability shall be incurred by the Authority beyond the extent to which moneys are provided under the provisions of this chapter.

1986, c. 306, § 10-158.6; 1988, c. 891.

§ 10.1-1610.Trust agreement securing bonds

In the discretion of the Authority any bonds issued under the provisions of this chapter may be secured by a trust agreement between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company. The trust agreement or the resolution

providing for the issuance of bonds may pledge or assign the revenues to be received and provide for the mortgage of any project or property or any part thereof. However, the Authority shall have no power to encumber its real property or create any estate or interest therein other than encumbrances on structures not extending to the real property upon which such structures are located. The trust agreement or resolution may contain reasonable, proper and lawful provisions for protecting and enforcing the rights and remedies of the bondholders. The trust agreement or resolution may include covenants setting forth the duties of the Authority in relation to the acquisition of property and the planning, development, acquisition, construction, rehabilitation, establishment, improvement, extension, enlargement, maintenance, repair, operation and insurance of the project in connection with which such bonds have been authorized, the rates and fees to be charged, the custody, safeguarding and application of all moneys, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenue, to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. The trust agreement may set forth the rights of action by bondholders and other provisions the Authority deems reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement or resolution may be treated as a part of the operation of the project.

1986, c. 360, § 10-158.7; 1988, c. 891; 1991, c. 706.

§ 10.1-1611.Moneys received deemed trust funds

All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys are deposited shall act as a trustee of such moneys and shall hold and apply the moneys for the purposes hereof, subject to such regulations as this chapter and the resolution or trust agreement may provide.

1986, c. 360, § 10-158.8; 1988, c. 891.

§ 10.1-1612.Proceedings by bondholder or trustee to enforce rights

Any holder of bonds issued under the provisions of this chapter or any of the applicable coupons, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the trust agreement or the resolution authorizing the issuance of such bonds, may protect and enforce rights under the laws of the Commonwealth or under the trust agreement or resolution, and may enforce all duties required by this chapter or by the trust agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging, and collecting of rates, rentals, and other charges.

1986, c. 360, § 10-158.9; 1988, c. 891.

§ 10.1-1613.Bonds made securities for investment and deposit

Bonds issued by the Authority under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose authorized by law.

1986, c. 360, § 10-158.10; 1988, c. 891.

§ 10.1-1614.Revenue refunding bonds; bonds for refunding and for cost of additional projects

The Authority is authorized to provide for the issuance of revenue refunding bonds of the Authority for the purpose of refunding any bonds then outstanding which have been issued under the provisions of this chapter, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing improvements, extensions, or enlargements of the projects in connection with which the bonds to be refunded have been issued. The Authority is further authorized to provide by resolution for the issuance of its revenue bonds for the combined purpose of (i) refunding any bonds then outstanding which have been issued under the provisions of this chapter, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of such bonds, and (ii) paying all or any part of the cost of any additional project or any portion thereof. The issuance of such bonds, the maturities and other details, the rights of the holders, and the rights, duties and obligations of the Authority shall be governed by the provisions of this chapter.

1986, c. 360, § 10-158.11; 1988, c. 891.

§ 10.1-1615.Grants or loans of public or private funds

The Authority is authorized to accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant, loan or otherwise, to accomplish any of the purposes of this chapter. All federal moneys accepted under this section shall be accepted and expended by the Authority upon terms and conditions prescribed by the United States and consistent with state law. All state moneys accepted under this section shall be accepted and expended by the Authority upon terms and conditions prescribed by the Commonwealth.

1986, c. 360, § 10-158.12; 1988, c. 891.

§ 10.1-1616.Exemption from taxes or assessments

The exercise of the powers granted by this chapter is for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Since the operation and maintenance of projects by the Authority and the

undertaking of activities in furtherance of the purpose of the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the Authority under the provisions of this chapter or upon the income therefrom, including sales and use taxes on tangible personal property used in the operations of the Authority. Any bonds issued under the provisions of this chapter, their transfer and the income which may result, including any profit made on the sale, shall be free from state and local taxation. The exemption hereby granted shall not be construed to extend to persons conducting business on the premises of a facility for which local or state taxes would otherwise be required.

1986, c. 360, § 10-158.13; 1988, c. 891.

§ 10.1-1617.Moneys of Authority

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give security for such deposits, if required by the Authority. The moneys in the accounts shall be paid out on the warrant or other order of the treasurer of the Authority or any person authorized by the Authority to execute such warrants or orders. The Auditor of Public Accounts of the Commonwealth, and his legally authorized representatives, shall examine the accounts and books of the Authority.

1986, c. 360, § 10-158.15; 1988, c. 891.

§ 10.1-1618.Title to property

The Authority may acquire title to property in its own name or in the name of the Commonwealth for and on behalf of the Authority. In the event the Authority ceases to operate its projects and to promote the purposes stated in § 10.1-1601 or is dissolved, the title to real property held by the Authority shall transfer to the Commonwealth and be administered by the Department of Conservation and Recreation; provided however, in the event that an environmental audit of any real property or interest therein, or portion of such property, to be transferred pursuant to this section discloses any environmental liability or violation of law or regulation, present or contingent, the Governor may reject the transfer of any portion of such property which he determines to be environmentally defective.

1986, c. 360, § 10-158.16; 1988, c. 891; 1991, c. 706.

§ 10.1-1619.Violation of regulations

Violation of any regulation adopted pursuant to § 10.1-1603 which would have been a violation of law or ordinance if committed on a public street or highway shall be tried and punished as if it had been committed on a public street or highway. Any other violation of such regulations shall be punishable as a Class 1 misdemeanor.

1986, c. 360, § 10-158.17; 1988, c. 891.

§ 10.1-1620.Appointment of special conservators of the peace

The chairman of the Authority or his designee may apply to the circuit court of any county or city for the appointment of one or more special conservators of the peace under procedures specified by § 19.2-13.

1986, c. 360, § 10-158.18; 1988, c. 891.

§ 10.1-1621.Conveyance or lease of park to Authority

The Commonwealth or any county, municipality, or other public body is authorized to convey or lease to the Authority, with or without consideration, any property to use for projects that will further the purposes described in this chapter.

1986, c. 360, § 10-158.19; 1988, c. 891.

§ 10.1-1622.Recordation of conveyances of real estate to Authority

No deed purporting to convey real estate to the Authority shall be recorded unless accepted by a person authorized to act on behalf of the Authority, which acceptance shall appear on the face of the deed.

1986, c. 360, § 10-158.20; 1988, c. 891.

Redevelopment and Housing Authority

§ 36-1.Title of chapter

This chapter may be referred to as the "Housing Authorities Law."

1938, p. 447; Michie Code 1942, § 3145(1).

§ 36-2.Findings and declaration of necessity

A. It is hereby found and declared that:

1. Blighted areas exist in the Commonwealth, and these areas endanger the health, safety, and welfare of the citizens of the Commonwealth;

2. The elimination of blight and redevelopment of blighted areas through the designation of redevelopment areas and the adoption and implementation of redevelopment plans for such areas; the prevention of further deterioration and blight through the designation of conservation areas and the adoption and implementation of conservation plans for such areas; and the designation of individual properties as blighted under the "spot blight" provisions of this chapter are public uses and purposes for which public money may be spent and private property acquired by purchase or through the exercise of the power of eminent domain as authorized by this chapter, and are governmental functions of grave concern to the Commonwealth;

3. As a part of a redevelopment or conservation plan, it is a public purpose to provide public facilities including, but not limited to, roads, water, sewers, parks, and real estate devoted to open-space use as that term is defined in § 58.1-3230 within redevelopment and conservation areas; and

4. It is a public purpose to promote the availability of affordable housing for all citizens of the Commonwealth and in particular to provide safe, decent, and sanitary housing for those citizens with low or moderate incomes. To that end, (i) the clearance, replanning, and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low or moderate income and (ii) the sale or lease of land and the acquisition, construction, rehabilitation, and operation of residential housing units for persons of low and moderate incomes are necessary for the public welfare and are public uses and public purposes for which public money may be spent and private property acquired by purchase or through the exercise of the power of eminent domain as authorized in this chapter and are governmental functions of grave concern to the Commonwealth.

B. The necessity and the public purpose for the provisions hereinafter enacted are hereby declared as a matter of legislative determination.

1938, p. 447; Michie Code 1942, § 3145(2); 2006, c. 784.

§ 36-3.Definitions

The following terms, when used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Area of operation" means an area that (i) in the case of a housing authority of a city, shall be coextensive with the territorial boundaries of the city; (ii) in the case of a housing authority of a county, shall include all of the county, except that portion which lies within the territorial boundaries of (a) any city, and (b) any town that has created a housing authority pursuant to this chapter; (iii) in the case of a housing authority of a town, shall be coextensive with the territorial boundaries of the town as herein defined.

"Authority" or "housing authority" means any of the political subdivisions created by § 36-4.

"Blighted area" means any area that endangers the public health, safety or welfare; or any area that is detrimental to the public health, safety, or welfare because commercial, industrial, or residential structures or improvements are dilapidated, or deteriorated or because such structures or improvements violate minimum health and safety standards. This definition includes, without limitation, areas previously designated as blighted areas pursuant to the provisions of Chapter 1 (§ 36-1 et seq.) of this title.

"Blighted property" means any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards, or any structure or improvement previously designated as blighted pursuant to § 36-49.1:1, under the process for determination of "spot blight."

"Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this chapter.

"City" means the same as that term is defined in § 15.2-102.

"Clerk" means the clerk or secretary of the city or the clerk of the county, as the case may be, or the officer charged with the duties customarily imposed on such clerk.

"Conservation area" means an area, designated by an authority that is in a state of deterioration and in the early stages of becoming a blighted area, as defined in this section, or any area previously designated as a conservation area pursuant to this chapter.

"County" means the same as that term is defined in § 15.2-102.

"Derelict building" means the same as that term as defined in § 15.2-907.1 or in § 36-152.

"Farm structure" means the same as that term is defined in § 36-97.

"Farmers of low income" means persons of low income who derive their principal income from operating or working on a farm.

"Federal government" means the United States of America, the United States Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

"Governing body" means, in the case of a city or town, the council (including both branches where there are two), and in the case of a county, the board of supervisors or other governing body.

"Housing project," means any work or undertaking: (i) to demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adoption of such area to public purposes, including parks or other recreational or community purposes; or (ii) to provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low and moderate income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or (iii) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures or improvements, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

"Locality" means the same as that term is defined in § 15.2-102.

"Obligee of the authority" or "obligee" means any bondholder, trustee or trustees for any bondholders, or lessor demising to the authority property used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

"Persons of low income" means persons or families determined by the authority to lack the amount of income which is necessary to enable them to live in decent, safe and sanitary dwellings.

"Persons of moderate income" means persons or families determined by the authority to lack the amount of income necessary to obtain affordable housing.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

"Redevelopment area" means an area (including slum areas), designated by an authority, that is in a state of blight that meets the criteria of a blighted area as defined in this section; or any area previously designated as a redevelopment area pursuant to this chapter.

"Slum" means any area where dwellings predominate that, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, is detrimental to safety, health, or morals.

"Spot blight" means a structure or improvement that is a blighted property as defined in this section.

"Spot blight abatement plan" means the written plan prepared by the owner or owners of record of the real property to address spot blight. If the owner or owners of record of the real property fail to respond as provided in § 36-49.1:1, the locality or the authority can prepare a spot blight abatement plan to address the spot blight with respect to an individual commercial, industrial, or residential structure or improvement, but may only implement such plan in accordance with the provisions of § 36-49.1:1.

"Town" means the same as that term is defined in § 15.2-102.

1938, p. 447; Michie Code 1942, § 3145(3); 1966, c. 129; 2006, c. 784; 2009, cc. 181, 551.

§ 36-4.Creation of redevelopment and housing authorities

In each locality there is hereby created a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in this chapter, to be known respectively as the "_____ (insert name of locality) Redevelopment and Housing Authority" (hereinafter referred to as "authority"); provided, however, that any authority not now activated shall not transact any business or exercise any powers authorized under this chapter until or unless the qualified voters of such locality shall by a majority vote of such qualified voters voting in a referendum held as provided in § 36-4.1, have indicated a need for an authority to function in such locality. The referendum to determine whether or not there is a need for an authority to function (i) may be called by the governing body by resolution or (ii) shall be called by the governing body upon the filing of a petition signed by at least two percent of the qualified voters registered in the jurisdiction, asserting that there is need for an authority to function in such locality and requesting the governing body to call such referendum.

The governing body may by resolution call for a referendum to determine whether there is need for an authority in the locality if the governing body believes it is appropriate for one of the reasons set out in § 36-2. In the case of a town located within the county, the town council shall first obtain the concurrence of the governing body of the county and the county redevelopment and housing authority prior to scheduling a referendum.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder if the voters of the locality have so indicated in a referendum held pursuant to § 36-4.1, that there is need for the authority.

1938, p. 448; Michie Code 1942, § 3145(4); 1946, p. 276; 1947, p. 138; 1952, c. 427; 1958, c. 533; 2006, c. 784; 2009, c. 78.

§ 36-4.1.Holding of referendum; effect

A. If a referendum is called for under § 36-4, either by resolution of the governing body or upon the petition of at least two percent of the qualified voters as therein provided, the referendum shall be held at the next regularly scheduled election in the locality. The question on the ballot in such referendum shall be:

Is there a need for the redevelopment and housing authority to be activated in the county (or city or town) of..... ?

The ballots shall be printed, the returns canvassed, and the results certified as provided in § 24.2-684.

B. If a majority of the qualified voters in such referendum shall indicate that there is a need for such authority, then the same shall be empowered to transact business and exercise the powers conferred by this chapter.

C. Once a referendum has been held, no other referendum on the same question shall be held in the county, city, or town within five years of the date of the prior referendum.

1952, c. 427; 1958, c. 171; 1982, c. 395; 2006, c. 784; 2009, c. 78.

§ 36-5.Reports

At least once a year, an authority shall file with the clerk a report of its activities for the preceding year, including a financial statement and a statement of the maximum income limits for tenants in its projects and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this chapter. All records of an authority shall be public records, and shall be open to inspection by the public during all business hours under such reasonable regulations as the authority may prescribe; provided that the term "records" shall include only completed contracts and transactions of the authority.

1938, p. 457; Michie Code 1942, § 3145(20); 1956, c. 643; 1958, c. 116.

§ 36-6.Cooperation in undertaking housing projects

Any county, city or town, for the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within such county, city or town, may:

(a) Dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to any such housing authority;

(b) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(c) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

(d) Plan or replan, zone or rezone any part of such county, city or town; make exceptions from building regulations and ordinances; any city or town also may change its map;

(e) Cause services to be furnished to the housing authority of the character which such county, city or town is otherwise empowered to furnish;

(f) Enter into agreements with respect to the exercise by such county, city or town of its powers relating to the repair, elimination or closing of unsafe, insanitary or unfit dwellings;

(g) Purchase any of the bonds of a housing authority or legally invest in such bonds any funds belonging to or within the control of such county, city or town, and exercise all of the rights of any holder of such bonds;

(h) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects;

(i) Enter into agreements with a housing authority respecting action to be taken by such county, city or town pursuant to any of the powers granted by this chapter.

1938, p. 457; Michie Code 1942, § 3145(21).

§ 36-7.Loans and donations to housing authority

Any city, town or county located in whole or in part within the area of operation of a housing authority shall have the power from time to time to lend or donate money to such authority to enable or assist such authority to carry out its purposes or to agree to take such action, and may issue bonds to provide funds therefor.

1938, p. 458; Michie Code 1942, § 3145(22); 1983, c. 68.

§ 36-7.1.Liquidation of housing project

If the governing body of any county or city determines after a public hearing that the need for a housing project has ceased to exist and that such project should be liquidated it shall so notify the housing authority which shall proceed to liquidate the project following public advertisement of the sale thereof. Provided that no bid on such project shall be accepted which would result in a sum insufficient to meet the outstanding obligations of the authority with respect to such project and provided further that if the authority finds that the highest offered price is not as much as what it considers a fair value for the property, the authority shall notify the governing body of this fact. After such notification no further proceedings shall be had in the liquidation of the property except at the specific direction of the governing body.

1958, c. 83.

§ 36-7.2.(Effective January 1, 2021) Notice of intent to demolish, liquidate, or otherwise dispose of housing projects

A. Any housing authority required to submit an application to the U.S. Department of Housing and Urban Development (HUD) to demolish, liquidate, or otherwise dispose of a housing project shall serve a notice of intent to demolish, liquidate, or otherwise dispose of such housing project containing the requirements listed in subsection C at least 12 months prior to any application submission date to (i) the Virginia Department of Housing and Community Development, (ii) any agency that would be responsible for administering tenant-based rental assistance to persons who would otherwise be displaced from the housing project, and (iii) each tenant residing in the housing project.

B. The authority shall also provide notice containing the requirements listed in subsection C to any prospective tenant who is offered a rental agreement subsequent to the initial notice sent pursuant to subsection A prior to the prospective tenant signing the rental agreement or paying any deposit.

C. Notice of intent to demolish, liquidate, or otherwise dispose of a housing project shall include:

1. The anticipated date upon which an application to demolish, liquidate, or otherwise dispose of the housing project will be submitted to HUD;

2. The name, address, and phone number of any local legal aid societies;

3. Instructions for requesting more information pertaining to the application process, timeline, and implications for the tenant; and

4. Instructions for submitting written comment to the housing authority regarding the demolition, liquidation, or disposal of the housing project.

D. During the 12-month period subsequent to the provision of the notice required by subsection A, the housing authority shall not (i) increase rent for any tenant above the amount authorized by any federal assistance program applicable to the housing project; (ii) change the terms of the rental agreement for any tenant, except as permitted under the existing rental agreement; or (iii) evict a tenant or demand possession of any dwelling unit in the housing project, except for a lease violation or violation of law that threatens the health and safety of the building residents.

E. Any party who is entitled to receive notice under this section may bring a civil action to enjoin action by the housing authority or recover actual damages for any violation of this section, including any court costs and reasonable attorney fees.

2020, cc. 187, 397.

§ 36-8.Supplemental nature of chapter

The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law; except as may be expressly provided in the charter of a city or town specifically pertaining to such authority.

1938, p. 458; Michie Code 1942, § 3145(23); 1956, c. 615.

§ 36-9.Chapter controlling

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special or local, except as may be otherwise expressly provided in the charter of a city or town, specifically pertaining to such authority, the provisions of this chapter shall be controlling.

1938, p. 458; Michie Code 1942, § 3145(24); 1956, c. 615.

§ 36-9.1.Exemptions from applicability of this chapter; conflicts in provisions of law

This chapter shall not be applicable to farm structures as defined in § 36-3 unless they are within the purview of the Uniform Statewide Building Code, as provided in § 36-99. Further, the creation of a redevelopment or conservation area, or designation of an individual structure as blighted pursuant to § 36-49.1:1, under the process for determination of spot blight, shall not abrogate the right to farm as protected in Chapter 3 (§ 3.2-300 et seq.) of Title 3.2. If there is a conflict between the provisions of this chapter and § 3.2-302, the provisions of § 3.2-302 shall control. If there is a conflict between the provisions of this chapter and § 25.1-106, the provisions of § 25.1-106 shall control. However, nothing herein shall be construed to preclude enforcement of local, state or federal criminal laws with respect to criminal activities occurring on a property where one or more farm structures are located.

2006, c. 784.

§ 36-10.Validation of establishment and organization of housing authorities and their contracts, undertakings, etc

(1) Organization and establishment. -- The establishment and organization of housing authorities in the Commonwealth of Virginia under the provisions of the housing authorities law together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto prior to June 27, 1942, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

(2) Contracts and undertakings. -- All contracts, agreements, obligations, and undertakings of such housing authorities entered into before such date relating to financing or aiding in the development, construction, maintenance or operation of any housing project or projects or to obtaining aid therefor from the United States Housing Authority, including (without limiting the generality of the foregoing) loan and annual contributions contract and leases with the United States Housing Authority, agreements with municipalities or other public bodies (including those which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by such housing authorities or which are otherwise made a part of the contract with such holders of notes or bonds) relating to cooperation and contributions in aid of housing projects, payments (if any) in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and insanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts and things undertaken, performed or done with reference thereto before such date, are hereby

validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

(3) Notes and bonds. -- All proceedings, acts and things before such date undertaken, performed or done in or for the authorization, issuance, execution and delivery of notes and bonds by housing authorities for the purpose of financing or aiding in the development or construction of a housing project or projects, and all notes and bonds issued by housing authorities before such date, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

1942, p. 381; Michie Code 1942, § 3145(26).

§ 36-11.Appointment and tenure of commissioners; compensation

When the need for an authority to be activated in a city or county has been determined in the manner prescribed by law, the governing body of the city or county shall appoint not more than nine or less than five persons as commissioners of the authority created for such city or county. The governing body of the city or county may subsequently increase the number of commissioners of the authority to a maximum of nine. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of four years except that all vacancies shall be filled for the unexpired term. Notwithstanding any special or general law to the contrary, after July 1, 2017, no member of the Chesapeake Redevelopment and Housing Authority shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Redevelopment and Housing Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Redevelopment and Housing Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Redevelopment and Housing Authority member shall work for the Authority within one year after serving as a member. Except as may be otherwise expressly provided in the charter of a city or town specifically pertaining to such authority, no commissioner of any authority may be an officer or employee, of the city or county for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner may receive compensation as may be determined by a locality for each meeting of the authority attended by the commissioner. A commissioner shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

Any exercise of the powers of an authority by its commissioners after June 30, 1968, otherwise in compliance with applicable law, is hereby declared to be valid and effective in all respects, notwithstanding that the number of commissioners exercising the powers, though not exceeding

seven from July 1, 1968, through June 30, 1978, and not exceeding nine thereafter, may have exceeded the number appointed at the time the need for the authority to be activated had been determined in accordance with this section. No suit or action to vacate or set aside any exercise of said powers may be brought on the ground that the number of commissioners, though not exceeding seven from July 1, 1968, through June 30, 1978, and not exceeding nine thereafter, did exceed the number appointed at the time the need for the authority to be activated had been determined.

1938, p. 449; Michie Code 1942, § 3145(5); 1956, c. 615; 1958, c. 82; 1968, c. 696; 1978, c. 557; 1986, c. 357; 1987, c. 102; 1988, c. 601; 2007, c. 247; 2010, c. 311; 2017, cc. 541, 557.

§ 36-11.1.Compensation of commissioners in certain counties

Notwithstanding any other provision of law, in any county having a population of more than 90,000 which adjoins three or more cities of the first class the redevelopment and housing authority of the county may, from funds of the authority and with the approval of the governing body of the county, pay each such commissioner not exceeding $25 for each day or part thereof spent in discharge of his duties as such commissioner; provided that no such commissioner or his successor shall be paid more than $300 in any year.

1958, c. 434.

§ 36-11.1:1.Compensation of commissioners generally

Notwithstanding any other provision of law, any redevelopment and housing authority may, from funds of the redevelopment and housing authority and with the approval of the governing body, pay each commissioner a stipend not to exceed $500 per month for services as a commissioner, in addition to such expenses as are allowed by law.

1970, c. 628; 1988, c. 367; 2020, c. 516.

§ 36-11.2.Appointment of commissioners in certain cities

Notwithstanding any other provision of law to the contrary, whenever the members of a council of any city have been authorized to act as commissioners of a redevelopment and housing authority created under § 36-4 for such city, the council of any such city is hereby authorized to adopt a resolution appointing other commissioners for such authority in accordance with § 36-11, to serve as such in lieu of the members of council so acting.

The provisions of this section shall not affect the provisions of the charter of any such city authorizing the governing body thereof to provide for the activation of such authority.

1960, c. 593.

§ 36-12.Powers vested in commissioners; quorum

The powers of each authority shall be vested in the commissioners thereof in office from time to time. A majority of the commissioners shall constitute a quorum of the authority for the purpose of

conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number.

1938, p. 450; Michie Code 1942, § 3145(5); 1972, cc. 466, 782.

§ 36-13.Selection of chairman and other officers, agents and employees

The governing body of the city or county shall designate which of the commissioners appointed shall be the first chairman, but when the office of the chairman of the authority thereafter becomes vacant, the authority shall select a chairman from among its commissioners. An authority shall select from among its commissioners a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation.

1938, p. 450; Michie Code 1942, § 3145(5); 1958, c. 82.

§ 36-14.Legal counsel

For such legal services as it may require, an authority may call upon the city attorney of the city or the attorney for the Commonwealth of the county or may employ its own counsel and legal staff.

1938, p. 450; Michie Code 1942, § 3145(5).

§ 36-15.Delegation of authority

An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

1938, p. 450; Michie Code 1942, § 3145(5).

§ 36-17.Removal of commissioners

For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority of any city or county may be removed by the governing body of such city or county; but a commissioner may be removed only after he shall have been given a copy of the charges at least ten days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.

1938, p. 450; Michie Code 1942, § 3145(7); 1958, c. 82.

§ 36-18.Meetings and residence of commissioners

Nothing contained in this chapter shall be construed to prevent meetings of the commissioners of a housing authority anywhere within the perimeter boundaries of the area of operation of the authority or within any additional area where the housing authority is authorized to undertake a housing project, nor to prevent the appointment of any person as a commissioner of the authority who resides within

such boundaries or such additional area, and who is otherwise eligible for such appointment under this chapter.

1942, p. 325; Michie Code 1942, § 3145(4m).

§ 36-19.Enumeration of powers

An authority shall constitute a political subdivision of the Commonwealth with public and corporate powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

1. To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make, amend and repeal bylaws, rules and regulations, not inconsistent with law, to carry into effect the powers and purposes of the authority.

2. Within its area of operation, to prepare, carry out, acquire, lease and operate housing projects and residential buildings, and to provide for the construction, reconstruction, improvement, alteration or repair of any housing project, residential building, or any part thereof, and to construct, remodel or renovate any public building or other facility used for public purposes provided the authority is requested to do so by the governing body of the political subdivision wherein the public building or facility is located.

3. To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this chapter or in any other provision of law) to include in any contract let in connection with a project, any provisions required to comply with any conditions which the federal government may have attached to its financial aid of the project.

4. In connection with any housing project: to lease or rent any dwelling, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this chapter) to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards, to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance.

5. To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or security in which savings banks may legally invest funds subject to their

control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled.

6. Within its area of operation, to investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where blighted or slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstructing of blighted or slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the locality, the Commonwealth or any other political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

7. To make loans or grants for the prevention and elimination of blighted or slum areas and for assistance in housing construction or rehabilitation by private sponsors of any and all funds received through federal programs and any and all funds received from other sources, public or private including but not limited to, rehabilitation loans received pursuant to the provisions of § 312 of the Federal Housing Act of 1964, as amended and the Housing and Community Development Act of 1974.

8. Within its area of operation, to act as agent for a political subdivision or agency of the Commonwealth or for a federal agency in making construction or rehabilitation loans to persons of low or moderate income in accordance with the rules and regulations of the political subdivision or agency.

9. Within its area of operation to make grants, loans or refinance loans made by others for assistance in planning, development, acquisition, construction, repair, rehabilitation, equipping or maintenance of commercial, residential or other buildings; provided that prior approval of any such loan by the local governing body shall be required if the building is not located within a housing, redevelopment or conservation area, or rehabilitation area and provided further that any rehabilitation funded by any such grant or loan is in compliance with property maintenance standards contained in duly adopted redevelopment or conservation plans in effect in such area of operation.

10. To borrow money and issue evidence of indebtedness in the name of and for the use of the authority, to issue bonds and other obligations, and give security therefor, subject to such limitations as may be imposed by law.

11. To conduct examinations and investigations, and to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

12. With the approval of the local governing body or its designee, to form corporations, partnerships, joint ventures, trusts, or any other legal entity or combination thereof, on its own behalf or with any person or public or private entity.

13. To exercise all or any part or combination of powers herein granted.

No provisions of law with respect to the acquisition, operation or disposition of property by other political subdivisions or public bodies shall be applicable to an authority unless the legislature shall specifically state.

1938, p. 450; Michie Code 1942, § 3145(8); 1971, Ex. Sess., c. 153; 1976, c. 510; 1977, c. 136; 1978, c. 679; 1982, c. 596; 1983, c. 27; 1984, cc. 350, 450; 1988, cc. 217, 416; 1995, c. 193; 2002, c. 548; 2006, c. 784.

§ 36-19.1.Special provisions; City of Roanoke

Notwithstanding the provisions of § 36-19, an authority established in the City of Roanoke shall not contract for the construction of any housing unit that has not been contracted for on or before March 6, 1952, or acquire land for or purchase material for the construction or installation of any sewerage, streets, sidewalks, lights, power, water, or any other facilities for any housing units or projects on or before such date, unless a comprehensive plan for such unit or project has been approved by the governing body of the city.

1952, c. 200; 1975, c. 575.

§ 36-19.2.Powers limited by necessity for authority from or approval by governing body; public hearing on proposed budget

A. Notwithstanding the provisions of § 36-19, no authority permitted to transact business and exercise powers as provided in § 36-4 shall make any contract for the construction of any additional housing not authorized or approved by the governing body on April 1, 1952, or acquire land for, or purchase material for the construction or installation of, any sewerage, streets, sidewalks, lights, power, water, or any other facilities for any additional housing not authorized or approved on such date, unless and until such additional housing has been authorized or approved by the governing body of the locality in which the authority is authorized to transact business and exercise powers, provided that this section shall not affect or impair the provisions of § 36-19.1.

B. Before any authority gives final approval to (i) its budget or (ii) any request for funding for submission to the governing body, the authority shall hold at least one public hearing to receive the views of citizens within the area of operation of the authority. The authority shall cause public notice to be given at least 10 days prior to any hearing by publication in a newspaper having a general circulation within the area of operation of the authority.

1952, c. 427; 2006, c. 784; 2007, c. 342; 2017, cc. 68, 561.

§ 36-19.4.Referendum prior to making cooperation agreements for public housing projects in the City of Portsmouth

Notwithstanding the provisions of § 36-19, no authority established in the City of Portsmouth shall make any cooperation agreement with the governing body of the city for any public housing project that is not authorized or approved by the governing body of the city on or before July 1, 1960, unless a cooperation agreement for such public housing project has been approved by a majority of the qualified voters of the city voting in an election called by the governing body of the city for such purpose. The procedure for such election shall conform to general law. The provisions of this section shall not affect or impair the provisions of § 36-19.1, nor shall they apply to such low rent public housing units determined by the governing body of the city as necessary for the satisfactory relocation of families to be displaced by the city's urban renewal program.

1960, c. 490; 1975, c. 575.

§ 36-19.5.Additional powers

A. In addition to the powers otherwise granted, an authority may acquire, subject to prior approval, after public hearing, of each such acquisition by the governing body of the county, city or town wherein the property to be acquired is located, any single-family or multi-family dwelling unit within the authority's area of operation by purchase, lease, or gift or through the exercise of the power of eminent domain as provided in subsection B of this section, for development and redevelopment including, but not limited to, the renovation, rehabilitation and disposition thereof, when such authority has determined: (i) that such dwelling unit or other structure has deteriorated to such extent as to constitute a serious and growing menace to the public health, safety and welfare; (ii) that such dwelling unit or other structure is likely to continue to deteriorate unless corrected; (iii) that the continued deterioration of such dwelling unit or other structure may contribute to the blighting or deterioration of the area immediately surrounding the said dwelling unit or other structure; and (iv) that the owner of such dwelling unit or other structure, after sixty days' notice to the landowner by certified mail, citing § 36-19.5, has failed to correct the deterioration thereof.

B. A local governing body may, on behalf of an authority, acquire through the exercise of the power of eminent domain any single-family or multi-family dwelling unit within the authority's area of operation, but only for those purposes set forth in subsection A of this section.

1979, c. 424.

§ 36-20.Housing research and studies

In addition to all its other powers, an authority may, within its area of operation, undertake and carry out studies and analyses of the housing needs, and of the meeting of such needs (including data with respect to population and family groups and the distribution thereof according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices,

employment, wages and other factors affecting the local housing needs and the meeting thereof) and make the results of such studies and analyses available to the public and the building, housing and supply industries; and may also engage in research and disseminate information on the subject of housing.

1946, p. 278; Michie Suppl. 1946, § 3145(4r).

§ 36-21.Housing projects not to be operated for profit

It is hereby declared to be the policy of this Commonwealth that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with such authority providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city or the county. To this end an authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived) will be sufficient (a) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority; (b) to pay, as the same become due, the principal and interest on the bonds of the authority; (c) to provide a margin of safety for making such payments of principal and interest; and (d) to create and maintain a reserve sufficient to ensure the authority can pay the principal of and the interest on the bonds of the authority as the same shall come due.

1938, p. 452; Michie Code 1942, § 3145(9); 1975, c. 78.

§ 36-22.Rentals and tenant selection

In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection: (a) it may rent or lease the dwelling accommodations therein only to persons of low income and at rentals within the financial reach of such persons of low income; (b) it may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding; (c) it shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual income in excess of the maximum income limits established by the authority for the purpose of determining what persons or families are of low income; and (d) at least thirty days before establishing or changing the aggregate annual maximum income limits for the purpose of determining what persons or families are persons of low income, an authority shall notify the governing body of the city or county thereof.

Nothing contained in this section or § 36-21 shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing

project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this section or § 36-21.

1938, p. 452; Michie Code 1942, § 3145(10); 1958, c. 116; 1972, cc. 466, 782.

§ 36-22.1.Conveyance of streets; no trespass policy

Each housing authority shall adopt a "no trespass" policy designed to protect the premises controlled by such authority and residents from nonresidents who enter the premises for unlawful purposes or without any lawful purpose. In adopting such policies, the authority shall determine whether to petition a locality or the Commonwealth to close to the public and convey to the authority any streets serving authority property. Neither a locality nor the Commonwealth shall be required to grant the conveyance.

2004, c. 585.

§ 36-23.Housing authority operations in other municipalities

In addition to its other powers, any housing authority may exercise any or all of its powers within the territorial boundaries of any municipality not included in the area of operation of such housing authority, for the purpose of planning, undertaking, financing, rehabilitating, constructing and operating a housing project or projects or a multi-family residential building or buildings within such municipality; provided that a resolution shall have been adopted (a) by the governing body of such municipality in which the housing authority is to exercise its powers and (b) by the authority of such municipality (if one has been theretofore established by such municipality and authorized to exercise its powers therein) declaring that there is a need for the aforesaid housing authority to exercise its powers within such municipality. A municipality shall have the same powers to furnish financial and other assistance to such housing authority exercising its powers within such municipality under this section as though the municipality were within the area of operation of such authority.

No governing body of a municipality shall adopt a resolution as provided in this section declaring that there is a need for the housing authority (other than a housing authority established by such municipality) to exercise its powers within such municipality, unless a public hearing has first been held by such governing body and unless such governing body shall have found in substantially the following terms: (a) that insanitary or unsafe inhabited dwelling accommodations exist in such municipality or that there is a shortage of safe or sanitary dwelling accommodations in such municipality available to persons of low income at rentals they can afford; and (b) that these conditions can be best remedied through the exercise of the aforesaid housing authority's powers within the territorial boundaries of such municipality; provided that such findings shall not have the effect of establishing an authority for any such municipality under § 36-4 nor of thereafter preventing such municipality from establishing an authority or joining in the creation of a consolidated housing authority or the increase of the area of operation of a consolidated housing authority. The clerk of the

city or other municipality shall give notice of the time, place and purpose of the public hearing at least ten days prior to the date on which the hearing is to be held, in a newspaper published in such municipality, or if there is no newspaper published in such municipality, then in a newspaper published in the Commonwealth and having a general circulation in such municipality. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of such municipality and to all other interested persons.

During the time that, pursuant to these findings, the aforesaid housing authority has outstanding (or is under contract to issue) any evidences of indebtedness for a project within the municipality, no other housing authority may undertake a project within such municipality without the consent of the housing authority which has such outstanding indebtedness or obligation.

1942, p. 324; Michie Code 1942, § 3145(41); 1984, c. 350.

§ 36-24.Cooperation of authorities

Any two or more housing authorities may join or cooperate with one another in the exercise, either jointly or otherwise of any or all of their powers for the purpose of financing (including the issuance of bonds, notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating or contracting with respect to a housing project or projects located within the area of operation of any one or more of such authorities. For such purpose any authority may by resolution prescribe and authorize any other housing authority or authorities, so joining or cooperating with it, to act on its behalf with respect to any or all of such powers. Any authorities joining or cooperating with one another may by resolutions appoint from among the commissioners of such authorities an executive committee with full power to act on behalf of such authorities with respect to any or all of their powers, as prescribed by resolutions of such authorities.

1938, p. 453; 1942, p. 325; Michie Code 1942, §§ 3145(4n), 3145(11).

§ 36-25.Payments by housing authorities to other bodies

An authority may agree to make such payments to the city or county, the Commonwealth, or any political subdivision thereof, which payments such bodies are hereby authorized to accept, and to otherwise expend its funds in such manner as the authority finds consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this Housing Authorities Law.

1946, p. 278; Michie Suppl. 1946, § 3145(4q); 1970, c. 405.

§ 36-26.Aid from federal government

In addition to the powers conferred upon an authority by other provisions of this chapter, an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the federal government for or in aid of any housing project within its area of operation, to take over or lease or manage any housing projects or undertaking, within such area, constructed or owned by the

federal government, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable.

1938, p. 457; Michie Code 1942, § 3145(19).

§ 36-27.Eminent domain

A. An authority shall have the right to acquire by the exercise of the power of eminent domain any real property pursuant to a duly adopted redevelopment or conservation plan, or otherwise only in accordance with this chapter, after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such public purposes. An authority may exercise the power of eminent domain in the manner provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. In condemnation proceedings evidence may be presented as to the value of the property including but not limited to the owner's appraisal and the effect that any pending application for a zoning change, special use permit application or variance application may have on the value of the property. The court may also determine whether there has been unreasonable delay in the institution of the proceedings after public announcement by the condemnor of a project that necessitates acquisition by the condemnor of a designated land area consisting of or including the land sought to be condemned. If the court determines that such unreasonable delay has occurred, it shall instruct the commissioners or jurors in such proceedings to allow any damages proved to their satisfaction by the landowner or landowners to have been sustained to his or their land during and because of such delay, in addition to and separately from the fair market value thereof, but such damages shall not exceed the actual diminution if any in fair market value of the land in substantially the same physical condition over the period of the delay.

B. Prior to the adoption of any redevelopment plan for a redevelopment area pursuant to § 36-49 or any conservation plan for a conservation area pursuant to § 36-49.1, an authority shall send by certified mail, postage prepaid, to the record owner or owners of every parcel of property to be acquired pursuant to such plan, at their last known address as contained in the records of the treasurer, the current real estate tax assessment records, or the records of such other officer responsible for collecting taxes in that locality, a notice advising such owner that (i) the property owned by such owner is proposed to be acquired, (ii) such owner will have the right to appear before the local governing body and present testimony with respect to the proposed redevelopment or conservation area, and (iii) such owner will have the right to appear in any condemnation proceeding instituted to acquire the property and present any defense which such owner may have to the taking. Such notice shall not be the basis for eligibility for relocation benefits. At the time it makes its price offer, the authority shall also provide to the property owner a copy of the appraisal of the fair market value of such property upon which the authority has based the amount offered for the property, which appraisal shall be prepared by a real estate appraiser licensed in accordance with Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1.

C. In all such cases the proceedings shall be according to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, so far as they can be applied to the same. No real property belonging to the city, the county, the Commonwealth or any other political subdivision thereof may be acquired without its consent.

1938, p. 453; Michie Code 1942, § 3145(12); 1958, c. 518; 1972, cc. 466, 782; 1989, c. 593; 1998, c. 880; 2000, c. 1029; 2001, c. 729; 2002, c. 272; 2003, c. 940; 2006, cc. 586, 784.

§ 36-27.01.Plan for alternative housing of persons displaced by condemnation, conversion, etc

In any condemnation proceeding which involves the taking or conversion of properties populated by low and moderate income families in multi-family housing projects owned or controlled by the redevelopment and housing authority, or with respect to the development or redevelopment of any property owned or controlled by it, the authority shall adopt a plan of relocation identifying alternative housing for the persons who will be displaced. No conversion of multi-family housing complexes to industrial use shall be authorized prior to the identification of alternative housing required herein.

1983, c. 518.

§ 36-27.1.Damages to leasehold interests in the City of Waynesboro

In considering the damages to be allowed under § 36-27 for property located in the City of Waynesboro, the court shall instruct the commissioners that damages shall be allowable for injury to leasehold interests in property adjoining, and operated jointly with, the land being condemned.

1966, c. 383; 1975, c. 575.

§ 36-27.2.Limitations on certain housing authorities; exception

A. Notwithstanding the provisions of § 36-27 and except as provided in subsection B, no housing authority transacting business and exercising powers as provided in § 36-4 in the City of Norfolk shall be authorized after July 1, 2007, to acquire by the exercise of the power of eminent domain, any real property located within the boundaries set forth in the Conservation and Redevelopment Plan (the Plan) for the East Ocean View Conservation and Redevelopment Project adopted July 1989, as amended by Amendment No. 1 to such plan adopted September 1992.

The provisions of this subsection shall not apply to any such real property for which an offer has been made by such housing authority or for which such authority has initiated condemnation proceedings prior to July 1, 2007.

B. The City of Norfolk and the housing authority shall not be precluded from adopting (i) a new redevelopment plan, in accordance with the provisions of §§ 36-27, 36-49, and 36-51, which designates a redevelopment area that includes real property for acquisition that was previously included within the Plan, or (ii) a new conservation plan, in accordance with the provisions of §§ 36-

27, 36-50.1, and 36-51.1, which designates a conservation area that includes real property for acquisition that was previously included within the Plan.

2002, c. 540; 2007, c. 786.

§ 36-28.Planning, zoning and building laws

All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the housing project is situated. In the planning and location of any housing project, an authority shall take into consideration the relationship of the project to any larger plan or long-range program for the development of the area in which the housing authority functions.

1938, p. 453; Michie Code 1942, § 3145(13).

§ 36-29.Power to issue bonds; liability in general

An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it or for the purpose of refunding loans made by another entity if such loans could have been made by the authority. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing):

(a) Bonds on which the principal and interest are payable:

(1) Exclusively from the income and revenues of the housing project financed with the proceeds of such bonds; or

(2) Exclusively from the income and revenues of certain designated housing projects whether or not they are financed in whole or in part with the proceeds of such bonds; or

(3) From its revenues generally.

(b) Bonds on which the principal is payable solely from annual contributions or grants received from the federal government or received from any other source, public or private.

Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government or other source, or a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the Commonwealth or any political subdivision thereof (other than the authority) and neither the city or the county, nor the Commonwealth or any political subdivision thereof (other than the authority) shall be liable thereon, nor in any event shall such bonds or obligations be payable out

of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

1938, p. 454; Michie Code 1942, § 3145(14); 2002, c. 548.

§ 36-30.Form and sale of bonds; presumption of validity

Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank of priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds may be sold at public or private sale at not less than par.

In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery. Any provisions of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character and such project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of this chapter.

1938, p. 454; Michie Code 1942, § 3145(15); 1972, c. 466; 1980, c. 133.

§ 36-31.Provisions of bonds, trust indentures and mortgages

In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power:

(a) To pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

(b) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(c) To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing

project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

(d) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(e) To covenant (subject to the limitations contained in this chapter) as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(f) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(g) To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(h) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To vest in a trust or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by the authority, to take possession and use, operate and manage any housing project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with the trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any portion of them may enforce any covenant or right securing or relating to the bonds.

(j) To exercise all or any part or combination of the powers herein granted; and to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character.

1938, p. 455; Michie Code 1942, § 3145(16).

§ 36-32.Remedies of obligee of authority

An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action or proceeding at law or in equity to compel the authority and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of the authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this chapter.

(b) By suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the authority.

1938, p. 456; Michie Code 1942, § 3145(17).

§ 36-33.Additional remedies conferrable by authority

An authority shall have power by its resolution, trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right (in addition to all rights that may otherwise be conferred), upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

(a) To cause possession of any housing project or any part thereof to be surrendered to any such obligee.

(b) To obtain the appointment of a receiver of any housing project of the authority or any part thereof and of the rents and profits therefrom. If such receiver be appointed, he may enter and take possession of such housing project or any part thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and supply the same in accordance with the obligation of the authority as the court shall direct.

(c) To require the authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

1938, p. 456; Michie Code 1942, § 3145(18).

§ 36-34.Housing bonds to be legal investments, legal security and negotiable

The Commonwealth and all public officers, municipal corporations, political subdivisions (other than housing authorities), and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, except domestic life insurance companies may legally invest any sinking funds, moneys or other funds belonging to them

or within their control in any bonds or other obligations issued by a housing authority pursuant to the Housing Authorities Law, or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, and such bonds and other obligations shall be authorized security for all public deposits and shall be fully negotiable in this Commonwealth; it being the purpose of this act to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension funds, and funds held on deposit, for the purchase of any such bonds or other obligations and that any such bonds or other obligations shall be authorized security for all public deposits and shall be fully negotiable in this Commonwealth; provided, however, that nothing contained in this section with regard to legal investments shall be construed as relieving any person, firm or corporation from any duty of exercising reasonable care in selecting securities.

1942, p. 404; Michie Code 1942, § 3145(25).

§ 36-35.Contracts and covenants with federal government, etc.; agreements to sell

In any contract or amendatory or superseding contract for a loan and annual contributions heretofore or hereafter entered into between a housing authority and the federal government with respect to any housing project undertaken by the housing authority, any such housing authority is authorized to make such covenants (including covenants with holders of obligations of the authority issued for purposes of the project involved) and to confer upon the federal government such rights and remedies, as the housing authority deems necessary to assure the fulfillment of the purposes for which the project was undertaken. In any such contract, the housing authority may, notwithstanding any other provisions of law, agree to sell and convey the project (including all lands appertaining thereto) to which such contract relates to the federal government upon the occurrence of such conditions, or upon such defaults on obligations for which any of the annual contributions provided in such contract are pledged, as may be prescribed in such contract, and at a price (which may include the assumption by the federal government of the payment, when due, of the principal of and interest on outstanding obligations of the housing authority issued for purposes of the project involved) determined as prescribed therein and upon such other terms and conditions as are therein provided. Any such housing authority is hereby authorized to enter into such supplementary contracts, and to execute such conveyances, as may be necessary to carry out the provisions hereof. Notwithstanding any other provisions of law, any contracts or supplementary contracts or conveyances made or executed pursuant to the provisions of this section shall not be or constitute a mortgage within the meaning or for the purposes of any of the laws of this Commonwealth.

1942, p. 326; Michie Code 1942, § 3145(4o).

§ 36-36.Powers of county and regional housing authorities

County housing authorities and regional housing authorities are specifically empowered and authorized to borrow money, accept grants and exercise their other powers to provide housing for farmers of low income. In connection with such projects, any such housing authority may enter into such leases or purchase agreements, accept such conveyances and rent or sell dwellings forming part of such projects to or for farmers of low income, as such housing authority deems necessary in order to assure the achievement of the objectives of this Housing Authorities Law. Such leases, agreements or conveyances may include such covenants as such housing authority deems appropriate regarding such dwellings and the tracts of land described in any such instrument, which covenants shall be deemed to run with the land where such housing authority deems it necessary and the parties to such instruments so stipulate. Nothing contained in this section shall be construed as limiting any other powers conferred by this Housing Authorities Law.

1942, p. 322; Michie Code 1942, § 3145(4h).

§ 36-37.Same subject; tenant selection limitations; homestead exemption

A regional or county housing authority shall have power to rent, sell, or make loans to finance the cost of dwellings on farms or in other areas outside of cities and to make or accept such conveyances or leases as it deems necessary to carry out the rural housing purposes of this chapter. With respect to such housing, county and regional housing authorities shall not be subject to the tenant selection limitations provided in clause (c) of § 36-22.

When an authority provides a dwelling on a farm hereunder, the owner of the farm living in the dwelling under a lease or purchase agreement shall be entitled to receive the same homestead exemption as if he had title to the dwelling.

1946, p. 277; Michie Suppl. 1946, § 3145(4p).

§ 36-38.Housing applications by farmers

The owner of any farm operated, or worked upon, by farmers of low income in need of safe and sanitary housing may file an application with a county housing authority or a regional housing authority requesting that it provide for a safe and sanitary dwelling or dwellings for occupancy by such farmers of low income. Such applications shall be received and examined by such housing authorities in connection with the formulation of projects or programs to provide housing for farmers of low income.

1942, p. 323; Michie Code 1942, § 3145(4i).

§ 36-40.Creation of regional housing authority

If the board of supervisors of each of two or more contiguous counties by resolution declares that there is a need for one housing authority to be created for all of such counties to exercise in such counties powers and other functions prescribed for a regional housing authority, a political subdivision of the Commonwealth to be known as a regional housing authority shall thereupon exist for all of such

counties and exercise its public and corporate powers and other functions in such counties; and thereupon each housing authority created for each of such counties shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided; provided that the board of supervisors of a county shall not adopt a resolution as aforesaid if there is a county housing authority created for such county which has any obligations outstanding unless first, all obligees of such county housing authority and parties to the contracts, bonds, notes, and other obligations of such county housing authority consent in writing to the substitution of such regional housing authority in lieu of such county housing authority on all such contracts, bonds, notes, or other obligations; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided; and provided further that when the above two conditions are complied with and such regional housing authority is created and authorized to exercise its powers and other functions, all rights, contracts, agreements, obligations, and property of such county housing authority shall be in the name of and vest in such regional housing authority, and all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they might have been asserted, enforced, and prosecuted against such county housing authority.

When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed in the office provided for the filing of deeds, provided that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The board of supervisors of each of two or more contiguous counties shall by resolution declare that there is a need for one regional housing authority to be created for all of such counties to exercise in such counties powers and other functions prescribed for a regional housing authority, if such board of supervisors finds (and only if it finds) (a) that insanitary or unsafe inhabited dwelling accommodations exist in such county or there is a shortage of safe or sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford and (b) that a regional housing authority would be a more efficient or economical administrative unit than the housing authority of such county to carry out the purposes of this Housing Authorities Law in such county.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the regional housing authority, the regional housing authority shall be conclusively deemed to have become created as a public body corporate and politic and to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a

resolution by the board of supervisors of each of the counties creating the regional housing authority declaring the need for the regional housing authority. Each such resolution shall be deemed sufficient if it declares that there is need for the regional housing authority and finds in substantially the foregoing terms (no further detail being necessary) that the conditions enumerated above in (a) and (b) exist. A copy of such resolution of the board of supervisors of a county, duly certified by the clerk of such county, shall be admissible in evidence in any suit, action, or proceeding.

The area of operation of a regional housing authority shall include (except as otherwise provided elsewhere in this chapter) all of the counties for which such regional housing authority is created and established.

1942, p. 317; Michie Code 1942, § 3145(4a).

§ 36-41.Increasing area of operation of regional housing authority

The area of operation of a regional housing authority shall be increased from time to time to include one or more additional contiguous counties not already within a regional housing authority if the board of supervisors of each of the counties then included in the area of operation of such regional housing authority, the commissioners of the regional housing authority and the board of supervisors of each such additional county or counties each adopt a resolution declaring that there is a need for the inclusion of such additional county or counties in the area of operation of such regional housing authority. Upon the adoption of such resolutions, the county housing authority created for each such additional county shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided; provided, however, that such resolutions shall not be adopted if there is a county housing authority created for any such additional county which has any obligations outstanding unless first, all obligees of any such county housing authority and parties to the contracts, bonds, notes, and other obligations of any such county housing authority consent in writing to the substitution of such regional housing authority in lieu of such county housing authority on all such contracts, bonds, notes, or other obligations; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided; and provided further that when the above two conditions are complied with and the area of operation of such regional housing authority is increased to include such additional county, as hereinabove provided, all rights, contracts, agreements, obligations, and property of such county housing authority shall be in the name of and vest in such regional housing authority, all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they might have been asserted, enforced, and prosecuted against such county housing authority.

When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed in the office provided for the filing of deeds, provided that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The board of supervisors of each of the counties in the regional housing authority, the commissioners of the regional housing authority and the board of supervisors of each such additional county or counties shall by resolution declare that there is need for the inclusion of such county or counties in the area of operation of the regional housing authority, if (a) the board of supervisors of each such additional county or counties finds that insanitary or unsafe inhabited dwelling accommodations exist in such county or there is a shortage of safe or sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford and (b) the board of supervisors of each of the counties then included in the area of operation of the regional housing authority, the commissioners of the regional housing authority and the board of supervisors of each such additional county or counties find that the regional housing authority would be a more efficient or economical administrative unit to carry out the purposes of this Housing Authorities Law if the area of operation of the regional housing authority is increased to include such additional county or counties.

1942, p. 318; Michie Code 1942, § 3145(4b).

§ 36-42.Decreasing area of operation of regional housing authority

The area of operation of a regional housing authority shall be decreased from time to time to exclude one or more counties from such area if the board of supervisors of each of the counties in such area and the commissioners of the regional housing authority each adopt a resolution declaring that there is a need for excluding such county or counties from such area; provided that no action may be taken pursuant to this section if the regional housing authority has outstanding any bonds, notes or other evidences of indebtedness, unless first, all holders of such evidences of indebtedness consent in writing to such action; and provided further that if such action decreases the area of operation of the regional housing authority to only one county, such authority shall thereupon constitute and become a housing authority for such county, in the same manner as though such authority were created by and authorized to transact business and exercise its powers pursuant to § 36-4, and the commissioners of such authority shall be thereupon appointed as provided for the appointment of commissioners of a housing authority created for a county.

The board of supervisors of each of the counties in the area of operation of the regional housing authority and the commissioners of the regional housing authority shall adopt a resolution declaring that there is a need for excluding a county or counties from such area if: (a) each such board of supervisors of the counties to remain in the area of operation of the regional housing authority and the commissioners of the regional housing authority find that (because of facts arising or determined

subsequent to the time when such area first included the county or counties to be excluded) the regional housing authority would be a more efficient or economical administrative unit to carry out the purposes of this Housing Authorities Law if such county or counties were excluded from such area, and (b) the board of supervisors of each such county or counties to be excluded and the commissioners of the regional housing authority each also find that (because of the aforesaid changed facts) the purposes of this Housing Authorities Law could be carried out more efficiently or economically in such county or counties if the area of operation of the regional housing authority did not include such county or counties.

Any property held by a regional housing authority within a county or counties excluded from the area of operation of such authority, as herein provided, shall (as soon as practicable after the exclusion of the county or counties respectively) be disposed of by such authority in the public interest.

1942, p. 319; Michie Code 1942, § 3145(4c).

§ 36-43.Housing authority for county excluded from regional authority

At any time after a county or counties is excluded from the area of operation of a regional housing authority as provided above, the board of supervisors of any such county may adopt a resolution declaring that there is a need for a housing authority in the county, if the board shall find such need according to the provisions of § 36-4. Thereupon a political subdivision of the Commonwealth to be known as the housing authority of the county shall exist for such county and may transact business and exercise its powers in the same manner as though created by § 36-4. Nothing contained herein shall be construed as preventing such county from thereafter being included within the area of operation of a regional housing authority as provided in § 36-40 or 36-41.

1942, p. 320; Michie Code 1942, § 3145(4d).

§ 36-44.Public hearing to create regional authority or change its area of operation, and findings

The board of supervisors of a county shall not adopt any resolution authorized by §§ 36-40, 36-41 or 36-42 unless a public hearing has first been held. The clerk of such county shall give notice of the time, place, and purpose of the public hearing at least ten days prior to the day on which the hearing is to be held, in a newspaper published in such county, or if there is no newspaper published in such county, then in a newspaper published in the Commonwealth and having a general circulation in such county. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of such county and to all other interested persons.

In determining whether dwelling accommodations are unsafe or insanitary the board of supervisors of a county shall take into consideration the safety and sanitation of dwellings, the light and air space available to the inhabitants of such dwellings, the degree of overcrowding, the size and arrangement of the rooms and the extent to which conditions exist in such dwellings which endanger life or property by fire or other causes.

In connection with the issuance of bonds or the incurring of other obligations, a regional housing authority may covenant as to limitations on its right to adopt resolutions relating to the increase or decrease of its area of operation.

1942, p. 320; Michie Code 1942, § 3145(4e).

§ 36-45.Commissioners of regional housing authority

The board of supervisors of each county included in a regional housing authority shall appoint one person as a commissioner of such authority, and each such commissioner to be first appointed by the board of supervisors of a county may be appointed at or after the time of the adoption of the resolution declaring the need for such regional housing authority or declaring the need for the inclusion of such county in the area of operation of such regional housing authority. When the area of operation of a regional housing authority is increased to include an additional county or counties as provided above, the board of supervisors of each such county shall thereupon appoint one additional person as a commissioner of the regional housing authority. The board of supervisors of each county shall appoint the successor of the commissioner appointed by it. A certificate of the appointment of any such commissioner shall be filed with the clerk of the county, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. If any county is excluded from the area of operation of a regional housing authority, the office of the commissioner of such regional housing authority appointed by the board of supervisors of such county shall be thereupon abolished.

If a regional housing authority consists of only two counties, the boards of supervisors may agree to appoint two members each as commissioners of such authority. However, if the regional housing authority is changed to consist of three or more counties, the counties shall thereafter appoint one member each as a commissioner.

If the area of operation of a regional housing authority consists at any time of an even number of counties, the commissioners of the regional housing authority appointed by the boards of supervisors of such counties shall appoint one additional commissioner whose term of office shall be as herein provided for a commissioner of a regional housing authority except that such term shall end at any earlier time that the area of operation of the regional housing authority shall be changed to consist of an odd number of counties. The commissioners of such authority appointed by the boards of supervisors of such counties shall likewise appoint each person to succeed such additional commissioner; provided that the term of office of such person begins during the terms of office of the commissioners appointing him. A certificate of the appointment of any such additional commissioner of such regional housing authority shall be filed with the other records of the regional housing authority and shall be conclusive evidence of the due and proper appointment of such additional commissioner.

When a regional housing authority is required by federal housing law to appoint a commissioner satisfying the criteria specified in Section 2 (b) of the United States Housing Act of 1937, as amended, and the rules and regulations promulgated thereunder, at least one but not more than two such commissioners shall be appointed by the commissioners of the regional housing authority. The executive director of the regional housing authority shall prepare a slate of eligible candidates for appointment for the commissioners' consideration. However, the appointing commissioners shall not be required to make appointments from such slate. The term of such appointed commissioner shall be as herein provided for a commissioner of a regional housing authority. A certificate of the appointment of any such commissioner of a regional housing authority shall be filed with the other records of the regional housing authority and shall be conclusive evidence of the due and proper appointment of such commissioner.

The commissioners of a regional housing authority shall be appointed for terms of four years except that all vacancies shall be filled for the unexpired terms. Each commissioner shall hold office until his successor has been appointed and has qualified, except as otherwise provided herein.

The commissioners shall constitute the regional housing authority, and the powers of such authority shall be vested in such commissioners in office from time to time.

The commissioners of a regional housing authority shall elect a chairman from among the commissioners and shall have power to select or employ such other officers and employees as the regional housing authority may require. A majority of the commissioners of a regional housing authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes.

For inefficiency or neglect of duty or misconduct in office, a commissioner of a regional housing authority may be removed by the board of supervisors appointing him, or in the case of the commissioner appointed by the commissioners of the regional housing authority, by such commissioners; provided that such commissioner shall be removed only after he shall have been given a copy of the charges against him at least 10 days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of a commissioner by the board of supervisors appointing him, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk of the county; and in the case of the removal of the commissioner appointed by the commissioners of the regional housing authority, such record shall be filed with the other records of the regional housing authority.

1942, p. 321; Michie Code 1942, § 3145(4f); 2003, cc. 417, 535, 559, 809.

§ 36-46.Powers of regional housing authority

Except as otherwise provided herein, a regional housing authority and the commissioners thereof shall, within the area of operation of such regional housing authority, have the same functions, rights,

powers, duties, privileges, immunities and limitations provided for housing authorities created for cities or counties and the commissioners of such housing authorities, and all the provisions of law applicable to housing authorities created for cities or counties and the commissioners of such authorities shall be applicable to regional housing authorities and the commissioners thereof; provided, that for such purposes, the term "mayor" or "governing body" as used in this Housing Authorities Law shall be construed as meaning "board of supervisors," unless a different meaning clearly appears from the context; and provided further that a regional housing authority, with respect to housing projects for farmers of low income, shall not be subject to the limitations provided in clause (c) of § 36-22. A regional housing authority shall have power to select any appropriate corporate name.

1942, p. 322; Michie Code 1942, § 3145(4g).

§ 36-47.Consolidated housing authority

If the governing body of each of two or more municipalities (whether or not contiguous) by resolution declares that there is a need for one housing authority to be created for all of the municipalities to exercise in the municipalities the powers and other functions prescribed for a consolidated housing authority, a political subdivision of the Commonwealth to be known as a consolidated housing authority (with a corporate name it selects) shall thereupon exist for all of the municipalities and exercise its public and corporate powers and other functions within its area of operation (as herein defined), including the power to undertake projects therein. Thereupon, any housing authority created for each of the municipalities shall cease to exist except for the purpose of winding up its affairs and executing a deed of its real property to the consolidated housing authority. The creation of a consolidated housing authority and the finding of need therefor shall be subject to the same provisions and limitations of this chapter as are applicable to the creation of a regional housing authority. The provisions of this chapter applicable to regional housing authorities and the commissioners thereof shall be applicable to consolidated housing authorities and the commissioners thereof. The area of operation of a consolidated housing authority shall include all of the territory within the boundaries of each municipality joining in the creation of the authority, except that the area of operation may be changed to include or exclude any municipality or municipalities in the same manner and under the same provisions as provided in this chapter for changing the area of operation of a regional housing authority by including or excluding a county or counties. For all such purposes, the term "board of supervisors" shall be construed as meaning "governing body." The term "county" shall be construed as meaning "municipality" and the terms "county housing authority" and "regional housing authority" shall be construed as meaning "housing authority of the city" and "consolidated housing authority," respectively, unless a different meaning clearly appears from the context.

The governing body of a municipality for which a housing authority has not been created shall not adopt the above resolution unless it first declares that there is a need for a consolidated housing authority to function in the municipality, which declaration shall be made in the same manner and

subject to the same conditions as the declaration of the governing body of a city required by § 36-4 for the purpose of authorizing a housing authority created for a city to transact business and exercise its powers.

Except as otherwise provided herein, a consolidated housing authority and the commissioners thereof shall, within the area of operation of the consolidated housing authority, have the same functions, rights, powers, duties, privileges, immunities and limitations as those provided for housing authorities created for cities, counties, or groups of counties and the commissioners of such housing authorities, in the same manner as though all the provisions of law applicable to housing authorities created for cities, counties, or groups of counties were applicable to consolidated housing authorities.

The term "municipality" as used in this chapter shall mean any county, city or town in the Commonwealth.

The term "residential buildings" as used in this chapter shall include, but not be limited to, any multi-family residential property in which no less than twenty percent of the units will be occupied by persons of low income and the remainder therein by persons of moderate income, both as determined by the housing authority using the criteria set forth in the definition of "persons and families of low and moderate income" in § 36-55.26, and any nursing care facility, or any nursing home as defined in § 32.1-123.

1942, p. 323; Michie Code 1942, § 3145(4k); 1958, c. 82; 1982, c. 330; 1983, c. 347; 1984, c. 350; 1987, c. 433; 1988, c. 217.

§ 36-47.1.Compensation of commissioners

The commissioners of any housing authority created for or operating in two or more cities may, in addition to being reimbursed for their expenses as otherwise provided, be paid salaries not to exceed $150 per month for each such commissioner.

1956, c. 327; 1962, c. 64; 1974, c. 610.

§ 36-47.2.Consolidation of two or more housing authorities within same city

If the governing body of any city having two or more separate housing authorities created pursuant to this title shall, by resolution, declare it necessary and in the public interest to consolidate such authorities, or abolish the same and create a single or consolidated housing authority, then such new housing authority shall thereupon be created (with such corporate name as may be selected), and it shall exercise its public and corporate powers, and such other functions within such city pursuant to the provisions of this chapter, including the power to undertake projects applicable to housing authorities created for cities or counties. The governing body of any such city shall have the authority to terminate any one or more of such authorities and continue any other single authority, as a consolidated authority in which case any terminated authority shall cease to exist except for the purpose of winding up its affairs and executing the necessary documents for the transfer of its

respective assets and liabilities, if any, to the new consolidated or surviving authority. If a new or consolidated authority is created, its membership shall be composed of seven commissioners, five of whom shall be the commissioners presently serving under existing law under any authority created within such city, and two of whom shall be commissioners selected from the other authority or the authority that is terminated. Each such commissioner shall continue to serve for the term for which he was appointed or until his successor has been appointed and has qualified.

1972, c. 124.

§ 36-48.Creation of Redevelopment Areas

A redevelopment area as defined in § 36-3 may be created by an authority as provided in this chapter and a redevelopment plan may be adopted to address conditions in such redevelopment area. The redevelopment plan shall (i) outline specific boundaries for the redevelopment area and designate for acquisition such properties as are necessary or appropriate for the clearance, replanning, rehabilitation, and reconstruction of the redevelopment area, (ii) be adopted in accordance with § 36-49, and (iii) satisfy the requirements as set forth in § 36-51.

1946, p. 278; Michie Suppl. 1946, § 3145(8a); 1975, c. 455; 1988, cc. 572, 591; 2006, c. 784.

§ 36-48.1.Creation of Conservation Areas

A conservation area as defined in § 36-3 may be created by an authority as provided in this chapter and a conservation plan may be adopted to provide for the conservation, rehabilitation, and revitalization of such conservation area. The conservation plan shall (i) outline specific boundaries for the conservation area, (ii) be adopted in accordance with § 36-49.1, and (iii) satisfy the requirements as set forth in § 36-51.1.

1964, c. 378; 1978, c. 360; 2006, c. 784.

§ 36-49.Adoption of Redevelopment Plans

A. An authority may adopt a redevelopment plan for a designated redevelopment area to address blighted areas and in particular is specifically empowered to carry out any work or undertaking in the redevelopment area, including any or all of the following:

1. Acquire blighted areas, which are hereby defined in § 36-3;

2. Acquire other real property for the purpose of removing, preventing, or reducing blight;

3. Acquire real property where the condition of the title, the diverse ownership of the real property to be assembled, the street or lot layouts, or other conditions prevent a proper development of the property and where the acquisition of the area by the authority is necessary to carry out a redevelopment plan;

4. Permit the preservation, repair, or restoration of buildings of historic interest; and to clear any areas acquired and install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with the redevelopment plan;

5. Provide for the conservation of portions of the project area and the rehabilitation to project standards as stated in the redevelopment plan of buildings within the project area, where such rehabilitation is deemed by the authority to be feasible and consistent with project objectives;

6. Make land so acquired available to nongovernmental persons or entities or public agencies (including sale, leasing, or retention by the authority itself) in accordance with the redevelopment plan;

7. Assist the reconstruction of project areas by making loans or grants of funds received from any public or private source, for the purpose of facilitating the construction, reconstruction, rehabilitation or sale of housing or other improvements constructed or to be constructed on land situated within the boundaries of a redevelopment project;

8. Acquire, construct or rehabilitate residential housing developments for occupancy by persons of low, moderate and middle income to be owned, operated, managed, leased, conveyed, mortgaged, encumbered or assigned by an authority. Income limits for such persons shall be determined for each redevelopment project by an authority by resolution adopted by a majority of its appointed commissioners, shall be adjusted for household size and may be revised as an authority deems appropriate. In connection with a residential housing development, an authority shall have all rights, powers and privileges granted by subdivision 4 of § 36-19;

9. Accomplish any combination of the foregoing to carry out a redevelopment plan; and

10. Exercise such other powers as are authorized by law.

B. No redevelopment plan shall be effective until notice has been sent to the property owner or owners of record in accordance with subsection B of § 36-27 and the redevelopment plan has been approved by the local governing body.

1946, p. 278; Michie Suppl. 1946, § 3145(8b); 1962, c. 336; 1972, cc. 466, 782; 1980, c. 133; 1988, cc. 572, 591; 2006, c. 784.

§ 36-49.1.Adoption of Conservation Plans

A. An authority may adopt a conservation plan for a designated conservation area to address blight and blighting conditions, to conserve such area, prevent further deterioration and prevent such area from becoming blighted, and in particular is specifically empowered to carry out any work or undertaking in the conservation area, including any or all of the following:

1. Acquire property within such areas which is blighted, designated for public use in the conservation plan, or the use or condition of which is inconsistent with the purposes of the conservation plan or the provisions of the zoning ordinance or code of the locality;

2. Rehabilitate or clear property so acquired;

3. Provide for the installation, construction or reconstruction of streets, utilities, parks, parking facilities, playgrounds, public buildings and other site improvements essential to the conservation or rehabilitation planned;

4. Make land or improvements so acquired available to nongovernmental persons or entities or public agencies (by sale, lease or retention of ownership by the authority itself);

5. Assist the reconstruction of project areas by making loans or grants of funds received from any public or private source, for the purpose of facilitating the construction, reconstruction, rehabilitation or sale of housing or other improvements constructed or to be constructed on land situated within the boundaries of a conservation project;

6. Encourage and assist property owners or occupants within the conservation area to improve their respective holdings, by suggesting improved standards for design, construction, maintenance and use of such properties and offering encouragement or assistance in other ways including the power to lend money and make grants to owners or occupants, directed toward prevention and elimination of blight;

7. Acquire, construct or rehabilitate residential housing developments for occupancy by persons of low, moderate and middle income to be owned, operated, managed, leased, conveyed, mortgaged, encumbered or assigned by an authority. Income limits for such persons shall be determined for each conservation project by an authority by resolution adopted by a majority of its appointed commissioners, shall be adjusted for household size and may be revised as an authority deems appropriate. In connection with a residential housing development, an authority shall have all rights, power and privileges granted by subdivision 4 of § 36-19; and

8. Exercise such other powers as are authorized by law.

B. No conservation plan shall be effective until notice has been sent to the property owner or owners of record in accordance with subsection B of § 36-27 and the conservation plan has been approved by the local governing body.

1964, c. 378; 1966, cc. 81, 418; 1968, c. 312; 1970, cc. 222, 491, 555, 596; 1972, c. 174; 1973, c. 29; 1974, c. 137; 1975, c. 532; 1976, c. 510; 1980, c. 133; 1988, cc. 572, 591; 2006, c. 784.

§ 36-49.1:1.Spot blight abatement authorized; procedure

A. Notwithstanding any other provision of this chapter, an authority, or any locality, shall have the power to acquire or repair any blighted property, as defined in § 36-3, whether inside or outside of a conservation or redevelopment area, by purchase or through the exercise of the power of eminent domain provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, and, further, shall have the power to hold, clear, repair, manage or dispose of such property for purposes consistent with this chapter. In

addition, the authority and locality shall have the power to recover the costs of any repair or disposal of such property from the owner or owners of record, determined in accordance with subsection B of § 36-27. This power shall be exercised only in accordance with the procedures set forth in this section.

B. The chief executive or designee of the locality or authority shall make a preliminary determination that a property is blighted in accordance with this chapter. It shall send notice to the owner or owners of record determined in accordance with subsection B of § 36-27, specifying the reasons why the property is blighted. The owner or owners of record shall have 30 days from the date the notice is sent in which to respond in writing with a spot blight abatement plan to address the blight within a reasonable time.

C. If the owner or owners of record fail to respond within the 30-day period with a written spot blight abatement plan that is acceptable to the chief executive of the agency, authority or locality, the agency, authority or locality may request the locality to declare the property as blighted, which declaration shall be by ordinance adopted by the governing body.

D. No spot blight abatement plan shall be effective until notice has been sent to the property owner or owners of record and an ordinance has been adopted by the local governing body. Written notice to the property owner shall be sent by regular mail to the last address listed for the owner on the locality's assessment records for the property, together with a copy of such spot blight abatement plan prepared by the agency, authority, or locality. If the repair or other disposition of the property is approved, the authority, agency, or locality may carry out the approved plan to repair or acquire and dispose of the property in accordance with the approved plan, the provisions of this section, and the applicable law.

E. If the ordinance is adopted by the governing body of the locality, the locality shall have a lien on all property so repaired or acquired under an approved spot blight abatement plan to recover the cost of (i) improvements made by such locality to bring the blighted property into compliance with applicable building codes and (ii) disposal, if any. The lien on such property shall bear interest at the legal rate of interest established in § 6.2-301, beginning on the date the repairs are completed through the date on which the lien is paid. The lien authorized by this subsection may be recorded as a lien among the land records of the circuit court, which lien shall be treated in all respects as a tax lien and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. The governing body may recover its costs of repair from the owner or owners of record of the property when the repairs were made at such time as the property is sold or disposed of by such owner or owners. If the property is acquired by the governing body through eminent domain, the cost of repair may be recovered when the governing body sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds of any such sale.

F. Notwithstanding the other provisions of this section, unless otherwise provided for in Title 36, if the blighted property is occupied for personal residential purposes, the governing body, in approving the spot blight abatement plan, shall not acquire by eminent domain such property if it would result in a displacement of the person or persons living in the premises. The provisions of this subsection shall not apply to acquisitions, under an approved spot blight abatement plan, by any locality of property which has been condemned for human habitation for more than one year. In addition, such locality exercising the powers of eminent domain in accordance with Title 25.1, may provide for temporary relocation of any person living in the blighted property provided the relocation is within the financial means of such person.

G. In lieu of the acquisition of blighted property by the exercise of eminent domain, and in lieu of the exercise of other powers granted in subsections A through H, any locality may, by ordinance, declare any blighted property as defined in § 36-3 to constitute a nuisance, and thereupon abate the nuisance pursuant to § 15.2-900 or § 15.2-1115. Such ordinance shall be adopted only after written notice by certified mail to the owner or owners at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records. If the owner does not abate or remove the nuisance and the locality abates or removes the nuisance at its expense, the costs of the removal or abatement of the nuisance shall be a lien on the property and such lien shall bear interest at the legal rate of interest established in § 6.2-301, beginning on the date the removal or abatement is completed through the date on which the lien is paid.

H. The provisions of this section shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by law.

1994, 2nd Sp. Sess., cc. 5, 10; 1995, cc. 702, 827; 1996, c. 847; 1997, c. 572; 1998, cc. 690, 898; 1999, cc. 39, 410, 418; 2001, c. 482; 2003, c. 940; 2006, c. 784; 2007, c. 763; 2009, cc. 181, 551.

§ 36-49.2. Power to purchase or lease land for certain other redevelopment projects

In addition to the other powers to acquire real property by purchase or lease, an authority is specifically empowered to purchase or lease real property for immediate or future use, without the exercise of the power of eminent domain, for improvement and development for sale, lease, or sublease as industrial sites, scientific research laboratory sites, educational institution sites or sites for housing persons displaced from other lands of the authority.

1964, Ex. Sess., c. 16.

§ 36-50. Extension of general powers for actions taken pursuant to a redevelopment plan

In undertaking actions pursuant to a redevelopment plan, an authority shall have all the rights, powers, privileges, and immunities provided in this chapter. However, nothing contained in §§ 36-21 and 36-22 shall be construed as limiting the power of an authority, in the event of a default (including failure of compliance with a redevelopment plan) by a purchaser or lessee of land in a redevelopment

plan, to acquire property and operate it free from the restrictions contained in §§ 36-21 and 36-22; and provided further, that any property which an authority leases to nongovernmental persons or entities for redevelopment under a redevelopment plan shall have the same tax status as if such leased property were owned by such nongovernmental persons or entities.

1946, p. 279; Michie Suppl. 1946, § 3145(8c); 2006, c. 784.

§ 36-50.1.Extension of general powers for actions taken pursuant to a conservation plan

In implementing a conservation plan, an authority shall have all the rights, powers, privileges, and immunities provided in this chapter. However, the power of eminent domain shall not be exercised in connection with a conservation project except to acquire (i) properties designated for use by the public or a public agency in the conservation plan, (ii) properties which are determined by the authority to be in violation of the standards for design, construction, maintenance and use of property set out in the conservation plan for the project in which such property is situate, and which have not been made to comply with such standards within one year after a written request to rehabilitate to project standards is given to the owner by the authority, (iii) properties as to which voluntary conveyance cannot be effected in the course of the execution of the conservation plan because of the inability of the owners to convey marketable title, or (iv) properties which are infeasible of rehabilitation, blighted properties or properties which inhibit or prevent accomplishment of the purposes of the conservation plan.

1964, c. 378; 1972, c. 733; 2006, c. 784.

§ 36-51.Redevelopment plans

A. An authority shall not implement any redevelopment plan under this law until the governing body of the locality has approved the redevelopment plan, which provides an outline for the development or redevelopment of the redevelopment area and is sufficiently complete to indicate (i) its relationship to definite local objectives as to appropriate land uses and improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements; (ii) proposed land uses and building requirements in the redevelopment area; (iii) the land in the redevelopment area that the authority does not intend to acquire; (iv) the land in the redevelopment area that will be made available after acquisition to nongovernmental persons or entities for redevelopment and that land which will be made available after acquisition to public enterprise for redevelopment; (v) anticipated funding sources that may be sufficient to acquire all property designated for acquisition within five years of the locality's approval; and (vi) the method for the temporary relocation of persons living in the redevelopment areas; and also the method for providing (unless already available) decent, safe and sanitary dwellings in the locality substantially equal in number to the number of substandard dwellings to be cleared from the redevelopment area, at rents within the financial reach of the income groups displaced from such substandard dwellings. Any locality is hereby authorized to approve redevelopment plans through their governing body or agency designated for that purpose.

B. No sooner than thirty months or later than thirty-six months following the date of the locality's approval of the redevelopment plan (hereinafter called the "approval date"), the locality shall review and determine by resolution whether to reaffirm the redevelopment plan. Where the locality fails to reaffirm the redevelopment plan, any real property within the redevelopment area that has not been acquired by the authority, or for which a petition in condemnation has not been filed by the authority, prior to the date of adoption of such resolution by the locality (hereinafter called the "termination date") shall no longer be eligible for acquisition by the authority unless the authority and the property owner mutually agree to the acquisition, in which case the authority shall be specifically empowered to acquire the property. For purposes of this section, a mediation request submitted by either the authority or the property owner, in accordance with § 36-27, prior to the termination date shall preserve the authority's right to file a petition in condemnation relating to such real property for a period of six months after the termination date.

C. Where the locality reaffirms the redevelopment plan, the authority shall continue to be authorized to acquire real property within the redevelopment area by purchase, or through the institution of eminent domain proceedings in accordance with § 36-27, until the fifth anniversary of the approval date. Any real property within the redevelopment area that has not been acquired by the authority, or for which a petition in condemnation has not been filed by the authority, prior to the fifth anniversary of the approval date, shall no longer be eligible for acquisition by the authority unless the authority and the property owner mutually agree to the acquisition, in which case the authority shall be specifically empowered to acquire the property. For purposes of this section, a mediation request submitted by either the authority or the property owner, in accordance with § 36-27, prior to the fifth anniversary of the approval date, shall preserve the authority's right to file a petition in condemnation relating to the real property for a period of six months after the fifth anniversary of the approval date.

D. Notwithstanding the provisions of this section, a locality shall not be precluded from adopting a new redevelopment plan, in accordance with this section, which designates a redevelopment area that includes real property that was previously included within a redevelopment area under a previously adopted redevelopment plan.

E. If the authority decides against acquiring real property designated for acquisition under an approved redevelopment plan after having made a written purchase offer to the owner of the property, it shall, upon the written request of the property owner given no later than one year after the date of written notice from the authority to the property owner of its decision not to acquire his property, reimburse the owner of the property his reasonable expenses incurred in connection with the proposed acquisition of his property. Reasonable expenses shall include, but are not limited to, reasonable fees of attorneys and appraisers or other experts necessary to establish the value of the property to be appraised.

1946, p. 279; Michie Suppl. 1946, § 3145(8d); 2001, c. 729; 2006, c. 784.

§ 36-51.1.Requirements for "conservation plan" generally

An authority shall not implement any conservation plan under this law until the governing body of the locality has approved a conservation plan, which provides an outline for the conservation, development or redevelopment of the conservation area, affording maximum opportunity for conservation, rehabilitation or redevelopment by nongovernmental persons or entities consistent with the ends to be achieved, and is sufficiently complete to indicate (i) its relationship to definite local objectives as to appropriate land uses and improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements; (ii) any conditions and limitations on acquisition of property; (iii) proposed land uses for the properties to be acquired; (iv) any conditions and limitations, including time limitation, under which property shall be made available for rehabilitation or redevelopment by public enterprise or nongovernmental persons or entities (by sale, lease or retention by the authority itself); (v) standards of design, construction, maintenance, and use of property and other measures to be taken or recommended toward elimination and prevention of blight and deterioration; (vi) the method for the temporary relocation of any persons living in the conservation area who will be displaced in accordance with the plan, as well as the method of providing (unless already available) decent, safe and sanitary dwellings in such city or county substantially equal in number to the number of substandard dwellings to be cleared from the conservation area, at rents within the financial reach of the income groups displaced from such substandard dwellings; (vii) any limitation on the length of time within which project activities can be undertaken; (viii) a procedure for administrative review of the determination at staff level and prior to a final determination by the authority under § 36-50.1 that an individual property is in violation of project standards and, therefore, subject to condemnation; and (ix) the procedure by which such conservation plan may be amended.

1964, c. 378; 1966, c. 81; 2006, c. 784.

§ 36-52.Cooperation by localities

Any local government shall have the same rights and powers to cooperate with and assist authorities with respect to implementation of conservation or redevelopment plans that such locality has pursuant to §§ 36-6 and 36-7 and any other provision of the Housing Authorities Law.

1946, p. 280; Michie Suppl. 1946, § 3145(8e); 2006, c. 784.

§ 36-52.1.Authority for localities to create conservation or redevelopment areas

A locality has no authority to create conservation or redevelopment areas, except through a redevelopment and housing authority and only in accordance with this chapter.

1964, c. 378; 1966, c. 81; 2006, c. 784.

§ 36-52.2.Acquisition of property prior to adoption of development or conservation plan in certain cities

Whenever the governing body of any city of more than 300,000 population has approved an area for survey and planning preliminary to the adoption of a redevelopment or conservation plan, and the area includes property within such county, city or town duly designated by said governing body for educational, medical center or municipal uses, an authority may acquire such property by deed or by eminent domain.

1968, c. 710.

§ 36-52.3.Adoption and designation of "rehabilitation area."

A. Whenever it appears to the governing body of any locality that a portion of such locality adjacent to an area embraced in a "conservation plan," approved by such body pursuant to § 36-49.1, is in the early stages of deterioration and determines that if not rehabilitated such area is likely to continue to deteriorate and become eligible for designation as a conservation area, such governing body may create a rehabilitation area.

B. No rehabilitation area shall be effective until notice has been sent to the property owner or owners of record in such area in accordance with subsection B of § 36-27 and an ordinance approving such rehabilitation area has been adopted by the local governing body. The ordinance shall outline specific boundaries for the rehabilitation area, establish that the rehabilitation area is adjacent to a conservation area and include such properties as are in need of rehabilitation in such area.

C. An authority is specifically empowered to encourage and assist property owners or occupants within the rehabilitation area so designated to improve their respective holdings, by suggesting improved standards for design, construction, maintenance, renovation and use of such properties and offering encouragement or assistance in other ways including the power to lend money and make grants to said owners or occupants, directed toward prevention and elimination of deteriorating conditions within such area.

D. In executing the powers provided in subsection C, an authority shall have all of the rights, powers and immunities granted in connection with conservation or redevelopment plans pursuant to this chapter except the power to acquire property through the exercise of the power of eminent domain.

1978, c. 360; 2006, c. 784.

§ 36-53.Making property available for conservation or redevelopment

An authority may make land in a conservation or redevelopment area available for purchase or use by nongovernmental persons or entities or public agencies in accordance with the conservation or redevelopment plan. Such land may be made available at its fair value, which represents the value at which the authority determines such land should be made available in order that it may be developed, conserved or redeveloped for the purposes specified in such plan.

To assure that land acquired in a conservation or redevelopment area is used in accordance with the conservation or redevelopment plan, an authority, upon the sale or lease of such land, shall obligate purchasers or lessees: (1) to use the land for the purpose designated in the conservation or redevelopment plan; (2) to begin the building of their improvements within a period of time which the authority fixes as reasonable; and (3) to comply with such other conditions as are necessary to carry out the purposes of this chapter. Any such obligations by the purchaser shall be covenants and conditions running with the land where the authority so stipulates.

1946, p. 280; Michie Suppl. 1946, § 3145(8f); 1970, c. 222; 2006, c. 784.

§ 36-54.Aid from federal government

An authority may borrow money or accept contributions from the federal government to assist in its undertaking redevelopment projects. An authority may do any and all things necessary or desirable to secure such financial aid (including obligating itself in any contract with the federal government for annual contributions to convey to the federal government the project to which the contract relates upon the occurrence of a substantial default thereunder), in the same manner as it may do to secure such aid in connection with slum clearance and housing projects.

1946, p. 280; Michie Suppl. 1946, § 3145(8g).

§ 36-55.Bonds to be legal investments and security

Bonds or other obligations issued by an authority in connection with projects authorized under this chapter shall be security for public deposits and legal investments to the same extent and for the same persons, institutions, associations, corporations and other bodies and officers as bonds or other obligations issued by an authority in connection with the development of slum clearance or housing projects.

1946, p. 280; Michie Suppl. 1946, § 3145(8h); 1964, c. 378.

§ 36-55.1.In certain counties

§ 36-55.1. through 36-55.6. These sections as set forth in Chapter 501 of the Acts of 1960, as amended by Chapter 303 of the Acts of 1973 and Chapter 95 of the Acts of 1975, relating to redevelopment and urban renewal authorities in counties having a density of population in excess of 4,000 per square mile, are incorporated in this Code by this reference.

Regional Industrial Facilities Act, Virginia

§ 15.2-6400.Definitions

As used in this chapter the following words have the meanings indicated:

"Authority" means any regional facility authority organized and existing pursuant to this chapter.

"Board" means the board of directors of an authority.

"Facility" means any structure or park, including real estate and improvements as applicable, for manufacturing, warehousing, distribution, office, or other industrial, residential, recreational or commercial purposes. A facility specifically includes structures or parks that are not owned by an authority or its member localities, but are subject to a cooperative arrangement pursuant to subdivision 13 of § 15.2-6405.

"Governing bodies" means the boards of supervisors of counties and the councils of cities and towns which are members of an authority.

"Member localities" means the counties, cities, and towns, or combination thereof, which are members of an authority.

"Region" means the area within the boundaries of the member localities.

1997, cc. 276, 587, § 15.1-1710; 1999, cc. 540, 804, 820, 837, 882; 2000, cc. 892, 915, 960, 965; 2001, cc. 391, 404; 2003, c. 874; 2004, cc. 603, 640; 2007, cc. 941, 947; 2009, c. 616.

§ 15.2-6401.Findings; purpose; governmental functions

A. The economies of many localities within the region have not kept pace with those of the rest of the Commonwealth. Individual localities in the region often lack the financial resources to assist in the development of economic development projects. Providing a mechanism for localities in the region to cooperate in the development of facilities will assist the region in overcoming this barrier to economic growth. The creation of regional industrial facility authorities will assist this area of the Commonwealth in achieving a greater degree of economic stability.

B. The purpose of a regional industrial facility authority is to enhance the economic base for the member localities by developing, owning, and operating one or more facilities on a cooperative basis involving its member localities.

C. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the region and other areas of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity.

1997, cc. 276, 587, § 15.1-1711.

§ 15.2-6402.Procedure for creation of authorities

The governing bodies of any two or more localities within the region, provided that at least two or more of the localities are cities or counties or a combination thereof, may, in conformance with the procedure set forth herein, create a regional industrial facility authority by adopting ordinances proposing to create an authority which shall (i) set forth the name of the proposed regional industrial facility authority (which shall include the words "industrial facility authority"); (ii) name the member localities; (iii) contain findings that the economic growth and development of the locality and the comfort, convenience and welfare of its citizens require the development of facilities and that joint action through a regional industrial facility authority by the localities which are to be members of the proposed authority will facilitate the development of the needed facilities; and (iv) authorize the execution of an agreement establishing the respective rights and obligations of the member localities with respect to the authority consistent with the provisions of this chapter. However, with regard to Planning Districts 2, 3, 10, 11 and 12, the governing bodies of any two or more localities within the region, provided that one or more of the localities is a city or county, may adopt such an ordinance. Such ordinances shall be filed with the Secretary of the Commonwealth. Upon certification by the Secretary of the Commonwealth that the ordinances required by this chapter have been filed and, upon the basis of the facts set forth therein, satisfy such requirements, the proposed authority shall be and constitute an authority for all of the purposes of this chapter, to be known and designated by the name stated in the ordinances. Upon the issuance of such certificate, the authority shall be deemed to have been lawfully and properly created and established and authorized to exercise its powers under this chapter. Each authority created pursuant to this chapter is hereby created as a political subdivision of the Commonwealth. At any time subsequent to the creation of an authority under this chapter, the membership of the authority may, with the approval of the authority's board, be expanded to include any locality within the region that would have been eligible to be an initial member of the authority. The governing body of a locality seeking to become a member of an existing authority shall evidence its intent to become a member by adopting an ordinance proposing to join the authority that conforms, to the extent applicable, to the requirements for an ordinance set forth in clauses (i), (iii), and (iv) of this section.

1997, cc. 276, 587, § 15.1-1712; 1999, cc. 820, 882; 2000, c. 892; 2001, c. 391; 2002, c. 691; 2006, c. 324; 2018, c. 545.

§ 15.2-6403.Board of the authority

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon an authority shall be exercised by a board of directors. A board shall consist of two members for each member locality. The governing body of each member locality shall appoint two members to the board. Any person who is a resident of the Commonwealth may be appointed to the board. However, if an authority has only two member localities, the governing body of each locality may appoint three members each. However, in any instance in which the member localities are not equally contributing

funding to the authority, and upon agreement by each member locality, the number of appointments to be made by each locality may be based upon the percentage of local funds contributed by each of the member localities. Each member of a board shall serve for a term of four years and may be reappointed for as many terms as the governing body desires. However, the board may elect to provide for staggered terms, in which case some members may draw an initial two-year term. If a vacancy occurs by reason of the death, disqualification or resignation of a board member, the governing body of the member locality that appointed the authority board member shall appoint a successor to fill the unexpired term.

However, with regard to any authority created by Planning Districts 10, 11, and 12, only members of the appointing governing body of each member locality shall be appointed to the board. In the event such board members feel it is necessary to have an odd number of members, they may establish a rotation system that will allow one locality to appoint one extra member to serve for up to two years. Each locality will, in turn, appoint such extra member. Once the cycle is completed, the rotation shall be repeated.

Each member locality may appoint up to two alternate board members. Alternates shall be selected in the same manner as board members, and may serve as an alternate for either board member from the member locality that appoints the alternate. Alternates shall be appointed for terms that coincide with one or more of the board members from the member locality that appoints the alternate. If a board member is not present at a meeting of the authority, the alternate shall have all the voting and other rights of the board member not present and shall be counted for purposes of determining a quorum. Alternates are required to take an oath of office and are entitled to reimbursement for expenses in the same manner as board members.

B. Each member of a board shall, before entering upon the discharge of the duties of his office, take and subscribe to the oath prescribed in § 49-1. Members shall be reimbursed for actual expenses incurred in the performance of their duties from funds available to the authority.

C. A quorum shall exist when a majority of the member localities are represented by at least one member of the board. The affirmative vote of a quorum of the board shall be necessary for any action taken by the board. No vacancy in the membership of a board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board. The board shall determine the times and places of its regular meetings, which may be adjourned or continued, without further public notice, from day to day or from time to time or from place to place, but not beyond the time fixed for the next regular meeting, until the business before the board is completed. Special meetings of a board shall be held when requested by members of the board representing two or more localities. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. A reasonable effort shall be made to provide each member with notice of any special meeting. No matter not specified in the notice shall be

considered at such special meeting unless all the members of the board are present. Special meetings may be adjourned or continued, without further public notice, from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business before the board is completed.

D. Each board shall elect from its membership a chairman for each calendar year. The board may also appoint an executive director and staff who shall discharge such functions as may be directed by the board. The executive director and staff shall be paid from funds received by the authority.

E. Each board, promptly following the close of the fiscal year, shall submit an annual report of the authority's activities of the preceding year to the governing body of each member locality. Each such report shall set forth a complete operating and financial statement covering the operation of the authority during such year.

1997, cc. 276, 587, § 15.1-1713; 1999, cc. 820, 882; 2000, c. 892; 2001, cc. 7, 15, 390, 391; 2002, c. 691; 2006, c. 758; 2014, c. 728.

§ 15.2-6404.Office of authority; title to property

Each board shall maintain the principal office of the authority within a member locality. All records shall be kept at such office. The title to all property of every kind belonging to an authority shall be titled to the authority, which shall hold it for the benefit of its member localities.

1997, cc. 276, 587, § 15.1-1714.

§ 15.2-6405.Powers of the authority

Each authority is vested with the powers of a body corporate, including the power to sue and be sued in its own name, plead and be impleaded, and adopt and use a common seal and alter the same as may be deemed expedient. In addition to the powers set forth elsewhere in this chapter, an authority may:

1. Adopt bylaws, rules and regulations to carry out the provisions of this chapter;

2. Employ, either as regular employees or as independent contractors, consultants, engineers, architects, accountants, attorneys, financial experts, construction experts and personnel, superintendents, managers and other professional personnel, personnel, and agents as may be necessary in the judgment of the authority, and fix their compensation;

3. Determine the locations of, develop, establish, construct, erect, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary or convenient to accomplish the purposes of the authority;

4. Acquire, own, hold, lease, use, sell, encumber, transfer, or dispose of, in its own name, any real or personal property or interests therein;

5. Invest and reinvest funds of the authority;

6. Enter into contracts of any kind, and execute all instruments necessary or convenient with respect to its carrying out the powers in this chapter to accomplish the purposes of the authority;

7. Expend such funds as may be available to it for the purpose of developing facilities, including but not limited to (i) purchasing real estate; (ii) grading sites; (iii) improving, replacing, and extending water, sewer, natural gas, electrical, and other utility lines; (iv) constructing, rehabilitating, and expanding buildings; (v) constructing parking facilities; (vi) constructing access roads, streets, and rail lines; (vii) purchasing or leasing machinery and tools; and (viii) making any other improvements deemed necessary by the authority to meet its objectives;

8. Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the use of facilities or for services rendered in connection with the facilities;

9. Borrow money from any source for any valid purpose, including working capital for its operations, reserve funds, or interest; mortgage, pledge, or otherwise encumber the property or funds of the authority; and contract with or engage the services of any person in connection with any financing, including financial institutions, issuers of letters of credit, or insurers;

10. Issue bonds under this chapter;

11. Accept funds and property from the Commonwealth, persons, counties, cities, and towns and use the same for any of the purposes for which the authority is created;

12. Apply for and accept grants or loans of money or other property from any federal agency for any of the purposes authorized in this chapter and expend or use the same in accordance with the directions and requirements attached thereto or imposed thereon by any such federal agency;

13. Make loans or grants to, and enter into cooperative arrangements with, any person, partnership, association, corporation, business or governmental entity in furtherance of the purposes of this chapter, for the purposes of promoting economic and workforce development, provided that such loans or grants shall be made only from revenues of the authority that have not been pledged or assigned for the payment of any of the authority's bonds, and to enter into such contracts, instruments, and agreements as may be expedient to provide for such loans, and any security therefor. The word "revenues" as used in this subdivision includes grants, loans, funds and property, as set out in subdivisions 11 and 12;

14. Enter into agreements with any other political subdivision of the Commonwealth for joint or cooperative action in accordance with § 15.2-1300; and

15. Do all things necessary or convenient to carry out the purposes of this chapter.

1997, cc. 276, 587, § 15.1-1715; 2002, c. 691; 2003, c. 874.

§ 15.2-6406.Donations to authority; remittance of tax revenue

A. Member localities are hereby authorized to lend or donate money or other property to an authority for any of its purposes. The member locality making the grant or loan may restrict the use of such grants or loans to a specific facility owned by the authority, within or without that member locality.

B. The governing body of the member locality in which a facility owned by an authority is located may direct, by resolution or ordinance, that all tax revenue collected with respect to the facility shall be remitted to the authority. Such revenues may be used for the payment of debt service on bonds of the authority and other obligations of the authority incurred with respect to such facility. The action of such governing body shall not constitute a pledge of the credit or taxing power of such locality.

1997, cc. 276, 587, § 15.1-1716; 2004, cc. 42, 603, 640.

§ 15.2-6407.(Effective until July 1, 2021) Revenue sharing agreements

Notwithstanding the requirements of Chapter 34 (§ 15.2-3400 et seq.) of this title, the member localities may agree to a revenue and economic growth-sharing arrangement with respect to tax revenues and other income and revenues generated by any facility owned by an authority. Such member localities may be located in any jurisdiction participating in the Appalachian Region Interstate Compact or a similar agreement for interstate cooperation for economic and workforce development authorized by law. The obligations of the parties to any such agreement shall not be construed to be debt within the meaning of Article VII, Section 10 of the Constitution of Virginia. Any such agreement shall be approved by a majority vote of the governing bodies of the member localities reaching such an agreement but shall not require any other approval.

1997, cc. 276, 587, § 15.1-1717; 2007, cc. 941, 947.

§ 15.2-6407.(Effective July 1, 2021) Revenue sharing agreements

A. Notwithstanding the requirements of Chapter 34 (§ 15.2-3400 et seq.) of this title, the member localities may agree to a revenue and economic growth-sharing arrangement with respect to tax revenues and other income and revenues generated by any facility owned by an authority. Such member localities may be located in any jurisdiction participating in the Appalachian Region Interstate Compact or a similar agreement for interstate cooperation for economic and workforce development authorized by law. The obligations of the parties to any such agreement shall not be construed to be debt within the meaning of Article VII, Section 10 of the Constitution of Virginia. Any such agreement shall be approved by a majority vote of the governing bodies of the member localities reaching such an agreement but shall not require any other approval.

B. With any such revenue and economic growth-sharing arrangement entered into by localities, the Department of Taxation's calculation of true values as applied to the Commonwealth's composite index of local ability-to-pay shall take into account an agreement whereby a portion of real property tax revenue is initially paid to one locality and redistributed to another locality. Such calculation shall properly apportion the percentage of tax revenue ultimately received by each locality. Each

participating locality shall include in reports to the Department of Taxation of its taxable real estate the apportioned fair market value of the property upon which such revenue sharing is based. The Department of Taxation shall collect annually, from each participating locality, the taxable real estate value used to determine and apportion the fair market value of the property adjustments upon which such revenue sharing is based.

1997, cc. 276, 587, § 15.1-1717; 2007, cc. 941, 947; 2019, c. 534.

§ 15.2-6408.Applicability of land use regulations

In any locality where planning, zoning, and development regulations may apply, an authority shall comply with and is subject to those regulations to the same extent as a private commercial or industrial enterprise.

1997, cc. 276, 587, § 15.1-1718.

§ 15.2-6409.Bond issues; contesting validity of bonds

A. An authority may at any time and from time to time issue bonds for any valid purpose, including the establishment of reserves and the payment of interest. In this chapter, "bonds" includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation.

B. The bonds of any issue shall be payable solely from the property or receipts of the authority, including, but not limited to:

1. Taxes, rents, fees, charges, or other revenues payable to the authority;

2. Payments by financial institutions, insurance companies, or others pursuant to letters or lines of credit, policies of insurance, or purchase agreements;

3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement; and

4. Proceeds of refunding bonds.

C. Bonds shall be authorized by resolution of an authority and may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. The bonds shall:

1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding forty years from their respective dates of issue;

2. Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;

3. Be payable at a time or times, in the denominations and form, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;

4. Be payable in lawful money of the United States at a designated place;

5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides;

6. Be executed by the manual or facsimile signatures of the officers of the authority designated by the authority, which signatures shall be valid at delivery even for one who has ceased to hold office; and

7. Be sold in the manner and upon the terms determined by the authority including private (negotiated) sale.

D. Any resolution or trust agreement may contain provisions which shall be a part of the contract with the holders of the bonds as to:

1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the authority or proceeds or benefits of any contract and conveying or otherwise securing any property rights;

2. Setting aside loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts and sinking funds, and the regulation, investment, and disposition thereof;

3. Limiting the purpose to which, or the investments in which, the proceeds of the sale of any issue of bonds may be applied and restrictions to investments of revenues or bond proceeds in government obligations for which principal and interest are unconditionally guaranteed by the United States of America;

4. Limiting the issuance of additional bonds and the terms upon which additional bonds may be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;

5. Refunding or refinancing outstanding bonds;

6. Providing a procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;

7. Defining the acts or omissions which shall constitute a default in the duties of the authority to bondholders and providing the rights of or remedies for such holders in the event of a default which may include provisions restricting individual right of action by bondholders;

8. Providing for guarantees, pledges of property, letters of credit, or other security, or insurance for the benefit of the bondholders; and

9. Addressing any other matter relating to the bonds which the authority determines appropriate.

E. No member of an authority, member of a board, or any person executing the bonds on behalf of an authority shall be liable personally for the bonds or subject to any personal liability by reason of the issuance of the bonds.

F. An authority may enter into agreements with agents, banks, insurers, or others for the purpose of enhancing the marketability of, or as security for, its bonds.

G. A pledge by an authority of revenues as security for an issue of bonds shall be valid and binding from the time the pledge is made.

The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract or otherwise against an authority, irrespective of whether the person has notice.

No resolution, trust agreement or financing statement, continuation statement, or other instrument adopted or entered into by an authority need be filed or recorded in any public record other than the records of the authority in order to perfect the lien against third persons, regardless of any contrary provision of public general or local law.

H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of bonds issued under this chapter or a trustee acting under a trust agreement entered into under this chapter, may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of Virginia or by any applicable resolution or trust agreement.

I. An authority may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of the bonds. Refunding bonds may be issued for the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, for alleviating impending or actual default and may be issued in one or more series in an amount in excess of that of the bonds to be refunded.

J. For a period of thirty days after the date of the filing with the circuit court having jurisdiction over any of the political subdivisions that are members of the authority and in which the facility or any portion thereof being financed is located a certified copy of the initial resolution of the authority authorizing the issuance of bonds, any person in interest may contest the validity of the bonds, the rates, rents, fees and other charges for the services and facilities furnished by, for the use of, or in connection with, the facility or any portion thereof being financed, the pledge of revenues pledged to payment of the bonds, any provisions that may be recited in any resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, or any matter contained in, provided for or done or to be done pursuant to the foregoing. If such contest is not given within the thirty-day period, the authority to issue bonds, the validity of any other provision contained in the resolution, trust agreement, indenture or

other instrument, and all proceedings in connection with the authorization and the issuance of the bonds shall be conclusively presumed to have been legally taken and no court shall have authority to inquire into such matters and no such contest shall thereafter be instituted.

Upon the delivery of any bonds reciting that they are issued pursuant to this chapter and a resolution or resolutions adopted under this chapter, the bonds shall be conclusively presumed to be fully authorized by all the laws of the Commonwealth and to have been sold, executed and delivered by the authority in conformity with such laws, and the validity of the bonds shall not be questioned by a party plaintiff, a party defendant, the authority, or any other interested party in any court, anything in this chapter or in any other statutes to the contrary notwithstanding.

1997, cc. 276, 587, § 15.1-1719; 2002, c. 691.

§ 15.2-6410.Investments in bonds

Any financial institution, investment company, insurance company or association, and any personal representative, guardian, trustee, or other fiduciary, may legally invest any moneys belonging to them or within their control in any bonds issued by an authority.

1997, cc. 276, 587, § 15.1-1720.

§ 15.2-6411.Bonds exempt from taxation

An authority shall not be required to pay any taxes or assessments of any kind whatsoever, and its bonds, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, shall be exempt at all times from every kind and nature of taxation by this Commonwealth or by any of its political subdivisions, municipal corporations, or public agencies of any kind.

1997, cc. 276, 587, § 15.1-1721.

§ 15.2-6412.Tax revenues of the Commonwealth or any other political subdivision not pledged

Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the Commonwealth of Virginia, or any of its revenues, or the faith and credit of any other political subdivision of the Commonwealth, or any of its revenues, for the payment of any bonds issued by an authority.

1997, cc. 276, 587, § 15.1-1722.

§ 15.2-6413.Forms of accounts and records; audit of same

The accounts and records of an authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises. The accounts and records of an authority shall be subject to

audit pursuant to § 30-140, and the costs of such audit services shall be borne by the authority. An authority's fiscal year shall be the same as the Commonwealth's.

1997, cc. 276, 587, § 15.1-1723.

§ 15.2-6414.Tort liability

No pecuniary liability of any kind shall be imposed on the Commonwealth or on any other political subdivision of the Commonwealth because of any act, agreement, contract, tort, malfeasance or nonfeasance by or on the part of an authority, its agents, servants or employees.

1997, cc. 276, 587, § 15.1-1724.

§ 15.2-6415.Dissolution of authority

A member locality of an authority may withdraw from the authority only (i) upon dissolution of the authority as set forth herein, or (ii) with the majority approval of all other members of such authority, upon a resolution adopted by the governing body of a member locality and after satisfaction of such member locality's legal obligations, including repayment of its portion of any debt incurred, with regard to the authority, or after making contractual provisions for the repayment of its portion of any debt incurred, with regard to the authority, as well as pledging to pay general dues for operation of the authority for the current and succeeding fiscal year following the effective date of withdrawal. No member seeking withdrawal shall retain, without the consent of a majority of the remaining members, any rights to contributions made by such member, to any property held by such authority or to any revenue sharing as allowed by §§ 15.2-6406 and 15.2-6407. Upon withdrawal, the withdrawing member shall also return to the authority any dues or other contributions refunded to such member during its membership in the authority. Whenever the board determines that the purpose for which the authority was created has been substantially fulfilled or is impractical or impossible to accomplish and that all obligations incurred by the authority have been paid or that cash or a sufficient amount of United States government securities has been deposited for their payment, or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the board may adopt resolutions declaring and finding that the authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving such authority may be introduced in the General Assembly. The dissolution of an authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by such authority at the time of such dissolution shall vest in the member localities which have contributed to the authority in proportion to their respective contributions.

1997, cc. 276, 587, § 15.1-1725; 2010, c. 531.

§ 15.2-6416.Chapter liberally construed

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

1997, cc. 276, 587, § 15.1-1726.

Regional Juvenile Detention Commissions

§ 16.1-315.Joint or regional citizen detention commissions authorized

The governing bodies of three or more counties, cities or towns (hereinafter referred to as "political subdivisions") may, by concurrent ordinances or resolutions, provide for the establishment of a joint or regional citizen juvenile detention home, group home or other residential care facility commission. Such commission shall be a public body corporate, with such powers as are set forth in this article.

Code 1950, § 16.1-202.2; 1974, c. 645; 1977, c. 559.

§ 16.1-316.Number and terms of members; admission of additional local governing bodies

A juvenile detention home, group home or other residential care facility commission shall consist of not less than three members and shall be comprised of at least one member from each participating political subdivision. In addition, the participating political subdivisions may provide for the appointment of an alternate for each principal member of such a commission. The alternate members may attend and participate in all meetings of the commission and may vote in the absence of their respective principals. Such members and alternates, if any, shall be appointed, after consultation with the chief judge of the juvenile and domestic relations district court, by the governing body. Neither the chief judge nor any judge of the juvenile and domestic relations district court from his district shall be a member of the commission.

The term of office of all members and alternates, if any, shall be for four years. When additional local governing bodies desire to join the commission, they may do so upon the recommendation of the commission and with the approval of the sponsoring local governing bodies. The number of members which the applicant local governments will be entitled to appoint to such commission and other conditions relating to the expansion of sponsoring membership shall be determined by the agreement entered into between or among the sponsoring local governments and such applicant local governments.

Code 1950, § 16.1-202.3; 1966, c. 509; 1972, cc. 365, 430; 1974, c. 645; 1976, c. 448; 1977, c. 559; 1978, cc. 37, 717; 1984, c. 77; 1988, c. 885; 1992, c. 441; 1998, c. 488.

§ 16.1-317.Quorum; chairman; rules of procedure; compensation

The appointive members of the commission shall constitute the commission, and the powers of the commission shall be vested in and exercised by the members in office from time to time. Neither the chief judge nor any judge of the juvenile and domestic relations district court shall be a member of the commission.

A majority of the members in office shall constitute a quorum. The commission shall elect a chairman, and shall adopt rules and regulations for its own procedure and government. The governing bodies of the participating political subdivisions may by ordinance or resolution provide for the payment of

compensation to the members of the commission and for the reimbursement of their actual expenses incurred in the performance of their duties.

Code 1950, § 16.1-202.4; 1966, c. 509; 1977, c. 559; 1978, cc. 37, 717; 1988, c. 885; 1992, c. 441.

§ 16.1-318.Powers of commission generally; supervision by Director of Department of Juvenile Justice

Each commission created hereunder shall have all powers necessary or convenient for carrying out the general purposes of this article, including the following powers in addition to others herein granted, and subject to such supervision by the Director of the Department of Juvenile Justice as is provided in §§ 16.1-309.4, 16.1-309.9, and 16.1-309.10 of this law:

A. In general. -- To adopt a seal and alter the same at pleasure; to have perpetual succession; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

B. Officers, agents and employees. -- To employ such technical experts, and such other officers, agents and employees as it may require, to fix their qualifications, duties and compensation and to remove such employees at pleasure.

C. Acquisition of property. -- To acquire within the territorial limits of the political subdivisions for which it is formed, by purchase, lease, gift, or exercise of the right of eminent domain, subject to conditions hereinafter set forth, whatever lands, buildings and structures may be reasonably necessary for the purpose of establishing, constructing, enlarging, maintaining and operating one or more juvenile detention homes or facilities for the reception of juveniles committed thereto under the provisions of this chapter; however, such lands, buildings and structures may be acquired by purchase, lease or gift, although not within the territorial limits, if the location thereof is feasible and practicable with relation to the several political subdivisions for which such commission is formed. Such location shall be approved by resolution of the governing bodies of the participating political subdivisions and of the governing body of the political subdivision in which such lands, buildings and structures are to be located, and the consent in writing of the Director of the Department is given thereto.

D. Construction. -- To acquire, establish, construct, enlarge, improve, maintain, equip and operate any juvenile detention home or facility.

E. Rules and regulations for management. -- To make and enforce rules and regulations for the management and conduct of its business and affairs and for the use, maintenance and operation of its facilities and properties.

F. Acceptance of donations. -- To accept gifts and grants from the Commonwealth or any political subdivision thereof, and from the United States and any of its agencies; and to accept donations of

money, personal property or real estate, and take title thereto from any person, firm, corporation or association.

G. Regulations as to juveniles under care. -- To make regulations and policies governing the care, guidance and training of juveniles in such detention facilities.

H. Borrowing. -- To borrow money for any of its corporate purposes and to execute evidences of such indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from funds pledged for that purpose and to provide for the payment of the same and for the rights of the holders thereof. Any city or county participating in the commission may lend, advance or give money or materials or property of any kind to the commission.

I. Issuance of revenue bonds. -- To issue revenue bonds in accordance with, and subject to the terms and conditions of § 53.1-95.10, in the same manner in which jail authorities are authorized to issue such bonds.

Bonds issued under the provisions of this section shall not be deemed to constitute a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof. All such bonds shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any county, city, town, or other subdivision of the Commonwealth is pledged to the payment of the principal of or the interest on such bonds. The issuance of bonds under the provisions of this section shall not directly, indirectly or contingently obligate the Commonwealth or any county, city, town, or other subdivision of the Commonwealth to levy any taxes whatever therefor or to make any appropriation for their payment except from the funds pledged under the provisions of this section. Any reimbursement payments made pursuant to § 16.1-309.5 for juvenile detention homes or facilities for which bonds are issued pursuant to this section shall not (i) exceed the maximum reimbursement limits established by the Board of Juvenile Justice or (ii) include any sums for the payment of interest costs incurred by the Commission in connection with the issuance of such bonds.

Code 1950, § 16.1-202.5; 1964, Ex. Sess., c. 21; 1974, cc. 44, 45; 1977, c. 559; 1989, c. 733; 1993, c. 833; 1995, cc. 696, 699; 1997, c. 752.

§ 16.1-319.Acquisition of property by commission

The commission shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of this article, after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use; provided, however, that no such real property shall be so acquired or such facility established within the territorial limits of such political subdivision without the approval, after public hearing, of the governing body of such political subdivision.

Subject to the provisions of § 25.1-102, property already devoted to a public use may be acquired, provided, that no property belonging to any county or city, religious corporation, unincorporated church or charitable corporation may be acquired without its consent.

Code 1950, § 16.1-202.6; 1977, c. 559; 2003, c. 940; 2006, c. 673.

§ 16.1-320.Property of commission exempt from execution and judgment liens

All property of the commission shall be exempt from levy and sale by virtue of an execution. No judgment against the commission shall be a charge or lien upon its property, real or personal.

Code 1950, § 16.1-202.7; 1977, c. 559.

§ 16.1-321.Appropriations by political subdivisions; issuance of bonds

The political subdivisions for which the commission is created are authorized to make appropriations to the commission from available funds for the construction, improvement, maintenance and operation of any juvenile detention facility operated or proposed to be operated by the commission; and subject to other applicable provisions of law may issue general obligation bonds and appropriate the proceeds thereof for capital costs of such facility.

Code 1950, § 16.1-202.8; 1977, c. 559.

§ 16.1-322.Record of commission; reports

The commission shall keep and preserve complete records of its administrative operations and transactions, which records shall be open to inspection by the participating political subdivisions at all times. It shall make reports to such subdivisions annually, and at such other times as they may require.

Code 1950, § 16.1-202.9; 1977, c. 559.

§ 16.1-323.Governor to execute; form of compact

The Governor of Virginia is hereby authorized and requested to execute, on behalf of the Commonwealth of Virginia, with any other state or states legally joining therein, a compact which shall be in form substantially as follows:

Article I. Purpose.

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress by enacting the Crime Control Act, 4 U.S.C. § 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states, to (i) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state; (ii) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected; (iii) return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return; (iv) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services; (v) provide for the effective tracking and supervision of juveniles; (vi) equitably allocate the costs, benefits and obligations of the compacting states; (vii) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency that has jurisdiction over juvenile offenders; (viii) ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; (ix) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact; (x) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators; (xi) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance; (xii) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and (xiii) coordinate the implementation and operation of the compact with the Interstate Compact on the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

Article II. Definitions.

As used in this compact, unless the context clearly requires a different construction:

"Bylaws" means those bylaws established by the Interstate Commission for its governance or for directing or controlling its actions or conduct.

"Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

"Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the state council under this compact.

"Compacting state" means any state that has enacted the enabling legislation for this compact.

"Court" means any court having jurisdiction over delinquent, neglected, or dependent children.

"Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a compact administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the state council under this compact.

"Interstate Commission" means the Interstate Commission for Juveniles created by Article III of this compact.

"Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

1. Accused delinquent: a person charged with an offense that, if committed by an adult, would be a criminal offense;

2. Accused status offender: a person charged with an offense that would not be a criminal offense if committed by an adult;

3. Adjudicated delinquent: a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

4. Adjudicated status offender: a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

5. Nonoffender: a person in need of supervision who has not been accused of being or adjudicated a status offender or delinquent.

"Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

"Probation or parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

"Rule" means a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision

of the compact, or an organizational, procedural, or practice requirement of the commission, that has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

"State" means a state of the United States, the District of Columbia or its designee, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Northern Marianas Islands.

Article III. Interstate Commission for Juveniles.

A. The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein and additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

B. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created in Article IX. The commissioner shall be the compact administrator, deputy compact administrator, or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

C. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations. Such noncommissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact on the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the Interstate Commission shall be ex officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional ex officio (nonvoting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

D. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

E. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administer enforcement and compliance with the provisions of the compact, its bylaws, and rules; and perform other duties as directed by the Interstate Commission or set forth in the bylaws.

G. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specific meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

H. The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent that they would adversely affect personal privacy rights or proprietary interests.

I. Public notice shall be given of all meetings, and all meetings shall be open to the public except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by statute;

3. Disclose trade secrets or commercial or financial information that is privileged or confidential;

4. Involve accusing any person of a crime or formally censuring any person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law-enforcement purposes;

7. Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

8. Disclose information the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

9. Specifically relate to the Interstate Commission's issuance of a subpoena or its participation in a civil action or other legal proceeding.

J. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes that shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in the minutes.

K. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules that shall specify the data to be collected, the means of collection and data exchange, and reporting requirements. Such methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

Article IV. Powers and Duties of the Interstate Commission.

The commission shall have the following powers and duties:

1. To provide for dispute resolution among compacting states;

2. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

3. To oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission;

4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

5. To establish and maintain offices that shall be located within one or more of the compacting states;

6. To purchase and maintain insurance and bonds;

7. To borrow, accept, hire, or contract for services of personnel;

8. To establish and appoint committees and hire staff that it deems necessary for carrying out its functions including but not limited to an executive committee as required by Article III that shall have

the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder;

9. To elect or appoint such officers, attorneys, employees, agents, or consultants and to fix their compensation, define their duties and determine their qualifications and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel;

10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it;

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed;

12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

13. To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact;

14. To sue and be sued;

15. To adopt a seal and bylaws governing the management and operation of the Interstate Commission;

16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact;

17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission;

18. To coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity;

19. To establish uniform standards of the reporting, collecting, and exchanging of data; and

20. To maintain its corporate books and records in accordance with the bylaws.

Article V. Organization and Operation of the Interstate Commission.

A. Bylaws.

1. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to:

a. Establishing the fiscal year of the Interstate Commission;

b. Establishing an executive committee and such other committees as may be necessary;

c. Providing for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;

d. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;

e. Establishing the titles and responsibilities of the officers of the Interstate Commission;

f. Providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all its debts and obligations;

g. Providing start-up rules for initial administration of the compact; and

h. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

B. Officers and staff.

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairman and a vice-chairman, each of whom shall have such authority and duties as may be specified in the bylaws. The chairman or, in the chairman's absence or disability, the vice-chairman shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission but shall not be a member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

C. Qualified immunity, defense and indemnification.

1. The commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by, arising out of, or relating to any actual or alleged act, error, or omission that occurred or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; however, any such person shall not be

protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner or the employee or agent of a commissioner, acting within the scope of such person's employment or duties, for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. Nothing in this subdivision shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

3. The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. The Interstate Commission shall indemnify and hold the commissioner of a compacting state, the commissioner's representatives or employees, or the Interstate Commission's representatives or employees harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

Article VI. Rulemaking Functions of the Interstate Commission.

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the Model State Administrative Procedure Act, 1981 Act, Uniform Laws Annotated, vol. 15, p. 1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text, stating the reasons for that proposed rule;

2. Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record and be made publicly available;

3. Provide an opportunity for an informal hearing if petitioned by 10 or more persons; and

4. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties.

D. Allow, not later than 60 days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the federal district court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedure Act.

E. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

F. The existing rules governing the operation of the Interstate Compact on Juveniles superseded by this act shall be null and void 12 months after the first meeting of the Interstate Commission created hereunder.

G. Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to the rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

Article VII. Oversight, Enforcement and Dispute Resolution by the Interstate Commission.

A. Oversight.

1. The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states that might significantly affect compacting states.

2. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized

statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.

B. Dispute resolution.

1. The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

2. The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues that are subject to the compact and that may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

3. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any means set forth in Article XI of this compact.

Article VIII. Finance.

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff that shall be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states that governs said assessment.

C. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet them; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

Article IX. The State Council.

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership shall include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator, or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to development of policy concerning operations and procedures of the compact within that state.

Article X. Compacting States, Effective Date and Amendment.

A. Any state, the District of Columbia or its designee, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands are eligible to become a compacting state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment of the compact into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

C. The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Article XI. Withdrawal, Default, Termination, and Judicial Enforcement.

A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

2. The effective date of withdrawal is the effective date of the repeal.

3. The withdrawing state shall immediately notify the chairman of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate

Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations the performance of which extends beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state's reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Technical assistance, fines, suspension, termination, and default.

1. If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the bylaws, or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

a. Remedial training and technical assistance as directed by the Interstate Commission;

b. Alternative dispute resolution;

c. Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; and

d. Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include but are not limited to failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws, or duly promulgated rules and any other grounds designated in commission bylaws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state shall cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

2. Within 60 days of the effective date of the termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council.

3. The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including any obligations the performance of which extends beyond the effective date of termination.

4. The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

C. Judicial enforcement.

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules, and bylaws, against any compacting state in default. In the event that judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

D. Dissolution of compact.

1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

Article XII. Severability and Construction.

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

Article XIII. Binding Effect of Compact and Other Laws.

A. Other laws.

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

2. All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

B. Binding effect of the compact.

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting states.

2. All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

3. When there is a conflict over meaning or interpretation of Interstate Commission, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation upon the request of a party to the conflict and upon a majority vote of the compacting states.

4. In the event that any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective, and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Code 1950, § 16.1-213.1; 1977, c. 559; 2007, cc. 277, 387.

§ 16.1-323.1.State Council for Interstate Compact for Juveniles

A. The Virginia Council for the Interstate Compact for Juveniles (the Council) is created as a policy council, within the meaning of § 2.2-2100, in the executive branch of state government. The Council shall consist of five members:

1. One representative of the legislative branch appointed by the Joint Rules Committee;

2. One representative of the judicial branch appointed by the Chief Justice of the Supreme Court;

3. One representative of the executive branch appointed by the Governor;

4. One nonlegislative citizen member, representing a victims' group appointed by the Governor; and

5. One nonlegislative citizen member who in addition to serving as a member of the Council shall serve as the compact administrator for Virginia, appointed by the Governor.

The appointments shall be subject to confirmation by the General Assembly. The legislative members and other state officials appointed to the Council shall serve terms coincident with their terms of office. Members who are not state officials shall be appointed for four-year terms. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

B. The Council shall appoint the compact administrator as the Virginia commissioner to the Interstate Commission. The Virginia commissioner shall serve on the Interstate Commission in such capacity under or pursuant to the applicable laws of this Commonwealth.

C. The Council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by the Council, including development of policies concerning operations and procedures of the compact within Virginia.

D. The Council shall elect a chairman and vice-chairman annually. A majority of the members of the Council shall constitute a quorum. Meetings of the Council shall be held at the call of the chairman or whenever the majority of the members so request.

E. Legislative members of the Council shall receive such compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department of Juvenile Justice.

F. The Department of Juvenile Justice shall provide staff support to the Council.

2007, cc. 277, 387.

Resources Authority, Virginia

§ 62.1-197.Short title

This chapter shall be known and may be cited as the Virginia Resources Authority Act.

1984, c. 699; 1985, c. 67.

§ 62.1-198.Legislative findings and purposes

The General Assembly finds that there exists in the Commonwealth a critical need for additional sources of funding to finance the present and future needs of the Commonwealth for water supply; land conservation or land preservation including land for parks and other recreational purposes; oyster restoration projects, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters; wastewater treatment facilities; drainage facilities; solid waste treatment, disposal and management facilities; recycling facilities; resource recovery facilities; energy conservation and energy efficiency projects; professional sports facilities; certain heavy rail transportation facilities; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties, including properties contaminated by defective drywall; the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail; construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure; site acquisition and site development work for economic and community development projects; recovered gas energy facilities; the location or retention of federal facilities in the Commonwealth and the support of the transition of former federal facilities from use by the federal government to other uses; and renewable energy projects, including solar, wind, biomass, waste-to-energy, and geothermal. This need can be alleviated in part through the creation of a resources authority. Its purpose is to encourage the investment of both public and private funds and to make loans, grants, and credit enhancements available to local governments to finance water and sewer projects, land conservation or land preservation programs or projects, oyster restoration projects, drainage projects, solid waste treatment, disposal and management projects, recycling projects, energy conservation and energy efficiency projects, professional sports facilities, resource recovery projects, public safety facilities, airport facilities, the remediation of brownfields and contaminated properties including properties contaminated by defective drywall, the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail, site acquisition and site development work for the benefit of economic development projects, technology, construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure, infrastructure for broadband services, recovered gas energy facilities, federal facilities or former federal facilities, and renewable energy projects. The General Assembly determines that the creation

of an authority for this purpose is in the public interest, serves a public purpose and will promote the health, safety, welfare, convenience or prosperity of the people of the Commonwealth.

1984, c. 699; 1989, cc. 533, 551; 1990, c. 506; 1998, c. 399; 2000, c. 790; 2001, cc. 652, 661; 2003, c. 561; 2005, cc. 727, 769; 2007, cc. 81, 649, 663; 2008, cc. 3, 24, 238, 259, 504, 605, 613; 2009, cc. 14, 246, 311, 543, 632; 2010, cc. 42, 724, 820; 2011, c. 270.

§ 62.1-199.Definitions

As used in this chapter, unless a different meaning clearly appears from the context:

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions or any other obligations of the Authority for the payment of money.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements, real estate appraisals, site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment, the reasonable costs of financing incurred by the local government in the course of the development of the project, including the cost of any credit enhancements, carrying charges incurred before placing the project in service, interest on local obligations issued to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, the funding of accounts and reserves which the Authority may require and the cost of other items which the Authority determines to be reasonable and necessary. It also includes the amount of any contribution, grant or aid which a local government may make or give to any adjoining state, the District of Columbia or any department, agency or instrumentality thereof to pay the costs incident and necessary to the accomplishment of any project, including, without limitation, the items set forth above. The term also includes interest and principal payments pursuant to any installment purchase agreement.

"Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees and other forms of collateral or security.

"Defective drywall" means the same as that term is defined in § 36-156.1.

"Federal facility" means any building or infrastructure used or to be used by the federal government, including any building or infrastructure located on lands owned by the federal government.

"Federal government" means the United States of America, or any department, agency or instrumentality, corporate or otherwise, of the United States of America.

"Former federal facility" means any federal facility formerly used by the federal government or in transition from use by the federal government to a facility all or part of which is to serve any local government.

"Local government" means any county, city, town, municipal corporation, authority, district, commission or political subdivision created by the General Assembly or pursuant to the Constitution and laws of the Commonwealth or any combination of any two or more of the foregoing.

"Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, leases, credit enhancements, or any other obligations of a local government for the payment of money.

"Minimum capital reserve fund requirement" means, as of any particular date of computation, the amount of money designated as the minimum capital reserve fund requirement which may be established in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any outstanding issue of bonds or credit enhancement.

"Project" means (i) any water supply or wastewater treatment facility, including a facility for receiving and stabilizing septage or a soil drainage management facility, and any solid waste treatment, disposal, or management facility, recycling facility, federal facility or former federal facility, or resource recovery facility located or to be located in the Commonwealth, the District of Columbia, or any adjoining state, all or part of which facility serves or is to serve any local government, and (ii) any federal facility located or to be located in the Commonwealth, provided that both the Board of Directors of the Authority and the governing body of the local government receiving the benefit of the loan, grant, or credit enhancement from the Authority make a determination or finding to be embodied in a resolution or ordinance that the undertaking and financing of such facility is necessary for the location or retention of such facility and the related use by the federal government in the Commonwealth. The term includes, without limitation, water supply and intake facilities; water treatment and filtration facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface and ground water) collection, treatment, and disposal facilities; drainage facilities and projects; solid waste treatment, disposal, or management facilities; recycling

facilities; resource recovery facilities; related office, administrative, storage, maintenance, and laboratory facilities; and interests in land related thereto. The term also includes energy conservation measures and facility technology infrastructure as defined in § 11-34.2 and other energy objectives as defined in § 67-101. The term also means any heavy rail transportation facilities operated by a transportation district created under the Transportation District Act of 1964 (§ 33.2-1900 et seq.) that operates heavy rail freight service, including rolling stock, barge loading facilities, and any related marine or rail equipment. The term also means, without limitation, the design and construction of roads, the construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail. In addition, the term means any project as defined in § 5.1-30.1 and any professional sports facility, including a major league baseball stadium as defined in § 15.2-5800, provided that the specific professional sports facility projects have been designated by the General Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities, and technology infrastructure designed to provide broadband service. The term also means facilities supporting, related to, or otherwise used for public safety, including but not limited to law-enforcement training facilities and emergency response, fire, rescue, and police stations. The term also means the remediation, redevelopment, and rehabilitation of property contaminated by the release of hazardous substances, hazardous wastes, solid wastes, or petroleum, where such remediation has not clearly been mandated by the United States Environmental Protection Agency, the Department of Environmental Quality, or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived. The term also means any program or project for land conservation, parks, park facilities, land for recreational purposes, or land preservation, including but not limited to any program or project involving the acquisition of rights or interests in land for the conservation or preservation of such land. The term also means any dredging program or dredging project undertaken to benefit the economic and community development goals of a local government but does not include any dredging program or dredging project undertaken for or by the Virginia Port Authority. The term also means any oyster restoration project, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters. The term also means any program or project to perform site acquisition or site development work for the benefit of economic and community development projects for any local government. The term also means any undertaking by a local government to build or facilitate the building of a recovered gas energy facility; and any local government renewable energy project, including solar, wind, biomass, waste-to-energy, and geothermal projects. The term also means any undertaking by a local government to facilitate the remediation of residential properties

contaminated by the presence of defective drywall.

"Recovered gas energy facility" means a facility, located at or adjacent to (i) a solid waste management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of treating sewage and wastewater for discharge to state waters, which facility or work is constructed and operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in the solid waste management facility or sewerage system or sewage treatment work and (b) either using such gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off premises for sale or delivery to commercial or industrial purchasers or to a public utility or locality.

1984, c. 699; 1985, c. 67; 1986, c. 331; 1987, cc. 117, 133; 1989, cc. 533, 551; 1990, c. 506; 1998, c. 399; 1999, c. 897; 2000, c. 790; 2001, cc. 652, 661; 2005, cc. 727, 769; 2007, cc. 81, 649, 663; 2008, cc. 3, 24, 238, 259, 504, 605, 613; 2009, cc. 14, 246, 311, 543, 632; 2010, cc. 42, 724, 820; 2011, cc. 270, 616; 2018, c. 153.

§ 62.1-200.Creation of Authority

The Virginia Resources Authority is created, with the duties and powers set forth in this chapter, as a public body corporate and as a political subdivision of the Commonwealth. The exercise by the Authority of the duties and powers conferred by this chapter shall be deemed to be the performance of an essential governmental function of the Commonwealth.

1984, c. 699; 1985, c. 67.

§ 62.1-201.Board of Directors

A. All powers, rights and duties conferred by this chapter or other provisions of law upon the Authority shall be exercised by a board of directors consisting of the State Treasurer or his designee, the State Health Commissioner or his designee, the Director of the Department of Environmental Quality or his designee, the Director of the Department of Aviation or his designee, and seven members appointed by the Governor, subject to confirmation by the General Assembly. The members of the Board of Directors appointed by the Governor shall serve terms of four years each, except that the original terms of three members appointed by the Governor shall end on June 30, 1985, 1986, and 1987, respectively, as designated by the Governor. Any appointment to fill a vacancy on the Board of Directors shall be made for the unexpired term of the member whose death, resignation or removal created the vacancy. All members of the Board of Directors shall be residents of the Commonwealth. Members may be appointed to successive terms on the Board of Directors. Each member of the Board of Directors shall be reimbursed for his or her reasonable expenses incurred in attendance at meetings or when otherwise engaged in the business of the Authority and shall be compensated at

the rate provided in § 2.2-2813 for each day or portion thereof in which the member is engaged in the business of the Authority.

B. The Governor shall designate one member of the Board of Directors as chairman; he shall be the chief executive officer of the Authority. The Board of Directors may elect one member as vice-chairman; he shall exercise the powers of chairman in the absence of the chairman or as directed by the chairman. The State Treasurer or his designee, the Director of the Department of Environmental Quality or his designee, the Director of the Department of Aviation or his designee, and the State Health Commissioner or his designee shall not be eligible to serve as chairman or vice-chairman.

C. Meetings of the Board of Directors shall be held at the call of the chairman or of any five members. Six members of the Board of Directors shall constitute a quorum for the transaction of the business of the Authority. An act of the majority of the members of the Board of Directors present at any regular or special meeting at which a quorum is present shall be an act of the Board of Directors. No vacancy on the Board of Directors shall impair the right of a majority of a quorum of the members of the Board of Directors to exercise all the rights and perform all the duties of the Authority.

D. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall have forfeited his or her office or employment by reason of acceptance of membership on the Board of Directors or by providing service to the Authority.

1984, c. 699; 1989, cc. 533, 551; 1992, c. 887; 2000, cc. 38, 197; 2012, cc. 114, 242.

§ 62.1-202.Appointment and duties of Executive Director

The Governor shall appoint an Executive Director of the Authority, who shall report to, but not be a member of, the Board of Directors. The Executive Director shall serve as the ex officio secretary of the Board of Directors and shall administer, manage and direct the affairs and activities of the Authority in accordance with the policies and under the control and direction of the Board of Directors. He shall attend meetings of the Board of Directors, shall keep a record of the proceedings of the Board of Directors and shall maintain and be custodian of all books, documents and papers of the Authority, the minute book of the Authority and its official seal. He may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that the copies are true copies, and all persons dealing with the Authority may rely upon the certificates. He shall also perform other duties as instructed by the Board of Directors in carrying out the purposes of this chapter. He shall execute a surety bond in a penalty sum determined by the Board of Directors. The surety bond shall be executed by a surety company authorized to transact business in the Commonwealth and shall be conditioned upon the faithful performance of the duties of the office.

1984, c. 699; 1994, c. 684.

§ 62.1-203.Powers of Authority

The Authority is granted all powers necessary or appropriate to carry out and to effectuate its purposes, including the following:

1. To have perpetual succession as a public body corporate and as a political subdivision of the Commonwealth;

2. To adopt, amend and repeal bylaws, and rules and regulations, not inconsistent with this chapter for the administration and regulation of its affairs and to carry into effect the powers and purposes of the Authority and the conduct of its business;

3. To sue and be sued in its own name;

4. To have an official seal and alter it at will although the failure to affix this seal shall not affect the validity of any instrument executed on behalf of the Authority;

5. To maintain an office at any place within the Commonwealth which it designates;

6. To make and execute contracts and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;

7. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its properties and assets;

8. To employ officers, employees, agents, advisers and consultants, including without limitations, attorneys, financial advisers, engineers and other technical advisers and public accountants and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation without the approval of any other agency or instrumentality;

9. To procure insurance, in amounts and from insurers of its choice, or provide self-insurance, against any loss, cost, or expense in connection with its property, assets or activities, including insurance or self-insurance against liability for its acts or the acts of its directors, employees or agents and for the indemnification of the members of its Board of Directors and its employees and agents;

10. To procure credit enhancements from any public or private entities, including any department, agency or instrumentality of the United States of America or the Commonwealth, for the payment of any bonds issued by the Authority, including the power to pay premiums or fees on any such credit enhancements;

11. To receive and accept from any source aid, grants and contributions of money, property, labor or other things of value to be held, used and applied to carry out the purposes of this chapter subject to the conditions upon which the aid, grants or contributions are made;

12. To enter into agreements with any department, agency or instrumentality of the United States of America or, the Commonwealth, the District of Columbia or any adjoining state for the purpose of planning, regulating and providing for the financing of any projects;

13. To collect, or to authorize the trustee under any trust indenture securing any bonds or any other fiduciary to collect, amounts due under any local obligations owned or credit enhanced by the Authority, including taking the action required by § 15.2-2659 or 62.1-216.1 to obtain payment of any unpaid sums;

14. To enter into contracts or agreements for the servicing and processing of local obligations owned by the Authority;

15. To invest or reinvest its funds as provided in this chapter or permitted by applicable law;

16. Unless restricted under any agreement with holders of bonds, to consent to any modification with respect to the rate of interest, time and payment of any installment of principal or interest, or any other term of any local obligations owned by the Authority;

17. To establish and revise, amend and repeal, and to charge and collect, fees and charges in connection with any activities or services of the Authority;

18. To do any act necessary or convenient to the exercise of the powers granted or reasonably implied by this chapter; and

19. To pledge as security for the payment of any or all bonds of the Authority, all or any part of the Capital Reserve Fund or other reserve fund or account transferred to a trustee for such purpose from the Water Facilities Revolving Fund pursuant to § 62.1-231, from the Water Supply Revolving Fund pursuant to § 62.1-240, from the Virginia Solid Waste or Recycling Revolving Fund pursuant to § 62.1-241.9, from the Virginia Airports Revolving Fund pursuant to § 5.1-30.6, from the Dam Safety, Flood Prevention and Protection Assistance Fund pursuant to § 10.1-603.17, or from the Virginia Tobacco Region Revolving Fund pursuant to § 3.2-3117. Notwithstanding the foregoing, any such transfer from the Virginia Tobacco Region Revolving Fund may be pledged to secure only those bonds of the Authority issued to finance or refinance projects located in the tobacco-dependent communities in the Southside and Southwest regions of Virginia.

1984, c. 699; 1985, c. 67; 1986, c. 415; 1987, cc. 117, 133, 324; 1994, c. 684; 1998, c. 399; 1999, c. 897; 2003, c. 561; 2006, cc. 648, 765; 2011, c. 616; 2015, cc. 399, 433.

§ 62.1-204.Power to borrow money and issue bonds and credit enhancements

The Authority shall have the power to borrow money and issue its bonds in amounts the Authority determines to be necessary or convenient to provide funds to carry out its purposes and powers and to pay all costs and expenses incurred in connection with the issuance of bonds. The Authority shall also have the power to issue credit enhancements with respect to local obligations issued to finance or refinance the cost of any project. The total outstanding aggregate principal amount of bonds issued by the Authority and local obligations guaranteed by the Authority pursuant to credit enhancements,

that in either case are secured by a capital reserve fund pursuant to the provisions of § 62.1-215, shall not exceed the sum of $1.5 billion without prior approval of the General Assembly.

Notwithstanding the foregoing, the Authority shall not exceed the sum of eight million dollars in the total principal amount of bonds outstanding at any one time for the purpose of financing any heavy rail transportation facilities.

1984, c. 699; 1985, c. 67; 1989, cc. 533, 551; 1990, c. 506; 1994, c. 684; 1998, c. 399; 1999, c. 104; 2001, c. 574; 2009, c. 324.

§ 62.1-205.Power to issue refunding bonds

The Authority shall have the power: (i) to issue bonds to renew or to pay bonds, including the interest, (ii) whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and (iii) to issue bonds partly to refund bonds then outstanding and partly for its corporate purposes. The refunding bonds may be exchanged for the bonds to be refunded or they may be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded. The amount of the bonds issued by the Authority and refunded with proceeds of refunding bonds issued hereunder shall not be included in the total of outstanding bonds for purposes of the limit on the amount of bonds issued by the Authority as provided in § 62.1-204.

1984, c. 699; 1994, c. 684.

§ 62.1-206.Sources of payment and security for bonds and credit enhancements

The Authority shall have the power to pledge any revenue or funds of or under the control of the Authority to the payment of its bonds and credit enhancements, subject only to any prior agreements with the holders of particular bonds or the beneficiaries of particular credit enhancements pledging money or revenue. Bonds or credit enhancements issued by the Authority may be secured by a pledge of any local obligation owned by the Authority, any grant, contribution or guaranty from the United States of America, the Commonwealth or any corporation, association, institution or person, any other property or assets of or under the control of the Authority, or a pledge of any money, income or revenue of the Authority from any source.

1984, c. 699; 1985, c. 67; 1986, c. 415; 1998, c. 399.

§ 62.1-207.Liability of Commonwealth, political subdivisions and members of board of directors

No bonds or credit enhancements issued by the Authority under this chapter shall constitute a debt or a pledge of the faith and credit of the Commonwealth, or any political subdivision thereof other than the Authority, but shall be payable solely from the revenue, money or property of the Authority as provided for in this chapter. No member of the board of directors or officer, employee or agent of the Authority or any person executing bonds or credit enhancements of the Authority shall be liable personally on the bonds or credit enhancements by reason of their issuance or execution. Each bond

or credit enhancement issued under this chapter shall contain on its face a statement to the effect (i) that neither the Commonwealth, nor any political subdivision thereof, nor the Authority shall be obligated to pay the principal of, or interest or premium on, the bond or credit enhancement or other costs incident to the bond or credit enhancement except from the revenue, money or property of the Authority pledged and (ii) that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of or interests or premium on the bond or credit enhancement.

1984, c. 699; 1998, c. 399.

§ 62.1-208.Authorization, content and sale of bonds and credit enhancements

A. The bonds and credit enhancements of the Authority shall be authorized by a resolution of the Board of Directors.

B. The bonds shall bear the date or dates and mature at the time or times that the resolution provides, except that no bond shall mature more than fifty years from its date of issue. The bonds may be in the denominations, be executed in the manner, be payable in the medium of payment, be payable at the place or places and at the time or times, and be subject to redemption or repurchase and contain such other provisions as may be determined by the Authority prior to their issuance. The bonds may bear interest payable at such time or times and at such rate or rates as determined by the Authority or as determined in such manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by it. Bonds may be sold by the Authority at public or private sale at the price or prices that the Authority determines and approves.

C. The Authority may bring action pursuant to Article 6 (§ 15.2-2650 et seq.) of Chapter 26 of Title 15.2 to determine the validity of any issuance or proposed issuance of its bonds or credit enhancements under this chapter and the legality and validity of all proceedings previously taken, or proposed in a resolution of the Authority to be taken, for the authorization, issuance, sale and delivery of bonds or credit enhancements and for the payment of the principal of and premium, if any, and interest on bonds or payments of amounts due under credit enhancements of the Authority.

1984, c. 699; 1985, c. 67; 1998, c. 399.

§ 62.1-209.Provisions of resolution or trust indenture authorizing issuance of bonds

A. Bonds may be secured by a trust indenture between the Authority and a corporate trustee, which may be any bank having the power of a trust company or any trust company within or without the Commonwealth. A trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the exercise of its powers and the custody, safekeeping and application of all money. The Authority may provide by the trust indenture for the payment of the proceeds of the bonds and all or any part of the revenues of the Authority to the

trustee under the trust indenture or to some other depository, and for the method of their disbursement with whatever safeguards and restrictions as the Authority specifies. All expenses incurred in carrying out the trust indenture may be treated as part of the operating expenses of the Authority.

B. Any resolution or trust indenture pursuant to which bonds are issued may contain provisions, which shall be part of the contract or contracts with the holders of such bonds as to:

1. Pledging all or any part of the revenue of the Authority to secure the payment of the bonds, subject to any agreements with bondholders that then exist;

2. Pledging all or any part of the assets of, or funds under control of the Authority, including local obligations owned by the Authority, to secure the payment of the bonds, subject to any agreements with bondholders that then exist;

3. The use and disposition of the gross income from, and payment of the principal of and premium, if any, and interest on local obligations owned by the Authority;

4. The establishment of reserves, sinking funds and other funds and accounts and the regulation and disposition thereof;

5. Limitations on the purposes to which the proceeds from the sale of the bonds may be applied, and limitations pledging the proceeds to secure the payment of the bonds;

6. Limitations on the issuance of additional bonds, the terms on which additional bonds may be issued and secured, and the refunding of outstanding or other bonds;

7. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds, if any, the holders of which must consent thereto, and the manner in which any consent may be given;

8. Limitations on the amount of money to be expended by the Authority for operating expenses of the Authority;

9. Vesting in a trustee or trustees any property, rights, powers and duties in trust that the Authority may determine, and limiting or abrogating the right of bondholders to appoint a trustee or limit the rights, powers and duties of the trustees;

10. Defining the acts or omissions which shall constitute a default, the obligations or duties of the Authority to the holders of the bonds, and the rights and remedies of the holders of the bonds in the event of default, including as a matter of right the appointment of a receiver; these rights and remedies may include the general laws of the Commonwealth and other provisions of this chapter;

11. Requiring the Authority or the trustees under the trust indenture to file a petition with the Governor and to take any and all other actions required under § 15.2-2659 or 62.1-216.1 to obtain payment of all

unpaid sums on local obligations owned by the Authority or held by a trustee to which § 15.2-2659 or § 62.1-216.1 shall be applicable; and

12. Any other matter, of like or different character, relating to the terms of the bonds or the security or protection of the holders of the bonds.

1984, c. 699; 1986, c. 415; 1997, c. 319; 1998, c. 399; 2003, c. 561; 2011, c. 616.

§ 62.1-210.Pledge by Authority

Any pledge made by the Authority shall be valid and binding from the time when the pledge is made. The revenue, money or property so pledged and thereafter received by the Authority shall immediately be subject to the lien of such a pledge without any physical delivery thereof or further act. Furthermore, the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether the parties have notice of the pledge. No recording or filing of the resolution authorizing the issuance of bonds or credit enhancements, the trust indenture securing bonds or any other instrument, including filings under Title 8.9A (§ 8.9A-101 et seq.) of the Uniform Commercial Code of Virginia, shall be necessary to create or perfect any pledge or security interest granted by the Authority to secure any bonds or credit enhancements.

1984, c. 699; 1998, c. 399.

§ 62.1-211.Purchase of bonds by Authority

The Authority, subject to such agreements with bondholders as may then exist, shall have the power to purchase bonds of the Authority out of any available funds, at any reasonable price. If the bonds are then redeemable, this price shall not exceed the redemption price then applicable plus accrued interest to the next interest payment date.

1984, c. 699.

§ 62.1-212.Bonds as negotiable instruments

Whether or not in form and character of negotiable instruments, the bonds of the Authority are hereby made negotiable instruments, subject only to provisions of the bonds relating to registration.

1984, c. 699.

§ 62.1-213.Validity of signatures of prior members or officers

In the event that any of the members of the board of directors or any officers of the Authority cease to be members or officers before the delivery of any bonds or credit enhancements signed by them, their signatures or authorized substitute signatures shall nevertheless be valid and sufficient for all purposes as if the members or officers had remained in office until delivery.

1984, c. 699; 1998, c. 399.

§ 62.1-214.Bondholder protection

Subsequent amendments to this chapter shall not limit the rights vested in the Authority with respect to any agreements made with, or remedies available to, the holders of bonds or the beneficiaries of credit enhancements issued under this chapter before the enactment of the amendments until the bonds, together with all premium and interest thereon, and the credit enhancements, and all costs and expenses in connection with any proceeding by or on behalf of the holders or the beneficiaries, are fully met and discharged.

1984, c. 699; 1998, c. 399.

§ 62.1-215.Establishment of capital reserve funds

A. 1. The Authority may create and establish one or more capital reserve funds and may pay into each capital reserve fund (i) any moneys appropriated and made available by the Commonwealth for the purpose of such a fund, (ii) any proceeds of the sale of bonds of the Authority, to the extent provided in the resolution authorizing the issuance of, or the trust indenture securing, the bonds, and (iii) any other moneys which may be made available to the Authority for the purpose of such a fund from any other source. All moneys held in any capital reserve fund, except as hereinafter provided, shall be used solely for the payment when due of the principal of and premium, if any, and interest on the bonds or obligations under credit enhancements issued by the Authority secured in whole or in part by such a fund. If, however, moneys in any such fund are ever less than the minimum capital reserve fund requirement established for the fund, the Authority shall not use the moneys for any optional purchase or redemption of bonds. Any income or interest earned on, or increment to, any capital reserve fund due to its investment may be transferred by the Authority to other funds or accounts of the Authority to the extent it does not reduce the amount of the capital reserve fund below its minimal requirement.

2. The Authority shall not at any time issue bonds or credit enhancements secured in whole or in part by any capital reserve fund, if upon the issuance of the bonds or credit enhancements, the amount in the capital reserve fund will be less than its minimal requirement unless the Authority, at the time of issuance of the bonds or credit enhancements, deposits in the fund an amount which, together with the amount then in the fund, will not be less than the fund's minimal capital reserve requirement.

B. In order to assure further the maintenance of capital reserve funds, the chairman of the Authority shall annually, on or before December 1, make and deliver to the Governor and the Secretary of Administration a certificate stating the sum, if any, required to restore each capital reserve fund to its minimal requirement. Within five days after the beginning of each session of the General Assembly, the Governor shall submit to the presiding officer of each House of the General Assembly printed copies of a budget including the sum, if any, required to restore each capital reserve fund to its minimal requirement. All sums, if any, which may be appropriated by the General Assembly for any restoration and paid to the Authority shall be deposited by the Authority in the applicable capital reserve fund. All amounts paid to the Authority by the Commonwealth pursuant to the provisions of this section shall constitute and be accounted for as advances by the Commonwealth to the Authority

and, subject to the rights of the holders of any bonds of the Authority or the beneficiaries of credit enhancements of the Authority, shall be repaid to the Commonwealth without interest from available operating revenues of the Authority in excess of amounts required for the payment of bonds, credit enhancements or other obligations of the Authority, the maintenance of capital reserve funds, and operating expenses. In addition, no bonds issued by the Authority to finance a professional sports facility shall be secured by a capital reserve fund.

C. The Authority may create and establish other funds as necessary or desirable for its corporate purposes.

D. Nothing in this section shall be construed as limiting the power of the Authority to issue bonds or credit enhancements not secured by a capital reserve fund.

1984, c. 699; 1998, c. 399; 2000, c. 790.

§ 62.1-216.Purchase and credit enhancements of local obligations

The Authority shall have the power and authority, with any funds of the Authority available for such a purpose, to purchase and acquire, on terms which the Authority determines, local obligations to finance or refinance the cost of any project. The Authority may pledge to the payment of any bonds all or any portion of the local obligations so purchased. The Authority may also, subject to any such pledge, sell any local obligations so purchased and apply the proceeds of such a sale to the purchase of other local obligations for financing or refinancing the cost of any project or for any other corporate purpose of the Authority.

The Authority shall also have the power and authority to issue credit enhancements, on terms which the Authority determines, to credit enhance local obligations issued to finance or refinance the cost of any project.

The Authority may require, as a condition to the purchase or credit enhancement of any local obligations, that the local government issuing the local obligations covenant to perform any of the following:

A. Establish and collect rents, rates, fees and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal of and premium, if any, and interest on the local obligations; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or part, for future increases in rents, rates, fees or charges;

B. Create and maintain a special fund or funds for the payment of the principal of and premium, if any, and interest on the local obligations and any other amounts becoming due under any agreement

entered into in connection with the local obligations, or for the operation, maintenance, repair or replacement of the project or any portions thereof or other property of the local government, and deposit into any fund or funds amounts sufficient to make any payments as they become due and payable;

C. Create and maintain other special funds as required by the Authority; and

D. Perform other acts, including the conveyance of real and personal property together with all right, title and interest therein to the Authority, or take other actions as may be deemed necessary or desirable by the Authority to secure payment of the principal of and premium, if any, and interest on the local obligations or obligations to the Authority with respect to any credit enhancement and to provide for the remedies of the Authority or other holder of the local obligations in the event of any default by the local government in the payment, including, without limitation, any of the following:

1. The procurement of credit enhancements or liquidity arrangements for local obligations from any source, public or private, and the payment therefor of premiums, fees or other charges.

2. The payment of the allocable shares of the local governments, as determined by the Authority, of any costs, fees, charges or expenses attributable to liquidity arrangements incurred in connection with the issuance of bonds by the Authority to acquire local obligations of one or more local governments. The determination of such allocable shares may be made by the Authority on any reasonable basis.

3. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities and systems to secure local obligations issued in connection with such combination or any part or parts thereof.

4. The payment of the allocable shares of the local governments, as determined by the Authority on any reasonable basis, of rate stabilization funds established or required by the Authority in connection with the issuance of bonds by the Authority to acquire or provide credit enhancement for local obligations of two or more local governments.

All local governments issuing and selling local obligations to the Authority or to be credit enhanced by the Authority are authorized to perform any acts, take any action, adopt any proceedings and make and carry out any contracts with the Authority that are contemplated by this chapter. Such contracts need not be identical among all participants in financings of the Authority, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Authority.

To the extent permitted by law for local obligations issued after July 1, 2003, local governments may enter into agreements with the Authority that provide for a local government to consider and make

appropriations of any funds or revenue generated from the following: (i) taxes, funds and assessments from service districts created under Chapter 24 (§ 15.2-2400 et seq.) of Title 15.2, (ii) funds held by the local government, or (iii) any revenue or funds generated from sources other than property taxes imposed under Chapter 32 (§ 58.1-3200 et seq.) or Chapter 35 (§ 58.1-3500 et seq.) of Title 58.1 in amounts sufficient to pay all or a specified portion of the amounts set forth in subsection A or to make deposits into the special fund or funds provided for in subsections B and C and to pledge and apply the amounts so appropriated for such purposes.

1984, c. 699; 1985, c. 67; 1998, c. 399; 2003, c. 561.

§ 62.1-216.1.Investigation by Governor of nonpayments; withholding state funds from nonpaying locality; payment of funds withheld; receipts, reports, etc

Whenever it appears to the Governor from an affidavit filed with him by the Authority as the purchaser, holder, or credit enhancer of local obligations (regardless of the security therefor) issued by any county, city or town that a payment has not been made on any local obligations, the Governor shall immediately make a summary investigation into the facts set forth in the affidavit. The Authority may, but shall not be required to, file such an affidavit unless the Authority has otherwise contracted to make such filing for the benefit of the holders of any of its bonds or the local obligations credit enhanced by it. The affidavit described in this section may be filed by a trustee to which the Authority has assigned the local obligations or the payment thereon as security for bonds of the Authority under a resolution or trust indenture or otherwise.

If it is established to the satisfaction of the Governor that such nonpayment has occurred, the Governor shall immediately make an order directing the Comptroller to withhold all further payment to the county, city or town of all funds, or of any part of them, appropriated and payable by the Commonwealth to the county, city or town for any and all purposes, until the unpaid sum is obtained. The Governor shall, while the nonpayment continues, direct in writing the payment of all sums withheld by the Comptroller, or as much of them as is necessary, to the Authority, so as to cure, or cure insofar as possible, nonpayment on the local obligations.

The Governor shall, as soon as practicable, give notice of the nonpayment and of the availability of funds with the Comptroller in writing to the Authority. Any payment so made by the Comptroller to the Authority shall be credited as if made directly by the county, city or town and shall be charged by the Comptroller against the first appropriations otherwise payable to the county, city or town as if paid to the county, city or town. The Authority, at the time of payment or at the time of each payment shall receipt for the payment and deliver to the Comptroller all local obligations or other instruments or documents, in a form satisfactory to the Comptroller, evidencing the Authority's right to receive the amounts satisfied by the payment. The Comptroller shall report each payment made to the governing body of the nonpaying county, city or town and deliver or send by registered mail to the governing

body all local obligations, or other instruments or documents received by the Comptroller under the provisions of this section.

Nothing in this section shall be construed to create any obligation on the part of the Comptroller or the Commonwealth to make any payment on behalf of the nonpaying county, city or town other than from funds appropriated and payable to the nonpaying county, city or town.

1998, c. 399; 2003, c. 561; 2011, c. 616.

§ 62.1-217.Grants from Commonwealth

The Commonwealth may make grants of money or property to the Authority for the purpose of enabling it to carry out its corporate purposes and for the exercise of its powers, including deposits to the capital reserve funds. This section shall not be construed to limit any other power the Commonwealth may have to make grants to the Authority.

1984, c. 699.

§ 62.1-218.Grants to local governments

The Authority shall have the power and authority, with any funds of the Authority available for this purpose, to make grants to local governments. In determining which local governments are to receive grants, the Department of Environmental Quality, the Department of Health, and the Virginia Waste Management Board shall assist the Authority in determining needs for wastewater treatment facilities, water supply facilities, solid waste treatment, disposal or management facilities, or recycling facilities, and the method and form of such grants.

1984, c. 699; 1992, cc. 378, 887.

§ 62.1-219.Exemption from taxation

As set forth in § 62.1-200, the Authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter. Accordingly, the Authority shall not be required to pay any taxes or assessments upon any project or any property or upon any operations of the Authority or the income therefrom, or any taxes or assessments upon any project or any property or local obligation acquired, credit enhanced or used by the Authority under the provisions of this chapter or upon the income therefrom. Any bonds and credit enhancements issued by the Authority under the provisions of this chapter, the transfer thereof and the income therefrom, including any profit on the sale thereof, shall at all times be free from taxation and assessment of every kind by the Commonwealth and by the local governments and other political subdivisions of the Commonwealth.

1984, c. 699; 1985, c. 67; 1998, c. 399.

§ 62.1-220.Bonds as legal investments and securities

The bonds issued by the Authority in accordance with the provisions of this chapter are declared to be legal investments in which all public officers or public bodies of the Commonwealth, its political

subdivisions, all municipalities and municipal subdivisions; all insurance companies and associations and other persons carrying on insurance business; all banks, bankers, banking associations, trust companies, savings banks, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business; all administrators, guardians, executors, trustees and other fiduciaries; and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the Commonwealth, may invest funds, including capital, in their control or belonging to them. The bonds of the Authority are also hereby made securities which may be deposited with and received by all public officers and bodies of the Commonwealth or any agency or political subdivision of the Commonwealth and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may be later authorized by law.

1984, c. 699.

§ 62.1-221.Deposit of money; expenditures; security for deposits

A. All money of the Authority, except as otherwise authorized by law or provided in this chapter, shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check signed by the Executive Director or other officers or employees and designated by the Authority. All deposits of money shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies and savings institutions are authorized to give security for the deposits.

B. Notwithstanding the provisions of subsection A the Authority shall have the power to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any money of the Authority and of any money held in trust or otherwise for the payment of bonds and to carry out such a contract. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of money may be secured in the same manner as money of the Authority, and all banks and trust companies are authorized to give security for the deposits.

C. Subject to the provisions of subsection B hereof, funds of the Authority not needed for immediate use or disbursement, including any funds held in reserve, may be invested in (i) obligations or securities which are considered lawful investments for fiduciaries, both individual and corporate, as set forth in § 2.2-4519, (ii) bankers' acceptances, or (iii) repurchase agreements, reverse repurchase agreements, rate guarantee or investment agreements or other similar banking arrangements.

D. Whenever investments are made in accordance with this section, no director, officer or employee of the Authority shall be liable for any loss therefrom in the absence of negligence, malfeasance, misfeasance or nonfeasance on his part.

1984, c. 699; 1985, c. 67; 1994, c. 684; 1996, c. 77.

§ 62.1-222.Annual reports; audit

The Authority shall, following the close of each fiscal year, submit an annual report on or before December 1 of its activities for the preceding year to the Governor and General Assembly. Each report shall set forth a complete operating and financial statement for the Authority during the fiscal year it covers. An independent certified public accountant or the Auditor of Public Accounts shall perform an audit of the books and accounts of the Authority at least once in each fiscal year.

1984, c. 699; 2005, c. 633.

§ 62.1-223.Liberal construction of chapter

The provisions of this chapter shall be liberally construed to the end that its beneficial purposes may be effectuated. No proceedings, notice or approval shall be required for the issuance of any bonds of the Authority or any instruments or the security thereof, except as provided in this chapter. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special or local, the provisions of this chapter shall be controlling.

1984, c. 699.

Richmond Ambulance Authority

Created

1991 Acts of Assembly, c. 431.

Amendments

1999, c. 687 (§ 6)

§ 1. Short title.

This act shall be known and may be cited as the "Richmond Ambulance Authority Act." (1991, c. 431)

§ 2. Declaration of public necessity and purpose.

It is hereby determined and declared that to ensure the provision of adequate and continuing ambulance services to transport sick or injured persons in the Richmond metropolitan area, the exercise of the powers and duties set forth herein is necessary to preserve, protect and promote the public health, safety and general welfare of the public residing in this area, and the enactment of the provisions of this Act is hereby declared to be a public necessity and to serve a public purpose. (1991, c. 431)

§ 3. Definitions.

As used in this Act, the following words and terms shall have the following meanings, unless the context requires a different meaning:

"Authority" means the Authority created under the provisions of this Act, or, if the Authority is abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this Act to the Authority are given by law.

"Governing body" means the council or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.

"Municipality" means the City of Richmond in the Commonwealth of Virginia. (1991, c. 431)

§ 4. Creation of the Authority.

A. The governing body of the municipality may by resolution signify its determination to organize an authority under the provisions of this Act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than ten days prior to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereon. Such municipality shall not be required to make any other publication of such resolution under the provisions of any other law.

B. Such resolution shall include articles of incorporation which shall set forth:

1. The name of the Authority;

2. A statement that such Authority is organized under this Act;

3. The name of the organizing municipality; and

4. The names and addresses of the first members of the Authority appointed by the organizing municipality.

C. Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the Commonwealth of Virginia. (1991, c. 431)

§ 5. Membership of the Authority.

The Authority organized under the provisions of this Act shall consist of eleven members, nine of whom shall be selected by the governing body of the organizing municipality and who shall serve for terms expiring two years from the date of appointment, plus the Richmond City Manager and the Richmond Director of Finance, both of whom shall serve during the time they hold such offices. The successor of each member of the Authority shall be appointed for a term of two years (except the two city officers); any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Board before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Commonwealth and to discharge

faithfully the duties of his office, and a record of each such oath shall be filed with the Secretary of the Board.

The Board shall select from its membership one of its members as Chairman and another as Vice Chairman and shall also select a Secretary and a Treasurer who may, but need not, be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice Chairman, Secretary and Treasurer shall be as provided in the bylaws of the Authority but shall not be longer than two years.

A majority of the members of the Board shall constitute a quorum and the affirmative vote of a majority of all of the members of the Board shall be necessary for any action taken by the Authority. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all of the duties of the Authority. The members of the Board shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties, excepting city officers. (1991, c. 431)

§ 6. General grant of powers.

The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health, safety and welfare, and such Authority is hereby authorized and empowered to:

1. Provide emergency ambulance service originating in the city, nonemergency service within the Commonwealth, and mutual aid to other jurisdictions upon request of such jurisdictions and conduct such other activities as may be reasonably related to doing so, subject to such restrictions as may be imposed by Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1 or other state law or regulation;

2. Adopt bylaws for the regulation of its affairs and the conduct of its business;

3. Adopt an official seal and alter the same at pleasure;

4. Maintain an office at such place or places as it may designate;

5. Sue and be sued in its own name, plead and be impleaded;

6. Purchase, lease, equip, maintain, repair and operate motor vehicles, equipment and facilities within the corporate limits of the organizing municipality deemed necessary to perform its functions;

7. Fix and revise from time to time and charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such Authority;

8. Acquire in the name of the Authority by gift, or lease-purchase, any motor vehicles and equipment, and to acquire such other personal property, as it may deem necessary in connection with the performance of its functions;

9. Lease all or any part of such motor vehicles, equipment and facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this Act;

10. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act; and employ such financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and fix their compensation; however, all such expenses shall be payable solely from funds made available under the provisions of this Act;

11. Do all acts and things necessary or convenient to carry out the powers granted by this Act;

12. Make and enter into all contracts with private entities with respect to any service to be performed by the Authority; and

13. Sell, exchange, donate, and convey any or all of its properties, real, personal or mixed, whenever its members shall find any such action to be in furtherance of the purposes for which the Authority was organized. (1991, c. 431; 1999, c. 687)

§ 7. Revenues.

The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by the Authority. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all times to pay the cost of maintaining, repairing and operating the motor vehicles, equipment and facilities or parts thereof owned or operated by the Authority, including reserves for such purposes. Notwithstanding any of the foregoing provisions of this section, the Authority may enter into contracts relating to use of the services and motor vehicles, equipment and facilities of the Authority on such terms as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms. (1991, c. 431)

§ 8. Exemption from taxation.

As services provided by the Authority are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this Act to effect such purposes constitute the performance of essential governmental functions, and as motor vehicles, equipment and facilities acquired or operated under the provisions of this Act are necessary for the performance of essential governmental functions, and as such constitute public property and are used for governmental purposes, the Authority shall not be required to pay any taxes or assessments upon any such motor vehicles, equipment and facilities or any part thereof, or upon the income therefrom (including any

profit made on the sale thereof), which shall at all times be free from taxation within the Commonwealth. (1991, c. 431)

§ 9. Contributions.
The municipality is hereby authorized to make contributions or advances to an Authority which it organizes under the provisions of this Act from any available moneys for any purpose of the Authority. The municipality is hereby further authorized to enter into agreements with the Authority obligating the municipality to pay the Authority any part or all of the moneys as may be mutually agreed necessary or desirable to ensure the successful operation of the Authority or to cover an Authority deficit. (1991, c. 431)

§ 10. Actions taken by Authority.
Any action taken by the Authority under the provisions of this Act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately and need not be published or posted. (1991, c. 431)

§ 11. Severability.
The provisions of this Act are severable, and if any of its provisions are held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (1991, c. 431)

§ 12. Construction.
This Act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof. (1991, c. 431)

Richmond Eye and Ear Hospital Authority

Created
1970 Acts of Assembly, c. 742.

Amendments
1974, c. 64 (§ 3)
1977, c. 229 (§§ 2, 4, 6)
2006, c. 658 (§§ 2, 3, 4)

§ 1. This act shall be known as the "Richmond Eye and Ear Hospital Authority Act." (1970, c. 742)

§ 2. Definitions.
The following terms, wherever used or referred to in this act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Authority" means the Richmond Eye and Ear Hospital Authority created by § 3 of this act.

(b) "Board" means the Board of Directors of the Authority appointed in accordance with the provisions of this act.

(c) "Government" includes the State and Federal Government and any subdivision, agency or instrumentality, corporate or otherwise, of either of them, and any county, city, or town or agency or instrumentality, corporate or otherwise, of any of them.

(d) "State" means the Commonwealth of Virginia.

(e) "Federal Government" includes the United States of America, or any agency, instrumentality, corporate or otherwise, of the United States of America.

(f) "Hospital project" shall mean any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing adequate hospital and medical care and shall include any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishings, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention or palliation of any human illness, injury, disorder, or disability, together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles, and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

(g) "Parking facility project" shall mean and shall include lots, garages, parking terminals, or other facilities or structures incidental thereto for the off-street parking of motor vehicles open to public use or to be used in connection with a hospital project.

(h) "Project" shall include "hospital project" and "parking facility project" or either of them individually.

(i) "Bonds" shall mean any bonds, interim certificates, notes, debentures, or other obligations of the Authority issued pursuant to this act.

(j) "Trust indenture" shall mean any instrument by and between the Authority and a corporate trustee or trustees providing for the issuance of bonds and, in the discretion of the Authority,

mortgaging a project or projects or other property of the Authority; pledging and assigning rates, fees and other revenues of any project or projects and any other rights, properties or interests of the Authority.

(k) "Contract" means any agreement of the Authority with or for the benefit of any obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

(l) "Real property" includes lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

(m) "Obligee of the Authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the Authority used in connection with any project or any assignee or assignees of such a party to any contract with the Authority.

(n) The word "cost" as applied to any project shall include the cost of construction, landscaping and conservation, the costs of acquisition of all land, rights of way, property, rights, easements and interests acquired by the Authority for such construction, landscaping and conservation, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery, equipment and furnishings, financing charges, interest prior to and during construction and for a period of time after completion of construction as deemed advisable by the Authority, cost of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, administrative expenses, the initial working capital, debt service reservations and such other expenses as may be necessary or incident to the construction of any project, the financing of such construction and the placing of such project in operation. (1970, c. 742; 1977, c. 229; 2006, c. 658)

§ 3. Creation of the Authority.

There is hereby created a political subdivision and public body corporate and politic of the Commonwealth of Virginia to be known as the "Richmond Eye and Ear Hospital Authority" (hereinafter referred to as the "Authority"), to be governed by a Board of Directors consisting of nine members appointed by the Governor from a list of nominations submitted by the Board of Directors of the Richmond Eye Hospital. Three of such members shall be for two years, three for four year terms, and three for six year terms. After the expiration of the initial terms, appointments shall be made for terms of six years and members may be reappointed. Vacancies in the membership of the Board shall be filled by appointment for the unexpired portion of the term. The Board of Directors of the Richmond Eye and Ear Healthcare Alliance shall nominate two persons for each appointment. The Board so appointed shall enter upon the performance of its duties and shall initially and annually thereafter select one of its members as chairman and another as vice-chairman, and shall also elect annually a secretary or secretary-treasurer who need not be a member of the Board. The chairman, or in his

absence vice-chairman, shall preside at all meetings of the Board, and in the absence of both the chairman and vice-chairman, the Board shall elect a chairman pro tempore who shall preside at such meetings. A majority of the directors then in office shall constitute a quorum, and all action by the Board shall require the affirmative vote of a majority of the directors present and voting. The members of the Board shall be entitled to reimbursement for expenses incurred in attendance upon meetings of the Board or while otherwise engaged in the discharge of their duties, and each member shall also be paid the sum of $25.00 per day for each day or portion thereof during which he is engaged in the performance of his duties. Such expenses and compensation shall be paid out of the treasury of the Authority in such manner as shall be prescribed by the Authority. (1970, c. 742; 1974, c. 64; 2006, c. 658)

§ 4. Powers of the Authority.

That in order to prevent the spread of disease which constitutes a menace to the health, safety, morals and welfare of the State and impairs economic values; and in order that adequate hospital and medical facilities may be provided for the foregoing purpose and for the care of the public health and public welfare; and in order to alleviate traffic congestion, to promote the flow of commerce and to promote safety through the creation of off-street parking facilities; the Authority created by this act shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare and said Authority is hereby authorized and empowered to:

(a) Adopt an official seal and alter the same at pleasure;

(b) Maintain an office at such place or places as it may designate;

(c) Sue and be sued in its own name, plead and be impleaded;

(d) Prepare, carry out and operate hospital projects and parking facility projects;

(e) Purchase, construct or otherwise acquire, maintain, repair and operate or cause to be repaired, maintained and operated, any project;

(f) Sell or to lease to another, including, but not limited to, Virginia Commonwealth University and the Richmond Eye Hospital, any of the Authority's projects or other property upon terms and conditions determined by the Authority;

(g) Fix and revise from time to time and to charge and collect rates, rentals, fees and other charges for the services and facilities furnished by the project or projects and to establish and revise from time to time regulations in respect of the use, operation and occupancy of such project or projects or a part thereof;

(h) Make, enter into and execute all contracts, agreements and instruments necessary or incidental to the performance of its duties and the execution of its powers under this act including contracts or

agreements authorized by this act with any government with respect to the construction, operation and maintenance of any project;

(i) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, trustees, depositaries, paying agents and such other employees and agents as may be necessary in the discretion of the Authority to construct, acquire, maintain and operate any project and to fix their compensation;

(j) Provide and operate inpatient and outpatient departments, and any other departments or clinics customarily operated in hospitals in metropolitan centers and to provide research facilities, teaching and instruction programs and schools for medical students, interns, physicians and nurses and facilities incidental thereto;

(k) Provide and maintain continuous resident physician and intern medical services; to appoint an administrator, a superintendent or matron, and necessary assistants, and any and all other employees deemed necessary or advisable and fix their compensation, and to remove such appointees;

(l) Adopt bylaws for the conduct of its business and to adopt necessary rules and regulations for the government of the Authority and its employees;

(m) Appoint such committees or subcommittees as it shall deem advisable, and fix their duties and responsibilities;

(n) Accept donations of money, personal property or real estate for the benefit of the Authority and take title thereto from any person, firm, corporation, society, or government;

(o) Determine and regulate the conditions under which the privilege of practicing within any hospital operated by the Authority may be available to physicians, and to promulgate reasonable rules and regulations governing the conduct of physicians and nurses while on duty in such hospital and to establish and maintain a training school for nurses;

(p) Make rules and regulations governing the admission of patients to, and the care, conduct, and treatment of patients in, the hospital; to determine whether patients presented to the hospital for treatment are subjects for charity and to fix the compensation to be paid by patients other than those unable to assist themselves; to maintain and operate isolation wards for the care and treatment of mental, contagious or other similar diseases;

(q) Act as agent for the Federal Government in connection with the acquisition, construction, operation and management of a project, or any part thereof;

(r) Arrange with any government for the furnishing, planning, replanning, installing, opening or closing of streets, roads, roadways, alleys, sidewalks, or other places or facilities, for the acquisition by such government of property, options or property rights or for the furnishing of property or

services in connection with a project; to arrange with any government to the extent that it is within the scope of each of their respective functions, (1) to cause the services customarily provided by each of them to be rendered for the benefit of such Authority and (2) to provide and maintain parks and sewerage, water and other facilities adjacent to or in connection with projects and to lease or rent any of the dwellings or other accommodations or any of the lands, buildings, structures or facilities embraced in any project and to establish and revise the rents or charges therefor;

(s) Purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any property real or personal or any interest therein from any person, firm, corporation, city, county, town or government;

(t) Sell, exchange, transfer, or assign, any property real or personal or any interest therein to any person, firm, corporation, or government;

(u) Own, hold, clear and improve property; to insure or provide for the insurance of the property or operations of the Authority against such risks as the Authority may deem advisable;

(v) Borrow money upon its bonds, notes, debentures, or other evidences of indebtedness and to secure the same by pledges or assignments of its revenues, rights, properties and interests in the manner and to the extent hereinafter provided, in connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the Authority by this act. This power shall include the power to refinance all or any portion of such debt, to renegotiate the terms of all or any portion of such debt, and to retire all or any portion of such debt prior to its maturity date;

(w) Make and from time to time amend and repeal bylaws, rules and regulations not inconsistent with this act, to carry into effect the powers and purposes of the Authority;

(x) The Authority shall have power in addition to all of the other powers herein conferred upon it, to do all things necessary and convenient to carry out the powers expressly given in this act;

(y) The Authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of this act after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The Authority may exercise the power of eminent domain pursuant to the provisions of any applicable statutory provisions in force or hereafter enacted for the exercise of the power of eminent domain by cities.

Property already devoted to a public use may be acquired, provided, that no property belonging to any city, town or county or to any government or to any religious or charitable corporation may be acquired without its consent.

(z) Assist in or provide for the creation of domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities and to purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares of or other interests in, or obligations of, any domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any domestic or foreign stock or nonstock corporation, limited liability company, partnership, limited partnership, association, foundation or other supporting organization, joint venture or other entity organized for any purpose or any individual. The investments of any entity wholly owned or controlled by the Authority that is an "institution," as such term is defined in § 55-268.12, shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 55-268.11 et seq.) of the Code of Virginia;

(aa) Participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities for providing medical care or related services or other activities that the authority may undertake to the extent that such undertakings assist the authority in carrying out the purposes and intent of this chapter;

(bb) Provide domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the authority with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this chapter;

(cc) Make loans and provide other assistance to domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities;

(dd) Transact its business, locate its offices and control, directly or through domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities, facilities that will assist or aid the authority in carrying out the purposes and intent of this chapter;

(ee) Procure such insurance, participate in such insurance plans, or provide such self-insurance, or any combination thereof, as it deems necessary or convenient to carry out the purposes and provisions of this act. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any

sovereign immunity to which the Authority or its members, officers, directors, employees, or agents are otherwise entitled;

(ff) Exercise all other powers granted to nonstock corporations pursuant to § 13.1-826 of the Code of Virginia, as amended. (1970, c. 742; 1977, c. 229; 2006, c. 658)

§ 5. Security for funds deposited by the Authority.

The Authority may by resolution provide that all moneys deposited by it shall be secured:

(a) By obligations of the United States or of the State, of a market value equal at all times to the amount of such deposits;

(b) By any securities in which trustees, guardians, executors, administrators and others acting in a fiduciary capacity may legally invest funds within their control; or

(c) By an undertaking with such sureties as shall be approved by the Authority faithfully to keep and pay over upon the order of the Authority any such deposits and agreed interest thereon.

All banks and trust companies are authorized to give any such security for such deposits. (1970, c. 742)

§ 6. Authority to issue bonds.

The Authority shall have the authority to issue bonds as follows:

(a) The Authority shall have power and is hereby authorized from time to time in its discretion to issue bonds for any of its purposes, including the payment of all or any part of the cost of any project and the refunding of any bonds previously issued by it, whether or not such outstanding bonds have matured or are then subject to redemption, or any combination of such purposes. Bonds may be issued under this act notwithstanding any debt or other limitation prescribed in any statute.

(b) The principal and interest on such bonds shall be payable from such sources as the Authority may determine, including (without limiting the generality of the foregoing) (1) its revenues generally or (2) exclusively from the revenues and receipts of a particular project or projects.

(c) No member of the Board of the Authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(d) The bonds and other obligations of the Authority (and such bonds and obligations shall so state on their face) shall not be a debt of any city or municipality or of the State, and neither the State nor any such city or municipality shall be liable thereon. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation of the laws of the State.

(e) The bonds of the Authority shall be authorized by its resolution and shall be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding sixty years from their respective dates, bear interest at such rate or rates, be in such denominations (which may be made interchangeable), be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms or redemption (with or without premium) as such resolution or its trust indenture may provide.

(f) The bonds may be sold at public or private sale at such price or prices as the Authority shall determine.

(g) Pending the authorization, preparation, execution or delivery of definitive bonds, the Authority may issue interim certificates, or other temporary obligations, to the purchaser of such bonds. Such interim certificates, or other temporary obligations, shall be in such form, contain such terms, conditions and provisions, bear such date or dates, and evidence such agreements, relating to their discharge or payment or the delivery of definitive bonds as the Authority may by resolution or trust indenture determine.

(h) In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery.

(i) The Authority shall have the power out of any funds available thereof to purchase any bonds issued by it; provided, however, that bonds payable exclusively from the revenues of a designated project or projects shall be purchased only out of any revenues derived in connection with the operation, sale or lease of such project or projects. All bonds so purchased shall be canceled. This section shall not apply to the redemption of bonds.

(j) Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to this act shall be fully negotiable.

(k) In connection with the issuance of bonds or the incurring of any obligations under a lease and in order to secure the payment of such bonds or obligations, the Authority shall have power:

(1) To pledge and assign by resolution, trust indenture or other contract, all or any part of its rents, fees or revenues or other rights, properties or interests of the Authority, including without limitation rights under leases and other rights and interests obtained in connection with the sale or lease of a project or projects.

(2) To covenant to impose and maintain such schedule of fees and charges as will produce funds sufficient to pay operating costs and debt service.

(3) To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof, or with respect to limitations on its right to undertake additional projects.

(4) To covenant against pledging all or any part of its rents, fees and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon.

(5) To provide for the release of rents, fees, and revenues, from any pledge and to reserve rights and powers in, or the right to dispose of, property, the rents, fees and revenues from which are subject to a pledge.

(6) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(7) To convenant as to what other, or additional debt, may be incurred by it.

(8) To provide for the terms, form, registration, exchange, execution and authentication of bonds.

(9) To provide for the replacement of lost, destroyed, or mutilated bonds.

(10) To covenant as to the use of any or all of its property, real or personal.

(11) To create or to authorize the creation of special funds in which there shall be segregated: (a) the proceeds of any loan or grant; (b) all of the rents, fees and revenues of any project or projects or parts thereof; (c) any moneys held for the payment of the costs of operation and maintenance of any such projects or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (d) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as a reserve for such payments; and (e) any moneys held for any other reserve or contingencies; and to covenant as to the use and disposal of the moneys held in such funds.

(12) To redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(13) To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner.

(14) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(15) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(16) To vest in an obligee of the Authority the right, in the event of the failure of the Authority to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the Authority with such interest, security and priority as may be provided in any trust indenture, lease or contract of the Authority with reference thereto.

(17) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(18) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation.

(19) To covenant to surrender possession of all or any part of any project or projects the revenues from which have been pledged for the purpose of constructing, furnishing, and equipping new buildings or additions to existing buildings as provided for in this act upon the happenings of any event of default (as defined in the contract) and to vest in an obligee the right without judicial proceeding to take possession and to use, operate, manage and control such projects or any part thereof, and to collect and receive all rents, fees and revenues arising therefrom in the same manner as the Authority itself might do and to dispose of the moneys collected in accordance with the agreement of the Authority with such obligee.

(20) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant.

(21) To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character.

(22) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as the government of any purchaser of the bonds of the Authority may reasonably require.

(23) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the Authority tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the Authority power to do all things in the issuance of bonds, in the provisions for their security that are not inconsistent with the Constitution of the State and no consent or approval of any judge or court shall be required thereof.

(24) To provide for protecting and enforcing the rights and remedies of bondholders in such manner as may be reasonable and proper and not in violation of law, including particularly the appointment of a receiver for any project or other property which has been mortgaged or assigned, or the revenue from which have been pledged, by the Authority.

(l) Bonds issued by the Authority under the provisions of this article are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital, in their control or belonging to them. Such bonds are also hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1970, c. 742; 1977, c. 229)

§ 7. Appropriations by any government.

Any government may make appropriations for the improvement, maintenance or operation of any project constructed, maintained, or operated by or to be constructed, maintained or operated by the Authority. (1970, c. 742)

§ 8. Conveyance, lease or transfer of property by a city to the Authority.

The city of Richmond in order to provide for the construction, reconstruction, improvement, repair or management of any project, or in order to accomplish any of the purposes of this act may, with or without consideration or for a nominal consideration, lease, sell, conveyor otherwise transfer to the Authority, within such city, any real, personal or mixed property. (1970, c. 742)

§ 9. Miscellaneous.

(a) The records, books and accounts of the Authority shall be subject to examination and inspection by duly authorized representatives of the Commonwealth of Virginia and any bondholder or bondholders at any reasonable time, provided the business of the Authority is not unduly interrupted or interfered with thereby.

(b) Any member, agent or employee of the Authority who contracts with the Authority or is interested, either directly or indirectly, in any contract with the Authority or in the sale of any property, either real or personal, to the Authority shall be guilty of a misdemeanor and shall be subject to a fine of not more than one thousand dollars or imprisonment in jail for not more than one year, either or both. Exclusive jurisdiction for the trial of such misdemeanors is hereby conferred upon the Hustings Court of the City of Richmond; provided, that the term "contract", as used herein, shall not be held to include the depositing of funds in, or the borrowing of funds from or the serving as agent or trustee by, any bank in which any member, agent or employee of the Authority may be a director, officer or employee or have

a security interest; nor shall such term include contracts or agreements with any government or the purchase of services from, or other transactions in the ordinary course of business with, public service corporations. (1970, c. 742)

§ 10. Exemption from taxation.

All property, real and personal and all rights and interests therein and the income of the Authority, the revenue bonds and the interest thereon, and the transfer thereof and any profit made on the sale thereof, shall at all times be free from taxation or assessment by the Commonwealth and by any municipality, county or other political subdivision thereof. (1970, c. 742)

§ 11. Constitutional construction.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction the decision of such court shall not affect or impair any of the remaining provisions. (1970, c. 742)

§ 12. Construction-inconsistent laws.

This act shall be liberally construed to effectuate the purpose hereof and all other general or special laws inconsistent with any provision of this act are hereby declared to be inapplicable to the provisions of this act and to any project constructed by the Authority pursuant to this act. (1970, c. 742)

Richmond Metropolitan Transportation Authority

§ 33.2-2900.Definitions

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Richmond Metropolitan Transportation Authority created by § 33.2-2901 or, if the Authority is abolished, the board, body, commission, or agency succeeding to the principal functions thereof or on whom the powers given by this chapter to the Authority are conferred by law, but shall not include the City of Richmond or the Counties of Chesterfield and Henrico.

"Authority facility" means all facilities purchased, constructed, or otherwise acquired by the Authority pursuant to the provisions of this chapter and all extensions and improvements thereof.

"Bonds" or "revenue bonds" means revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this chapter.

"Cost," as applied to any project, includes the cost of construction, landscaping, and conservation; the cost of acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the Authority for such construction, landscaping, and conservation; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of all machinery and equipment; the cost of financing charges and interest prior to and during construction and for a period of time after completion of construction as deemed advisable by the Authority; the cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, and other expenses necessary or incident to determining the feasibility or practicability of constructing the project; the cost of administrative expenses; and the cost of payments to the Department or others for services during the period of construction, initial working capital, debt service reserves, and such other expenses as may be necessary or incident to the construction of the project, the financing of such construction, and the placing of the project in operation. Any obligation or expense incurred by the Commonwealth Transportation Board or by the City of Richmond or the County of Henrico or Chesterfield, before or after the effective date of this chapter, for surveys, engineering, borings, plans and specifications, legal and other professional and technical services, reports, studies, and data in connection with the construction of a project shall be repaid or reimbursed by the Authority and the amounts thereof shall be included as a part of the cost of the project.

"Limited access highway" means a highway specially designed for through traffic over or to which owners or occupants of abutting property or other persons have no easement of or right to light, air, view, or access by reason of the fact that their property abuts upon such highway, and access to which highway is controlled by the Authority, the Commonwealth, the City of Richmond, the County of Henrico, or the County of Chesterfield so as to give preference to through traffic by providing access

connections with selected public highways only and by prohibiting crossings at grade or direct private driveway connections.

"Owner" includes all individuals, partnerships, associations, organizations, and corporations, the City of Richmond, the County of Henrico, the County of Chesterfield, and all public agencies and instrumentalities having any title to or interest in any property, rights, easements, and interests authorized to be acquired by this chapter.

"Project" means any single facility constituting an Authority facility, as described in the resolution or trust agreement providing for its construction, including extensions and improvements thereof.

"Public highways" shall include public highways, roads, and streets, whether maintained by the Commonwealth or the City of Richmond or the County of Henrico or Chesterfield.

"Revenues" means all fees, tolls, rents, rates, receipts, moneys, and income derived by the Authority through the ownership and operation of Authority facilities, and includes all cash contributions made to the Authority by the Commonwealth or any agency or department thereof, the City of Richmond, and the Counties of Henrico and Chesterfield not specifically dedicated by the contributor for a capital improvement.

2009, c. 471, § 15.2-7000; 2014, cc. 469, 805.

§ 33.2-2901.Creation of the Richmond Metropolitan Transportation Authority

There is hereby created a political subdivision and public body corporate and politic of the Commonwealth to be known as the Richmond Metropolitan Transportation Authority, to be governed by a board of directors consisting of 16 members appointed as follows: five members to be appointed by the Board of Supervisors of Chesterfield County for terms of four years from the date of appointment; five members to be appointed by the Board of Supervisors of Henrico County for terms of four years from the date of appointment; four members to be appointed by the Mayor of the City of Richmond with the approval of the City Council of the City of Richmond (Council) for terms of four years from the date of appointment; one member of the Council appointed by the president of the Council for a term of four years from the date of appointment; and one ex officio member from the Commonwealth Transportation Board to be appointed by the Commissioner of Highways. Any of the three localities may, in its discretion, appoint as one of its Board members an elected officeholder who is a member of the governing body of that locality. Vacancies in the membership of the board of directors shall be filled in the same manner as the original appointment for the unexpired portion of the term. The board of directors so appointed shall enter upon the performance of its duties and shall initially and annually elect a chairman and a vice-chairman from its membership and shall also elect annually a secretary or secretary-treasurer, who need not be a member of the board of directors. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the board of directors, and in the absence of both the chairman and vice-chairman, the board of directors shall elect a

chairman pro tempore who shall preside at such meetings. Nine directors shall constitute a quorum, and all action by the board of directors shall require the affirmative vote of a majority of the directors present and voting. The members of the board of directors shall be entitled to reimbursement for expenses incurred in attendance upon meetings of the board of directors or while otherwise engaged in the discharge of their duties, and each member shall also be paid the sum of $50 per day for each day or portion thereof during which he is engaged in the performance of his duties. Such expenses and compensation shall be paid out of the treasury of the Authority in such manner as shall be prescribed by the Authority. No member of the Board shall receive health insurance, dental insurance, retirement benefits, or other such benefits as compensation for his service on the Board.

2009, c. 471, § 15.2-7001; 2014, cc. 469, 805; 2020, cc. 281, 371.

§ 33.2-2902.Powers of the Richmond Metropolitan Transportation Authority

In order to alleviate highway congestion; promote highway safety; expand highway construction; increase the utility and benefits and extend the services of public highways, including bridges, tunnels, and other highway facilities, both free and toll; and otherwise contribute to the economy, industrial and agricultural development, and welfare of the Commonwealth and the City of Richmond and the Counties of Henrico and Chesterfield, the Authority shall have the following powers:

1. To contract and be contracted with, to sue and be sued, and to adopt, use, and alter at its pleasure a seal;

2. To acquire and hold real or personal property necessary or convenient for its purposes;

3. To sell, lease, or otherwise dispose of any personal or real property or rights, easements, or estates therein deemed by the Authority not necessary for its purposes;

4. With the approval of the Mayor and the Council of the City of Richmond and the Boards of Supervisors of the Counties of Henrico and Chesterfield, to purchase, construct, or otherwise acquire ownership of or rights to manage limited access highways within the corporate limits of the City of Richmond and the Counties of Chesterfield and Henrico, including all bridges, tunnels, overpasses, underpasses, grade separations, interchanges, entrance plazas, approaches, tollhouses, administration buildings, storage buildings, and other buildings and facilities, and rights or licenses to operate existing toll roads that the Authority may deem necessary or convenient for the operation of such limited access highways. Title to any property acquired by the Authority shall be taken in the name of the Authority. Without the need of approval from such local governing bodies, the Authority may maintain, repair, and operate, or cause to be repaired, maintained, and operated, such limited access highways and related facilities;

5. With the approval of the Mayor and the City Council of the City of Richmond and the Boards of Supervisors of the Counties of Henrico and Chesterfield, to own, operate, maintain, and provide rapid and other transit facilities and services for the transportation of the public; to enter into contracts with

the City and the County or Counties and any public service corporations doing business as common carriers of passengers and property for the use of Authority facilities for such purpose; to enter into contracts for the transportation of passengers and property over facilities of localities other than those controlled by the Authority, as well as the property and facilities of the Authority; and to construct, acquire, operate, and maintain any other properties and facilities, including such offices and commercial facilities in connection therewith as are deemed necessary or convenient by the Authority, for the relief of traffic congestion, to provide vehicular parking, to promote transportation of persons and property, or to promote the flow of commerce that the City Council of the City of Richmond and the Boards of Supervisors of the Counties of Chesterfield and Henrico may request the Authority to provide;

6. With the approval of the Mayor and the City Council of the City of Richmond and the Boards of Supervisors of the Counties of Henrico and Chesterfield, to acquire land; to construct, own, and operate sports facilities of any nature, including facilities reasonably related thereto; to construct, own, and operate coliseums and arenas, including facilities reasonably related thereto; to own a baseball stadium of sufficient seating capacity and quality for the playing of baseball at the level immediately below Major League Baseball; and to lease such land, stadium, sports facilities, coliseums, arenas, and attendant facilities under such terms and conditions as the Authority may prescribe. In the event of a conflict between the provisions of this subdivision and any bond indenture to which the Authority is subject, the provisions of the bond indenture shall be controlling;

7. To acquire by the exercise of the power of eminent domain any lands, property rights, rights-of-way, franchises, easements, and other property, including public lands, parks, playgrounds, reservations, highways, or parkways, or parts thereof or rights therein, of any person, partnership, association, railroad, public service, public utility, or other corporation, or of any municipality, county, or other political subdivision, deemed necessary or convenient for the construction or the efficient operation of a project or necessary in the restoration, replacement, or relocation of public or private property damaged or destroyed whenever a reasonable price cannot be agreed upon with the governing body of such municipality, county, or other political subdivision as to such property owned by it or whenever the Authority cannot agree on the terms of purchase or settlement with the other owners because of the incapacity of such owners, because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because such owners are nonresidents of the Commonwealth, are unknown, or are unable to convey valid title to such property. Such proceedings shall be in accordance with and subject to the provisions of any and all laws of the Commonwealth applicable to the exercise of the power of eminent domain in the name of the Commissioner of Highways and subject to the provisions of § 25.1-102 as fully as if the Authority were a corporation possessing the power of eminent domain. Title to any property condemned by the Authority shall immediately vest in the Authority, and the Authority shall be entitled to the immediate possession of

such property upon the deposit with the clerk of the court in which such condemnation proceedings are originated of the total amount of the appraised price of the property and court costs and fees as provided by law, notwithstanding that any of the parties to such proceedings shall appeal from any decision in such condemnation proceeding. Whenever the Authority makes such deposit in connection with any condemnation proceeding, the making of such deposit shall not preclude the Authority from appealing any decision rendered in such proceedings. Upon the deposit with the clerk of the court of the appraised price, any person entitled thereto may, upon petition to the court, be paid his or their pro rata share of 90 percent of such appraised price. The acceptance of such payment shall not preclude such person from appealing any decision rendered in such proceedings. If the appraisement is greater or less than the amount finally determined by the decision in such proceeding or by an appeal, the amount of the increase or decrease shall be paid by or refunded to the Authority.

The terms "appraised price" and "appraisement" as used in this subdivision mean the value determined by two competent real estate appraisers appointed by the Authority for such purposes.

The acquisition of any such property by condemnation or by the exercise of the power of eminent domain shall be and is hereby declared to be a public use of such property;

8. To determine the location of any limited access highways constructed or acquired by the Authority, subject to the approval of the Commonwealth Transportation Board, and to determine the design standards and materials of construction of such highways;

9. To designate, with the approval of the Commonwealth Transportation Board, the location in the City of Richmond and in the Counties of Henrico and Chesterfield and establish, limit, and control points of ingress to and egress from any limited access highway constructed by the Authority within the corporate limits of the City of Richmond and the Counties of Henrico and Chesterfield as may be necessary or desirable in the judgment of the Authority to insure the proper operation and maintenance of such highway; to prohibit entrance to and exit from such highway from any point not so designated; and to construct, maintain, repair, and operate service roads connecting with points of ingress to and egress from such highway at such locations in the City of Richmond and in the Counties of Henrico and Chesterfield as may be designated by the Authority;

10. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including contracts or agreements authorized by this chapter with the Commonwealth Transportation Board, the City of Richmond, and the Counties of Henrico and Chesterfield;

11. To construct grade separations at intersections of any limited access highway constructed by the Authority with public highways or other public ways or places and to change and adjust the lines and grades thereof so as to accommodate the same to the design of the grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of

such highways, ways, and places shall be ascertained and paid by the Authority as a part of the cost of such highway;

12. To vacate or change the location of any portion of any public highway or other public way or place, public utility, sewer, pipe, main, conduit, cable, wire, tower, pole, and other equipment and appliance of the Commonwealth, of the City of Richmond, or of the Counties of Henrico and Chesterfield, and to reconstruct the same in such new location as shall be designated by the Authority and of substantially the same type and in as good condition as the original highway, street, way, place, public utility, sewer, pipe, main, conduit, cable, wire, tower, pole, equipment, or appliance, with the cost of such reconstruction and any damage incurred in vacating or changing the location thereof ascertained and paid by the Authority as a part of the cost of the project in connection with such expenditures. Any public highway or other public way or place vacated or relocated by the Authority shall be vacated or relocated in the manner provided by law for the vacation or relocation of public highways, and any damages awarded on account thereof shall be paid by the Authority as a part of the cost of the project;

13. To enter upon any lands, waters, and premises for the purpose of making such surveys, soundings, borings, and examinations as the Authority may deem necessary or convenient for its purposes. Such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceeding; however, the Authority shall pay any actual damage resulting to such lands, water, and premises as a result of such entry and activities;

14. To operate or permit the operation of vehicles for the transportation of persons or property for compensation on any limited access highway constructed or acquired by the Authority, provided that the Department of Motor Vehicles or the Federal Motor Carrier Safety Administration shall not be divested of jurisdiction to authorize or regulate the operation of such carriers;

15. To establish reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of pipes, mains, sewers, conduits, cables, wires, towers, poles, and other equipment and appliances (public utility facilities) of the City of Richmond and the Counties of Henrico and Chesterfield and of public utility and public service corporations and of any person, firm, or other corporation rendering similar services, owning or operating public utility facilities in, on, along, over, or under highways constructed by the Authority. Whenever the Authority shall determine that it is necessary that any public utility facilities should be relocated or removed, the Authority may relocate or remove the public utility facilities in accordance with the regulations of the Authority, and the cost and expense of such relocation or removal, including the cost of installing the public utility facilities in a new location and the cost of any lands or any rights or interests in lands and any other rights acquired to accomplish such relocation or removal, shall be paid by the Authority as a part of the cost of such highway. The owner or operator of the public utility facilities may maintain and operate the public utility facilities with the necessary appurtenances in the new location for as long a period and

upon the same terms and conditions as it had the right to maintain and operate the public utility facilities in the former location;

16. With the approval of the Mayor and the Council of the City of Richmond and the Boards of Supervisors of the Counties of Henrico and Chesterfield, to borrow money and issue bonds, notes, or other evidences of indebtedness for any of its corporate purposes, such bonds, notes, or other evidences of indebtedness to be payable solely from the revenues or other unencumbered funds available to the Authority that are pledged to the payment of such bonds, notes, or other evidences of indebtedness;

17. To fix, charge, and collect fees, tolls, rents, rates, and other charges for the use of Authority facilities and the parts or sections thereof;

18. To establish rules and regulations for the use of any Authority facilities as may be necessary or expedient in the interest of public safety with respect to the use of Authority facilities and property under the control of the Authority;

19. To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, trustees, depositaries, paying agents, and such other employees and agents as may be necessary in the discretion of the Authority to construct, acquire, maintain, and operate Authority facilities and to fix their compensation;

20. To receive and accept from any federal agency for or in aid of the construction of any Authority facility or for or in aid of any Authority undertaking authorized by this chapter, and to receive and accept from the Commonwealth, the City of Richmond, or the Counties of Henrico and Chesterfield and from any other source, grants, contributions, or other aid in such construction or undertaking, or for operation and maintenance, either in money, property, labor, materials, or other things of value; and

21. To do all other acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

2009, c. 471, § 15.2-7002; 2014, cc. 469, 805; 2016, c. 605.

§ 33.2-2903.Issuance of revenue bonds

The Authority is hereby authorized to provide by resolution for the issuance of revenue bonds of the Authority for the purpose of paying all or any part of the cost of Authority facilities or any project or portion of such facilities. The principal of and interest on such bonds shall be payable solely from the revenues pledged for such payment. The bonds of each issue or series shall be dated, shall bear interest at such rate or rates not exceeding six percent per year, shall mature at such time or times not exceeding 50 years from the date or dates thereof, as may be determined by the Authority, and may contain provisions reserving the right of the Authority to redeem such bonds before maturity at such price or prices and upon such terms and conditions as may be fixed by the Authority in the resolution

authorizing such bonds. Such bonds may be issued in coupon form, registered form, or both as prescribed by the Authority, and provisions may be made for the registration of coupon bonds as to principal only or as to both principal and interest and for the reconversion of registered bonds into coupon bonds. Such bonds may be issued in any denomination and may be made payable at any bank or trust company within or without the Commonwealth as the Authority may determine. Such bonds and the coupons attached to coupon bonds shall be signed in such manner either manually or by facsimile signature, as shall be determined by the Authority, and sealed with the seal of the Authority or a facsimile thereof. In case any officer whose signature or facsimile thereof shall appear on any bond or coupon shall cease to be such officer before the delivery of such bonds, such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer or officers had remained in office until the delivery thereof. The Authority may sell such bonds in such manner either at public or private sale and for such price or prices as the Authority may determine, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six percent per year, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding from such computation the amount of any premium to be paid on the redemption of any bond prior to maturity. Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bond that has become mutilated, destroyed, or lost.

2009, c. 471, § 15.2-7003; 2014, c. 805.

§ 33.2-2904.Rates and charges

Whenever the Authority has constructed or otherwise acquired Authority facilities and has issued bonds for such purpose, the Authority shall fix, revise, charge, and collect fees, tolls, rents, rates, and other charges for the use of such facilities and the different parts or sections thereof, sufficient, together with any other moneys made available and used for that purpose, to pay the principal of and interest on such bonds, together with reserves for such purposes, and to maintain and operate such facilities and to keep the same in good condition and repair. Such fees, tolls, rents, rates, and other charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or of any municipality, county, or other political subdivision of the Commonwealth, and all revenues, when collected, and the proceeds from the sale of revenue bonds, shall be held by the Authority in trust for the benefit of the holders of bonds of the Authority issued for the construction or acquisition of Authority facilities and for properly maintaining, operating, and repairing the Authority facilities.

Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth, the City of Richmond, the County of Henrico, or the County of Chesterfield or a

pledge of the full faith and credit of the Commonwealth, the City of Richmond, the County of Henrico, or the County of Chesterfield and shall be payable solely from the funds provided therefor from revenues.

2009, c. 471, § 15.2-7004; 2014, c. 805.

§ 33.2-2905.Use of state highway maintenance and construction funds for Authority facilities

Until all bonds of the Authority, including refunding bonds, and the interest thereon are paid in full, the Commonwealth Transportation Board may use any part of funds available for the maintenance of state highways in the highway construction district in which the Authority's facilities are wholly or partly located to provide for such portion of the operation, maintenance, and repair of the facilities of the Authority as is deemed in the public interest; however, no part of such funds shall be used for the facilities of the Authority unless the fees, tolls, rents, rates, and other charges for the use thereof are not sufficient to make the required payments of principal and interest on the outstanding revenue bonds issued in connection therewith, and to operate, maintain, and repair the same.

2009, c. 471, § 15.2-7005; 2014, c. 805.

§ 33.2-2906.Refunding bonds

The Authority is hereby authorized by resolution to provide for the issuance of refunding revenue bonds with which to refund outstanding revenue bonds or any issue or series of such outstanding bonds, which refunding revenue bonds may be issued at or before the maturity or redemption date of the bonds to be refunded, and to include different issues or series of such outstanding revenue bonds by a single issue of refunding revenue bonds, and to issue refunding revenue bonds to pay any redemption premium and interest to accrue and become payable on the outstanding revenue bonds being refunded to the date of payment or redemption, and to establish reserves for such refunding revenue bonds. Such refunding revenue bonds shall be payable solely from all or that portion of the revenues of the Authority facilities pledged to the payment thereof in the bond resolution pursuant to which such bonds were issued. Such refunding revenue bonds may, in the discretion of the Authority, be exchanged at par for the revenue bonds that are being refunded or may be sold at public or private sale in such manner and at such price as the Authority shall deem for the best interests of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six percent per year, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding from such computation the amount of any premium to be paid on the redemption of any bonds prior to maturity, and may be issued and delivered at any time prior to the date of redemption or maturity date of the bonds to be refunded as the Authority determines to be in the best interests of the Authority. The interest rate or rates on refunding revenue bonds shall not be limited by the interest rate or rates borne by any of the revenue bonds to be refunded thereby. The proceeds derived from the sale of refunding revenue bonds issued under this chapter shall be invested in obligations of or guaranteed by the

United States government pending the application of such proceeds to the purpose for which such refunding revenue bonds have been issued. To further secure such refunding revenue bonds, the Authority may contract with the purchasers thereof with respect to the safekeeping and application of the proceeds thereof and the safekeeping and application of the earnings of such investments. The determination of the Authority with respect to the financial soundness and advantage of the issuance and delivery of refunding revenue bonds authorized under this chapter shall be conclusive, but nothing contained in this section shall require the holders of any outstanding revenue bonds being refunded to accept payment thereof otherwise than as provided in the outstanding bonds.

2009, c. 471, § 15.2-7006; 2014, c. 805.

§ 33.2-2907.Trust agreement

In the discretion of the Authority, any bonds issued under the provisions of this chapter may be secured by a trust agreement or indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth, to be selected by the Authority in such manner as it may elect. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign all or any portion of the tolls and other revenues to be received by the Authority from the ownership and operation of Authority facilities, but shall not convey or mortgage any Authority facilities or any part thereof. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth that may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such resolution, trust agreement, or indenture may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders. In addition to the foregoing, any such resolution, trust agreement, or indenture may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the Authority facilities or portion thereof.

All or any portion of the revenues derived from the ownership and operation of Authority facilities, as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement or indenture securing such bonds, may be pledged to, and charged with, the payment of the principal of and the interest on such bonds as the payment shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust

agreement nor indenture by which a pledge is created need be filed or recorded except in the records of the Authority.

2009, c. 471, § 15.2-7007; 2014, c. 805.

§ 33.2-2908.Covenants to secure bonds

Any resolution authorizing the issuance of bonds of the Authority may, for the benefit and security of the holders of such bonds, contain covenants by the Authority for such a purpose, including covenants as to, among other things:

1. The operation, maintenance, and repair of the Authority facilities;

2. The purposes to which the proceeds of the sale of such bonds may be applied and the use and disposition thereof;

3. The use and disposition of the revenues of the Authority derived from the ownership or operation of Authority facilities and additions, improvements, and extensions thereof, including the investment thereof and the creation and maintenance of reserve funds and funds for working capital and all renewals and replacements to Authority facilities;

4. The amount, if any, of additional revenue bonds payable from such revenues that may be issued and the terms and conditions on which such additional revenue bonds may be issued;

5. Fixing, maintaining, collection, and deposit of fees, tolls, rents, rates, and other charges for all the services sold, furnished, or supplied by the Authority facilities;

6. The operation, maintenance, repair, management, accounting, and auditing of the Authority;

7. Limitations upon the right of the Authority to dispose of Authority facilities or any part thereof without providing for the payment of the outstanding revenue bonds;

8. The appointment of trustees, depositaries, and paying agents within or without the Commonwealth to receive, hold, disburse, invest, or reinvest the proceeds derived from the sale of revenue bonds and all or any part of the revenues derived by the Authority from the operation, ownership, and management of the Authority facilities; and

9. Such other covenants and agreements as may be determined necessary in the discretion of the Authority to advantageously market the revenue bonds of the Authority.

2009, c. 471, § 15.2-7008; 2014, c. 805.

§ 33.2-2909.Revenue bonds eligible for investment

Bonds issued by the Authority under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions and all insurance companies, trust companies, banks, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds,

including capital, in their control or belonging to them. Such bonds are also hereby made securities that may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is or may be authorized by law.

2009, c. 471, § 15.2-7009; 2014, c. 805.

§ 33.2-2910.Authority obligations to be negotiable instruments; enforcement of bonds

Notwithstanding the provisions of this chapter, or any provision of law, any recital in any bond, any interim receipt, or any other obligation issued under the provisions of this chapter, all such bonds, interim receipts, or other obligations shall be deemed to be negotiable instruments under the laws of the Commonwealth. The provisions of this chapter, and of any resolution or indenture providing for the issuance and security of any revenue bonds, interim receipts, or other obligations issued pursuant to this chapter, shall constitute a contract with the holder of such revenue bonds, interim receipts, or other obligations, and the agreements and covenants of the Authority under this chapter and under such resolution, resolutions, or indentures shall be enforceable by any holder of revenue bonds, interim receipts, or other obligations issued under the provisions of this chapter and any representative of such holder, and any trustee appointed under the bond resolution and authorized to do so, may by suit, action, injunction, mandamus, or other proceeding issued by a court of competent jurisdiction enforce all rights of such holders under the laws of the Commonwealth or granted by this chapter and in any such bond resolution or indenture and may compel performance of all duties required to be performed by this chapter and by such bond resolutions or indenture by the Authority or by any officer or agent thereof, including the fixing, charging, and collecting of fees, tolls, rents, rates, and other charges for the use of the Authority facilities.

2009, c. 471, § 15.2-7010; 2014, c. 805.

§ 33.2-2911.Exemption from taxation

All property, real and personal, and all rights and interests therein and the income of the Authority, the revenue bonds and the interest thereon, and the transfer thereof and any profit made on the sale thereof, shall at all times be free from taxation or assessment by the Commonwealth and by any municipality, county, or other political subdivision thereof.

2009, c. 471, § 15.2-7011; 2014, c. 805.

§ 33.2-2912.General powers of City of Richmond and Counties of Henrico and Chesterfield

The City of Richmond and the Counties of Henrico and Chesterfield may enter into and perform contracts or agreements with the Authority providing for furnishing to the Authority one or more of the following cooperative undertakings or any combination thereof:

1. The preparation, acquisition, loan, or exchange of survey, engineering, borings, construction and other technical reports, studies, plans, and data;

2. The providing of engineering, planning and other professional and technical services, labor, or other things of value;

3. The construction, in whole or in part, of public highways, bridges, tunnels, viaducts, interchanges, connecting highways, grade crossings, and other highway facilities;

4. The providing of funds in lump sums or installments to assist in paying the cost of any Authority facility or any Authority undertaking authorized by this chapter or the operation and maintenance thereof;

5. The acquisition and transfer to the Authority of land, including easements, rights-of-way, or other property, useful in the construction, operation, or maintenance of any Authority facility;

6. The making of payments or contributions to the Authority for the use of or in compensation for the services rendered by any Authority facility in lieu of the payment of tolls or other charges therefor, and such payments and contributions shall be deemed revenues of the project to the same extent as the tolls, rentals, fees, and other charges collected in the operation of the project;

7. When requested by the Authority, the vacating or changing of the location of any public highway or other public way or place or any portion thereof, public utility, sewer, pipe, main, conduit, cable, wire, tower, pole, or other equipment or appliance owned or controlled by or under the jurisdiction of either the City of Richmond or the County of Henrico or Chesterfield, in the manner required or authorized by law conferring such power on the City of Richmond or the County of Henrico or Chesterfield, and to construct the same in such new location as shall be designated by the governing body of the City of Richmond or the County of Henrico or Chesterfield, and the cost of vacating or changing the location or reconstruction thereof and any damages resulting therefrom required to be paid by the City of Richmond or County of Henrico or Chesterfield shall be reimbursed by the Authority as a part of the cost of the project in connection with which such expenditures have been made; and

8. The connection of any project of the Authority with the streets, highways, roads, and other public ways in the City of Richmond and in the Counties of Henrico and Chesterfield.

2009, c. 471, § 15.2-7012; 2014, c. 805.

§ 33.2-2913.Powers of City of Richmond and Counties of Henrico and Chesterfield with respect to revenue bonds issued by the Authority

A. The City of Richmond and the Counties of Henrico and Chesterfield each may enter into and perform contracts and agreements with the Authority to aid the Authority to pay the principal of and interest on revenue bonds or revenue refunding bonds issued by the Authority if, when, and as the revenues of the Authority may not be sufficient to pay such principal or interest when due. No such contract or agreement shall be deemed to be lending or granting credit to or in aid of any person, association, company, or corporation within the meaning of Section 10 of Article X of the Constitution

of Virginia, nor shall any such contract or agreement be deemed to be a pledge of the full faith and credit or of the taxing power of the City of Richmond, the County of Henrico, or the County of Chesterfield for the payment of such principal or interest except as may be otherwise provided in such contracts or agreements. Any holder of bonds, notes, certificates, or other evidences of borrowing issued by the Authority under the provisions of this chapter or of coupons appertaining thereto, and the representatives of such holders and the trustee under any bond resolution or indenture, may either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce all rights of the Authority under or by virtue of any such contract or agreement.

B. Funds to perform any such contract or agreement may be provided by the City of Richmond, the County of Henrico, or the County of Chesterfield by appropriations of general or specific tax revenue, or by appropriations of accumulated funds allocated for public improvements generally, or allocated to the purposes of such contract or agreement, or by appropriations of the proceeds from the sale of bonds, which may be issued as provided in this chapter.

C. The City of Richmond, the County of Henrico, or the County of Chesterfield may issue bonds for the purpose of providing funds to perform any contract or agreement entered into with the Authority pursuant to the provisions of this chapter. Such bonds shall mature at such time not exceeding 40 years from their date, as may be determined by the governing body of the City of Richmond, the County of Henrico, or the County of Chesterfield issuing such bonds, and may be redeemable before maturity, at the option of the governing body of the City of Richmond, the County of Henrico, or the County of Chesterfield, at such price and under such terms and conditions as may be prescribed by such governing body prior to the issuance of the bonds. The City of Richmond, the County of Henrico, and the County of Chesterfield may provide for the issuance of refunding bonds for the purpose of refunding any outstanding bond that has been issued pursuant to the provisions of this subsection, including the payment of any redemption premium thereon, and any interest accrued or to accrue to the date of redemption of such bonds.

D. The authority of the City of Richmond, the County of Henrico, and the County of Chesterfield to contract and to issue bonds pursuant to this chapter is in addition to any existing authority to contract and issue bonds, anything in the laws of the Commonwealth, including the Charter of the City of Richmond, to the contrary notwithstanding, all of which laws and Charter are hereby amended or modified so as to effectuate the powers conferred by this chapter.

E. The governing bodies of the City of Richmond and of the Counties of Henrico and Chesterfield may exercise any of the powers granted by this chapter by resolution, and all proceedings of the City Council of the City of Richmond and the Boards of Supervisors of the Counties of Henrico and Chesterfield authorizing the execution of such contracts and providing for the issuance of bonds pursuant to the provisions of this chapter shall not be subject to the provisions of the Charter of the City or this Code permitting a referendum on actions taken by the City Council and Boards of

Supervisors except as required by the Constitution of Virginia, but all such proceedings shall take effect immediately upon the adoption thereof.

2009, c. 471, § 15.2-7013; 2014, c. 805.

§ 33.2-2914.Powers of the Commonwealth Transportation Board

The Commonwealth Transportation Board may:

1. Enter into and perform contracts or agreements with the Authority to furnish it with surveys, engineering, borings, plans, and specifications and other technical services, reports, studies, and data, the cost of which shall be reimbursed by the Authority as a part of the cost of the project in connection with which such contracts or agreements were entered into;

2. Allocate to and for the construction, operation, or maintenance of any highways constructed by the Authority and pay to the Authority such funds as may be or become available to the Commonwealth Transportation Board for such purposes;

3. Permit the connection of any highways constructed or acquired by the Authority with highways under the control and jurisdiction of the Commonwealth Transportation Board; and

4. Employ independent consulting engineers having a nationwide and favorable repute in estimating traffic over any such highways to determine whether the construction of such highways will result in substantial reduction in the volume of traffic over Interstate 95 and use funds under the control of the Commonwealth Transportation Board for that purpose.

2009, c. 471, § 15.2-7014; 2014, c. 805.

§ 33.2-2915.Acquisition of property

A. The Authority may acquire, solely from funds provided under the provisions of this chapter, such lands, structures, properties, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, as it may deem necessary or convenient for the construction and operation of Authority facilities, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

B. The City of Richmond, the Counties of Henrico and Chesterfield, the Commonwealth Transportation Board, and, with the approval of the Governor, public agencies and commissions of the Commonwealth, notwithstanding any contrary provision of law, may lease, lend, grant, or convey to the Authority at its request upon such terms and conditions as the governing bodies of the City of Richmond, the Counties of Henrico and Chesterfield, the Commonwealth Transportation Board, or the proper authorities of such agencies or commissions of the Commonwealth may deem reasonable and fair and without the necessity of any advertisement, order of court, or other action or formality, other than the regular and formal action of the governing bodies or authorities concerned, any real property

that may be necessary or convenient for the effectuation of the authorized purposes of the Authority, including public highways and any other real property already devoted to public use.

C. The City of Richmond and the Counties of Henrico and Chesterfield may, subject to the provisions of § 25.1-102, acquire by the exercise of the power of eminent domain granted to or conferred upon them, and in accordance with the procedure prescribed therefor, any real property that may be necessary or convenient for the effectuation of the authorized purposes of the Authority and lease, lend, grant, or convey such property to the Authority upon such terms and conditions as the governing bodies of the City of Richmond or Counties of Henrico and Chesterfield may deem reasonable and fair; the acquisition of such real property by the exercise of the power of eminent domain and the disposition of the same to the Authority as provided in this section shall be and is declared to be for a public use of such property.

D. In any eminent domain proceedings by the Authority, the City of Richmond, or the County of Henrico or Chesterfield under this chapter, the court having jurisdiction of the suit, action, or proceeding may make such orders as may be just to the Authority, the City of Richmond, or the County of Henrico or Chesterfield and to the owners of the property to be condemned, and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority, the City of Richmond, or the County of Henrico or Chesterfield to accept and pay for the property, or by reason of the taking of property occupied by such owners, but neither such undertaking or security nor any act or obligation of the Authority, the City of Richmond, or the County of Henrico or Chesterfield shall impose any liability upon the Commonwealth.

E. If the owner, lessee, or occupier of any property to be condemned or otherwise acquired pursuant to this chapter refuses to remove his property therefrom or give up possession thereof, the Authority, the City of Richmond, or the County of Henrico or Chesterfield may proceed to obtain possession in any manner provided by law.

F. When the Authority, the City of Richmond, or the County of Henrico or Chesterfield proposes to construct a highway across the tracks of any railroad, the exercise of the general power of eminent domain over the property of a railroad granted by § 33.2-2902 shall be limited with respect to the property, right-of-way, facilities, works, or appurtenances upon which the tracks at such proposed crossing are located, to the acquisition only of an easement therein, which crossing shall be constructed either sufficiently above or below the grade of any such railroad track so that neither the crossing then under construction nor any part thereof, including any bridge abutments, columns, supporting structures, and appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation, or maintenance of the trains, tracks, works, or appurtenances of the railroad or interfere with or endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the exercise of the power of eminent domain for such an easement, plans and specifications of that portion of the project to be constructed across the railroad tracks showing compliance with such

requirements and showing sufficient and safe plans and specifications for such overhead or underground structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within 30 days to approve the plans and specifications so submitted, the matter shall be submitted by the Authority, the City of Richmond, or the County of Henrico or Chesterfield to the State Corporation Commission, whose decision, arrived at after due consideration in accordance with its usual procedure, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below such tracks. The overhead or underground structures and appurtenances shall be constructed in accordance with such plans and specifications and in accordance with such elevations or distances above or below such tracks so approved by the railroad or the State Corporation Commission. A copy of the plans and specifications approved by the railroad or the State Corporation Commission shall be filed as an exhibit upon the institution of any proceeding brought in the exercise of the power of eminent domain.

G. The Commonwealth hereby consents, subject to the approval of the Governor, to the use by the Authority of any other lands or property owned by the Commonwealth, including lands lying under water, that are deemed by the Authority to be necessary for the construction or operation of any project being constructed by the Authority.

2009, c. 471, § 15.2-7015; 2014, c. 805; 2015, c. 256.

§ 33.2-2916.Transfer to City of Richmond

A. If the City of Richmond has rendered financial assistance or contributed in any manner to the cost of construction of a limited access highway by the Authority within or partly within and partly without the corporate limits of the City of Richmond, and the Authority has issued bonds for the construction of such limited access highway, then, when all such bonds, including refunding bonds, and the interest thereon have been paid or a sufficient amount of cash or United States government securities have been deposited and dedicated to the payment of all such bonds and the interest to the maturity or redemption date thereof in trust for the benefit of the holders of such bonds, all property, real and personal, acquired in connection with such limited access highway within the City of Richmond shall be transferred by the Authority to the City as compensation to the City for the financial assistance rendered by the City to the Authority in connection with the construction or acquisition of such limited access highway. Such highway shall upon the acceptance thereof by the City become a part of the street or highway system of the City and shall thereafter be maintained and operated as a limited access highway by the City. The governing body of the City of Richmond shall have the power to fix, revise, charge, and collect tolls for transit over such limited access highway and as compensation for other uses that may be made thereof. The proceeds from such tolls and compensation shall be first used to reimburse the City of Richmond and the Counties of Henrico and Chesterfield for any funds or expenditures made by each of them pursuant to contracts or agreements authorized by § 33.2-2913 for which reimbursement has not been made, and then for the operation, maintenance, improvement,

expansion, or extension of such limited access highway and to increase its utility and benefits and for the construction, reconstruction, maintenance, and operation of other projects or highways connected with such limited access highway or with the federal or state highway systems, and for such purpose the City of Richmond shall succeed to all the functions and shall have all the powers conferred on the Authority by this chapter.

B. If the Authority constructs a limited access highway project partly within and partly without the corporate limits of the City of Richmond, any extension thereof shall be constructed or acquired only when approved by the unanimous vote of all members of the board of directors or by a vote of three-fourths of the directors and approval by the City Council of the City of Richmond and the Boards of Supervisors of the Counties of Henrico and Chesterfield. If the Authority has issued bonds for the purpose of constructing such project or for the purpose of constructing or acquiring such extensions when all such bonds, including any refunding bonds, and the interest thereon have been paid or a sufficient amount of cash or United States government securities have been deposited and dedicated to the payment thereof in trust for the benefit of holders of such bonds, all property, real and personal, acquired in connection with such project or extension thereof not required to be transferred to the City of Richmond pursuant to subsection A shall be transferred by the Authority to the political subdivisions in which such property is located at the time of such transfer at no cost to such political subdivisions in the event the subdivisions adopt a resolution accepting such property. If not accepted by such subdivisions within 30 days from the offer of the property by the Authority, then the Authority shall transfer such property to the Commonwealth Transportation Board. If such property is accepted by the political subdivision where the property is located, the governing body of such subdivision shall have the power to fix, revise, charge, and collect tolls for transit over such limited access highway project or extension and as compensation for other uses that may be made thereof. The proceeds from such tolls and compensation shall be used first to reimburse the City of Richmond and the Counties of Henrico and Chesterfield for any funds or expenditures made by each of them pursuant to contracts or agreements authorized by § 33.2-2913 for which reimbursement has not been made and then for the operation, maintenance, improvement, expansion, or extension of such limited access highway project and to increase its utility and benefits and for the construction, reconstruction, maintenance, and operation of other projects or highways connected with such limited access highway or with the state or federal highway systems and for such purpose such political subdivisions shall succeed to all the functions and shall have all the powers conferred on the Authority by this chapter with respect to such property.

2009, c. 471, § 15.2-7016; 2014, c. 805; 2015, c. 256.

§ 33.2-2917.Miscellaneous

A. Any money set aside for the payment of the principal of or interest on any bonds issued by the Authority not claimed within two years from the day the principal of such bonds is due by maturity or

by call for redemption shall be paid into the state treasury. No interest shall accrue on such principal or interest from the day the same is due. The Comptroller shall keep an account of all money thus paid into the state treasury, and it shall be paid to the individual partnership, association, or corporation entitled thereto upon satisfactory proof that such individual, partnership, association, or corporation is so entitled to such money. If the claim so presented is rejected by the Comptroller, the claimant may proceed against the Comptroller for recovery in the Circuit Court of the City of Richmond. An appeal from the judgment of the circuit court shall lie to the Supreme Court of Virginia as in actions at law, and all laws and rules relating to practice and procedure in actions at law shall apply to such authorized proceedings. No such proceedings shall be filed after 10 years from the day the principal of or interest on such bonds is due; however, if the individual having such claim is an infant or insane person or is imprisoned at such due date, such proceedings may be filed within five years after the removal of such disability, notwithstanding the fact that such 10-year period has expired.

B. The Authority may contract with the City of Richmond, the Counties of Henrico and Chesterfield, and the Department of State Police for the policing of any Authority facilities, and the City of Richmond, the Counties of Henrico and Chesterfield, and the Department of State Police are hereby authorized to enter into contracts with the Authority for such purpose. Police officers providing police services pursuant to such contracts shall be under the exclusive control and direction of the authority providing such officers and shall be responsible to that authority exclusively for the performance of their duties and the exercise of their powers. The Authority shall reimburse the City of Richmond, the County of Henrico or Chesterfield, or the Commonwealth in such amounts and at such time as shall be mutually agreed upon for providing police service. Such officers shall be responsible for the preservation of the public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property, and enforcement of the laws of the Commonwealth and all regulations of the Authority made in accordance, and such officers shall have all the rights and duties of police officers as provided by the general laws of the Commonwealth. The violation of any such regulation shall be punishable as follows: if such a violation would have been a violation of law if committed on any public highway in the City of Richmond or the County of Henrico or Chesterfield, it shall be punishable in the same manner as if it had been committed on such public highway; otherwise it shall be punishable as a Class 1 misdemeanor. All other police officers of the Commonwealth, the City of Richmond, and the Counties of Henrico and Chesterfield shall have the same powers and jurisdiction within the areas of operations agreed upon by the parties that they have beyond such limits and shall have access to all such areas at any time without interference for the purpose of exercising such powers and jurisdiction. For the purpose of enforcing such laws and regulations, the court having jurisdiction for the trial of criminal offenses committed in the City of Richmond or in the Counties of Henrico and Chesterfield within whose boundaries any crime is committed shall have jurisdiction to try any person charged with the violation of any such laws and regulations within such boundaries. A copy of the regulations of the Authority, attested by the secretary or secretary-treasurer of the

Authority, may be admitted as evidence in lieu of the original. Any such copy purporting to be sealed and signed by such secretary or secretary-treasurer may be admitted as evidence without any proof of the seal or signature or of the official character of the person whose name is signed to it.

C. All actions at law and suits in equity and other proceedings, actions, and suits against the Authority, or any other person, firm, or corporation, growing out of the construction, maintenance, repair, operation, and use of any Authority facility, or growing out of any other circumstances, events, or causes in connection therewith, unless otherwise provided in this section, shall be brought and conducted in the court having jurisdiction of such actions, suits, and proceedings in the City of Richmond or the County of Henrico or Chesterfield within whose boundaries the causes of such actions, suits, and proceedings arise, and jurisdiction is hereby conferred on such court for that purpose. All such actions, suits, and proceedings on behalf of the Authority shall be brought and conducted in the Circuit Court of the City of Richmond, except as otherwise provided in this section, and exclusive jurisdiction is hereby conferred on such court for the purpose. Eminent domain proceedings instituted and conducted by the Authority shall be brought and conducted in the court having jurisdiction of such proceedings in the City of Richmond or the County of Henrico or Chesterfield within whose boundaries the land or other property to be so acquired or the major portion thereof is situated, and jurisdiction is hereby conferred on such court for such purpose.

D. On or before September 30 of each year, the Authority shall prepare a report of its activities for the 12-month period ending the preceding July 1 of such year and shall file a copy thereof with the Commonwealth Transportation Board, the City of Richmond, and the Counties of Henrico and Chesterfield. Each such report shall set forth an operating and financial statement covering the Authority's operations during the 12-month period covered by the report. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants to be selected by the Authority, and the cost of such audit shall be treated as a part of the cost of construction and operation of a project.

E. The records, books, and accounts of the Authority shall be subject to examination and inspection by duly authorized representatives of the Commonwealth Transportation Board, the governing bodies of the City of Richmond and the Counties of Henrico and Chesterfield, and any bondholder at any reasonable time, provided the business of the Authority is not unduly interrupted or interfered with thereby.

F. Any member, agent, or employee of the Authority who contracts with the Authority or is interested in contracting with the Authority or in the sale of any property, either real or personal, to the Authority shall be guilty of a misdemeanor and shall be subject to a fine of not more than $1,000 or imprisonment in jail for not more than one year, either or both. Exclusive jurisdiction for the trial of such misdemeanors is hereby conferred upon the Circuit Court of the City of Richmond, provided that the term "contract," as used in this chapter, shall not be held to include the depositing of funds in, the

borrowing of funds from, or the serving as agent or trustee by any bank in which any member, agent, or employee of the Authority may be a director, officer, or employee or have a security interest, nor shall such term include contracts or agreements with the Commonwealth Transportation Board or the purchase of services from, or other transactions in the ordinary course of business with, public service corporations.

2009, c. 471, § 15.2-7017; 2014, c. 805.

§ 33.2-2918.Approval by Commonwealth Transportation Board

The Authority shall not construct a limited access toll highway without the approval of the Commonwealth Transportation Board.

2009, c. 471, § 15.2-7018; 2014, c. 805.

§ 33.2-2919.Liberal construction

This chapter shall be liberally construed to effectuate the purposes hereof, and the foregoing sections of this chapter shall be deemed to provide an additional and alternative method of doing the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred upon the City of Richmond by its Charter and upon the City of Richmond and Counties of Henrico and Chesterfield by other provisions of law; however, the issuance of revenue bonds or revenue refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds, and except as provided in this chapter none of the powers granted to the Authority under the provisions of this chapter shall be subject to the supervision or regulation or require the approval or consent of the City of Richmond or the Counties of Henrico or Chesterfield or any commission, board, bureau, official, or agency thereof or of the Commonwealth, except as otherwise provided in this chapter.

2009, c. 471, § 15.2-7019; 2014, c. 805.

§ 33.2-2920.Repealed

Repealed by Acts 2015, c. 709, cl. 2.

§ 33.2-2921.Inconsistent laws inapplicable

All other laws, including the provisions of the Charter of the City of Richmond, inconsistent with any provision of this chapter are hereby declared to be inapplicable to the provisions of this chapter and to any project constructed by the Authority pursuant to this chapter.

2009, c. 471, § 15.2-7021; 2014, c. 805.

Riverside Regional Jail Authority

Created

1990 Acts of Assembly, c. 726.

Amendments
1993, c. 228 (§§ 3, 6)
1999, cc. 642, 675 (§§ 4, 6)
2014, c. 229 (§ 4)

§ 1. Title.
The provisions of this Act shall be known and may be cited as the "Riverside Regional Jail Authority Act." (1990, c. 726)

§ 2. Definitions.
As used in this Act, the following words and terms shall have the following meanings:

"Authority" means the Riverside Regional Jail Authority created in § 3 of this Act.

"Bonds" or "revenue bonds" means revenue bonds or revenue refunding bonds of the Authority issued under the provisions of this Act.

"Cost of the project" means and includes the cost of construction, the cost of all lands, properties, rights, easements, and franchises acquired and the cost of all conveyances in fee simple of the Authority's title thereto and leases thereof, the cost of preparing the land, the cost of a single impact fee in the amount of $250,000 which shall be paid to the host jurisdiction, the cost of all machinery, equipment, and furnishings related to the operation of any project, financing charges, interest prior to and during construction, and for six months after completion of construction, cost of engineer, fiscal and legal expenses, and other expenses necessary or incident to determining the feasibility or practicability of the project, administrative expenses and such other expenses as may be necessary or incident to the financing herein authorized, and the cost of placing any project in operation. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the "cost of the project" and may be paid or reimbursed as such out of any funds of the Authority, including the proceeds of any revenue bonds issued under the provisions of this Act for any such project or projects.

"Project" means and includes the acquisition, construction, equipping, maintenance, and operation of a regional jail or regional jail farm and the usual facilities related thereto, and enlargements, renovations, and improvements of such facilities, acquiring the necessary property therefor, both real and personal, and the lease, sale, or mortgage of any part or all of such facilities, including real and personal property, so as to ensure the efficient and proper development, maintenance, and operation of such facilities and areas, deemed by the Authority to be necessary, convenient, and desirable.

"Self-liquidating" is deemed to mean any project, if in the judgment of the Authority, the revenues and earnings to be derived by the Authority therefrom and all properties used, leased, and sold in

connection therewith will be sufficient to pay the principal and interest of the revenue bonds which may be issued to finance, in whole or in part, the cost of such project or projects. (1990, c. 726)

§ 3. Authority created.

There is hereby created and constituted a political subdivision of the Commonwealth to be known as the Riverside Regional Jail Authority, hereinafter referred to as the Authority. The exercise by the Authority of the powers conferred by this Act in the construction, operation, and maintenance of a project authorized by this Act shall be deemed and held to be in the performance of an essential governmental function. The Authority shall have perpetual existence and shall have sovereign immunity to the same extent as the jurisdictions served by the Authority. (1990, c. 726; 1993, c. 228)

§ 4. Members.

The Authority shall consist of fourteen members, unless increased as provided for herein, who are to be appointed or shall serve as follows:

1. One member to be appointed by the Board of Supervisors of the County of Charles City, Virginia, and the sheriff of the County;

2. One member to be appointed by the Board of Supervisors of the County of Chesterfield, Virginia, and the sheriff of the County;

3. One member to be appointed by the City Council of the City of Colonial Heights, Virginia, and the sheriff of the City;

4. One member to be appointed by the City Council of the City of Hopewell, Virginia, and the sheriff of the City;

5. One member to be appointed by the City Council of the City of Petersburg, Virginia, and the sheriff of the City;

6. One member to be appointed by the Board of Supervisors of the County of Prince George, Virginia, and the sheriff of the County; and

7. One member to be appointed by the Board of Supervisors of the County of Surry, Virginia, and the sheriff of the County.

No member of the governing body of the County of Chesterfield, the County of Charles City, the City of Colonial Heights, the City of Hopewell, the City of Petersburg, the County of Prince George, or the County of Surry may be a member of the Authority.

All nonsheriff members of the Authority shall serve for a term of four years. The initial term of office shall extend from the organizational meeting of the Authority until the Authority's annual meeting four years thereafter. Any nonsheriff member of the Authority may be appointed to succeed himself. Each duly appointed nonsheriff member shall hold office until his successor shall be duly appointed. Any

vacancy in the nonsheriff membership of the Authority, whether caused by expiration of term of office, death, resignation, or otherwise, shall be filled by the governing body of the city or county which appointed the member whose membership is then vacant. Any member appointed to fill an unexpired term shall serve only until the expiration of the term he was appointed to fill. Sheriffs shall serve a term coexistent with their term as sheriff.

Notwithstanding any other provision of law, special or general, alternate members may be appointed to the Authority by the governing body of the city or county in the same manner as regular members, except that sheriffs may appoint their own alternates. If a regular member is not present at the meeting of the Authority, the alternate for that member shall have all the voting and other rights of a regular member and shall be counted for purposes of determining a quorum at any meeting. (1990, c. 726; 1999, cc. 642, 675; 2014, c. 229)

§ 5. Officers; annual report.

The Authority shall elect one of its members as chairman and another member as vice-chairman, each of whom shall be elected for a term of one year. The first chairman and vice-chairman shall serve for a term extending from the organizational meeting of the Authority until the Authority's annual meeting on or about July 1, 1991. Subsequent chairmen and vice-chairmen shall be elected every year at the annual meeting of the Authority.

The Authority shall also elect a secretary and a treasurer, who may, but need not, be the same person. The secretary and treasurer may, but need not, be a member or members of the Authority. It they are not members of the Authority, the secretary and the treasurer shall have no voting rights and shall serve for such term as the Authority may determine. If a member of the Authority is elected to serve as secretary or treasurer or both, he shall is be elected in the same manner and for the same term as the chairman and vice-chairman. Any officer may be elected to succeed himself, but in all cases, the chairman and vice-chairman must be members of the Authority. No member of the Authority may hold more than one office at a time except for service as both secretary and treasurer.

The Authority shall submit annually to the participating cities and counties a report showing its activities and its budget, which shall include all revenues, expenditures, and employee compensation schedules and other similar data. (1990, c. 726)

§ 6. Voting.

A majority of the members of the Authority shall constitute a quorum. A majority of the quorum is empowered to exercise all of the rights and perform all of the duties of the Authority, except where specifically provided otherwise herein or by agreement between the Authority and the participating jurisdictions, and no vacancy on the Authority shall impair the right of the quorum to act. In the event such agreement requires the affirmative vote of the jurisdictions holding a majority of prisoners in the jail for certain actions to be effective, the vote of the members appointed by the governing bodies or

their alternates shall be the only votes counted for such purposes. (1990, c. 726; 1993, c. 228; 1999, cc. 642, 675)

§ 7. Compensation.

The members of the Authority shall serve without compensation except that they shall be reimbursed for actual expenses incurred in the performance of their duties. The Authority may provide for compensation for its secretary or treasurer or both if he or they are not members of the Authority. (1990, c. 726)

§ 8. Conditions of participation; joinder and withdrawal.

As a condition of participation in the Authority, a city or county must enter into an agreement with the Authority for the use of the service furnished by the project. Any city or county may, with the approval of its governing body and with the consent of the members of the Authority, join and participate in the Authority under such additional terms and conditions for membership as may be prescribed by the Authority. Any city or county which is a member of the Authority may withdraw therefrom by resolution or ordinance of its governing body; however, no participating city or county may withdraw from the Authority except with the unanimous consent of its members until all obligations incurred by the Authority have been fully satisfied. (1990, c. 726)

§ 9. Powers.

The Authority shall have the following powers:

1. To have a seal and alter the same at pleasure;

2. To acquire by gift, purchase, lease, or otherwise, and to hold, to sell, at public or private sale, or exchange, lease, mortgage, pledge, subordinate interest in, or otherwise dispose of real and personal property of every kind and character for its corporate purposes;

3. To appoint, select, and employ officers, agents, and employees, including a superintendent of the regional correctional facility and necessary guards and employees therefor, and also including engineering and construction experts, fiscal agents and attorneys, and to fix their respective compensations;

4. To make contracts and leases and to execute all instruments necessary or convenient, including contracts for construction and financing of projects and leases of projects or contracts with respect to the use of projects which it causes to be erected or acquired, and to dispose by conveyance of its title in fee simple of real and personal property of every kind and character, and any and all political subdivisions, departments, institutions, or agencies of the Commonwealth are hereby authorized to enter into contracts, leases, or agreements with the Authority upon such terms and for such purposes as they deem advisable;

5. To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, furnish, operate, and manage projects, as hereinabove defined, the cost of any such project to be paid in whole or in part from the proceeds or other funds made available to the Authority;

6. To accept loans and grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof, upon such terms and conditions as the United States of America or such agency or instrumentality may impose;

7. To accept loans and grants of money or materials or property of any kind from the Commonwealth of Virginia or any agency or instrumentality or political subdivision thereof, upon such terms and conditions as the Commonwealth of Virginia or such agency or instrumentality or political subdivision may impose;

8. To borrow money for any of its corporate purposes and to execute evidences of such indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from funds pledged for that purpose and to provide for the payment of the same and for the rights of the holders thereof. Any city or county participating in the Authority may lend, advance, or give money or materials or property of any kind to the Authority;

9. To exercise any power usually possessed by private corporations performing similar functions, which is not in conflict with the Constitution and laws of the Commonwealth;

10. The Authority and any trustee acting under any trust indenture are specifically authorized from time to time to sell, lease, grant, exchange, or otherwise dispose of any surplus property, both real and personal, or interest therein not required in the normal operation of and usable in the furtherance of the purpose for which the Authority was created, except as such right and power may be limited as provided in § 10 hereof:

11. To sue and be sued in its own name, plead and be impleaded;

12. To adopt, amend, or repeal bylaws, rules, and regulations, not inconsistent with this Act or the general laws of the Commonwealth, for the regulation of its affairs and the conduct of its business and to carry into effect its powers and purposes; and

13. To do all things necessary or convenient to carry out the powers expressly given in this Act. (1990, c. 726)

§ 10. Authority of superintendent and guards; oath and bond.

The superintendent appointed by the Authority to administer its regional correctional facility shall have and exercise the same control and authority over the prisoners committed or transferred to such facility as the sheriffs of this Commonwealth have by law over the prisoners committed or transferred to their jails.

During the term of their appointment, the superintendent and guards are hereby vested with the powers and authority of a conservator of the peace (i) within the limits of such correctional facility and within one mile thereof and (ii) in conveying prisoners to and from such facility.

Before entering upon the duties of their office, the superintendent and guards shall take and subscribe the oath prescribed by § 49-1 of the Code of Virginia. The Authority may require the superintendent or guards or both to give bond in such penalty and with such security as the Authority may prescribe, conditioned upon the faithful discharge of the duties of their offices. (1990, c. 726)

§ 11. Acquisition of interests in land.

The Authority is hereby authorized and empowered to acquire by gift or by lease or purchase solely from funds provided under the provisions of this Act such lands, structures, property, rights, rights-of-way, franchises, easements, and other interests in lands as it may deem necessary or convenient for the construction and operation of the project upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and the commissions of the Commonwealth, with the approval of the Governor, are hereby authorized and empowered to lease, lend, grant, or convey to the Authority at its request, upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court, or other action or formality, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including real property already devoted to public use. Title to any property acquired by the Authority shall be taken in the name of the Authority. (1990, c. 726)

§ 12. Issuance of revenue bonds.

The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates as shall be fixed by the Authority, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such rice or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this Act or any recitals in any bonds issued under the

provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or negotiated sale, or for such price, as it may determine will best effectuate the purposes of this Act.

The proceeds of the bonds shall be used solely for the payment of the cost of the project and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issuance, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any conditions other than those proceedings or conditions which are specifically required by this Act.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof. All such bonds shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any county, city, town, or other subdivision of the Commonwealth are pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this Act shall not directly or indirectly or contingently obligate the Commonwealth or any county, city, town, or other subdivision of the Commonwealth to levy any taxes whatever therefor or to make any appropriation for their payment except from the funds pledged under the provisions of this Act. (1990, c. 726)

§ 13. Trust agreements.

In the discretion of the Authority, any bonds issued under the provisions of this Act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the charges and other revenues to be received but shall not conveyor mortgage the project or any part thereof Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the project, the rates to be charged for services, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project. (1990, c. 726)

§ 14. Charge for use of services.

The Authority is hereby authorized to fix, revise, and charge for the use of the service furnished by the project and to contract with any unit or department of government at any level, including cities, counties, towns, authorities, regional jail boards, and the state and federal governments and their respective departments, commissions and agencies, desiring the use of any part thereof, and to fix the terms, conditions, rents, and rates of charges for such use. Such charges shall be so fixed and adjusted in respect to the aggregate of the charges from the project as to provide a fund sufficient with other revenues, if any, to pay (i) the cost of maintaining, repairing, and operating such project and (ii) the principal of and interest on such bonds as the same shall become due and payable and to create reserves for such purposes. The revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of

such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in for t, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. (1990, c. 726)

§ 15. Revenues and proceeds from sale of bonds.

All moneys received pursuant to the provisions of this Act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Act. The Authority may provide for the payment of its revenues to such officer, board, or depositary as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. The Authority shall, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds to a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this Act, subject to such regulations as this Act and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds. (1990, c. 726)

§ 16. Rights of bond holders and trustees.

Any holder of bonds issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this Act or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this Act or by such agreement or resolution to be performed by the Authority or by any officer or agent thereof including the fixing, charging, and collection of such charges. (1990, c. 726)

§ 17. Exemption from taxes.

The exercise of the powers granted by this Act shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience, and prosperity, and as the operation and maintenance of the project by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the

Authority under the provisions of this Act or upon the income therefrom; and the bonds issued under the provisions of this Act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county, or other political subdivision thereof. (1990, c. 726)

§ 18. Issuance of revenue refunding bonds.

The Authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of constructing enlargements, renovations, or improvements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the Authority in respect of the same, shall be governed by the provisions of this Act insofar as the same may be applicable. (1990, c. 726)

§ 19. General purpose of Authority.

Without limiting the generality of any provisions of this Act, the general purpose of the Authority is declared to be that of acquiring, constructing, equipping, maintaining, and operating a regional jail or regional jail farm and the usual facilities appertaining to such undertakings; enlarging, renovating, and improving such facilities; acquiring the necessary property therefor, both real and personal, with the right of contract for the use of or to lease, mortgage, or sell any or all of such facilities, including real property; and doing any and all things deemed by the Authority necessary, convenient, and desirable for and incident to the efficient and proper development and operation of such types of undertakings. (1990, c. 726)

§ 20. Design-build contracts.

The Authority may enter into a contract for a regional jail on a fixed price or not-to-exceed price design-build basis or construction management basis in accordance with procedures consistent with those described in the Virginia Public Procurement Act for procurement of nonprofessional services through competitive negotiation. The Authority may authorize payment to no more than three responsive bidders who are not awarded the design-build contract if the Authority determines that such payment is necessary to promote competition. The Authority shall not be required to award a design-build contract to the lowest bidder but may consider price as one factor in evaluating the proposals received. The Authority shall maintain adequate records to allow post-project evaluation by the Commonwealth. (1990, c. 726)

§ 21. State reimbursement.

The Authority shall be eligible to receive state reimbursement for local correctional facility construction and operation under Article 3 of Chapter 3 of Title 53.1 of the Code of Virginia. State reimbursement for the cost of the project shall be determined as if each city or county participating in the Authority had

contributed its pro rata share of such cost. The Commonwealth shall fund the positions of superintendent, correctional officers, and two-thirds of the salaries of required medical or treatment personnel on a basis approved by the State Compensation Board. Such salaries shall be paid in the manner provided in Article 9 of Chapter 1 of Title 14.1 of the Code of Virginia, and such article shall be applicable mutatis mutandis to such superintendent.

The superintendent of the regional correctional facility shall report on the first day of each month to the Director of the State Department of Corrections to give the record of each prisoner received during the preceding month on blank forms to be furnished by the Director, to state whether the offense for each prisoner is for violation of state law or of city or town ordinance. The report shall be signed by both the superintendent and chairman of the Authority. Either signer found guilty of willfully falsifying the information contained in such report shall be guilty of a Class 1 misdemeanor.

If any superintendent fails to send such report within five days after the date when the report is to be forwarded, the Director shall notify the superintendent of such failure. If the superintendent fails to make the report within ten days from that date, then the Director shall cause the report to be prepared from the books of the superintendent and shall certify the cost thereof to the Comptroller. The Comptroller shall issue his warrant on the Treasurer for that amount, deducting the same from any funds that may be due the superintendent by the Commonwealth. (1990, c. 726)

§ 22. Duty to prescribe rules and regulations.

It shall be the duty of the Authority to prescribe rules and regulations, not inconsistent with standards of the State Board of Corrections, for the operation of the project or projects constructed under the provisions of this Act. (1990, c. 726)

§ 23. Supplemental and additional powers.

The foregoing sections of this Act shall be deemed to provide an additional and alternative method for the performance of acts authorized thereby, shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing. (1990, c. 726)

§ 24. Liberal construction.

This Act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1990, c. 726)

§ 25. Severability.

The provisions of this Act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this Act. It is hereby declared to be the legislative intent that this Act would have been adopted had such unconstitutional provisions not been included therein. (1990, c. 726)

§ 26. Inconsistent laws inapplicable.

All other general or special laws inconsistent with any provision of this Act are hereby declared to be inapplicable to the provisions of this Act. (1990, c. 726)

Roanoke Higher Education Authority

§ 23.1-3115.Roanoke Higher Education Authority established

The Roanoke Higher Education Authority (the Authority) is established as a political subdivision of the Commonwealth.

1997, c. 813, § 23-231.13; 2016, c. 588.

§ 23.1-3116.Duties of the Authority

The Authority shall:

1. Expand access to higher education in the Roanoke Valley by providing for adult and continuing education and degree-granting programs, including undergraduate, graduate, and professional programs, through partnerships with the Commonwealth's public institutions of higher education and private institutions of higher education;

2. Serve as a resource and referral center on existing educational programs and resources by maintaining and disseminating information;

3. Develop, in coordination with the Council, specific goals for higher education access and availability in the Roanoke Valley; and

4. Accept, administer, and account for any state grant to a nonstate entity that may be provided in the name of the Roanoke Higher Education Center (the Center) or the Authority.

1997, c. 813, § 23-231.14; 1998, c. 360; 2016, c. 588.

§ 23.1-3117.Board of trustees

A. The Authority shall be governed by a 20-member board of trustees (the board) as follows: two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one member of the Senate, to be appointed by the Senate Committee on Rules; the Director of the Council or his designee; the Chancellor of the Virginia Community College System or his designee; the presidents of Averett University, James Madison University, Mary Baldwin College, Old Dominion University, Radford University, the University of Virginia, Virginia Commonwealth University, Virginia Polytechnic Institute and State University, and Virginia Western Community College or their designees; the Director of Total Action for Progress (TAP) This Valley Works; and five nonlegislative citizen members representing business and industry in the Roanoke Valley to be appointed by the Governor. Nonlegislative citizen members of the board shall be citizens of the Commonwealth and residents of the Roanoke region.

B. The legislative members, the Director of the Council, the Chancellor of the Virginia Community College System, the Director of TAP This Valley Works, and the presidents of the named institutions of higher education or their designees shall serve terms coincident with their terms of office.

Nonlegislative citizen members shall be appointed for terms of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No nonlegislative citizen member shall serve more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

C. Nonlegislative citizen members are not entitled to compensation for their services. Legislative members of the board shall receive such compensation as provided in § 30-19.12. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in the work of the Authority as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

D. The board shall elect a chairman and a vice-chairman from among its membership and may establish bylaws as necessary.

1997, c. 813, § 23-231.15; 1998, cc. 45, 55; 1999, c. 469; 2004, cc. 667, 1000; 2008, c. 236; 2009, c. 598; 2010, c. 39; 2012, c. 80; 2016, c. 588; 2017, cc. 307, 324; 2018, c. 140.

§ 23.1-3118.Powers of the board

A. The board has, in addition to such other powers, all the corporate powers given to corporations by the provisions of Title 13.1, except in those cases where, by the express terms of its provisions, this law is confined to corporations created under that title.

B. The board may issue bonds upon the advice of bond counsel and a financial institution with expertise in bonds and investments. Bonds issued under the provisions of this section shall not be deemed to constitute a debt or a pledge of the faith and credit of the Commonwealth or any of its political subdivisions other than the Authority.

C. The board may accept, execute, and administer any trust in which it may have an interest under the terms of any instrument creating the trust.

D. The board may lease property or hold any property for which it may acquire the title and dispose of such property in a manner that will benefit the Authority.

E. The board may enter into agreements with public institutions of higher education and private institutions of higher education in the Commonwealth to provide adult education, continuing education, undergraduate-level education, and graduate-level instructional programs. The board may enter into agreements with local school boards and other entities to provide such programs as it deems necessary and appropriate to carry out the purposes of the Authority.

F. The board may establish, with such funds as are appropriated for this purpose or made available to it, the Center.

G. Notwithstanding any provision of law to the contrary, any real estate and tangible personal property held or acquired by the board is exempt from any prohibition of the use of noncash assistance as matching funds.

H. The board may, on behalf of the Authority or the Center, apply for, accept, and direct the expenditure of gifts, grants, or donations from public or private sources to enable it to carry out the purposes of this article. Any locality may make gifts and donations of real property, personal property, or money to the Authority.

1997, c. 813, §§ 23-231.16, 23-231.18; 1998, cc. 45, 55, 360; 2001, c. 132; 2016, c. 588.

§ 23.1-3119.Executive director; staff

A. From funds available for this purpose, the board may appoint an executive director for the Center who shall supervise and manage the Center and prepare and submit, upon the direction and approval of the board, all requests for appropriations. The executive director of the Center may employ such staff as necessary to enable the Center to perform its duties as set forth in the bylaws of the board and this article. The board may determine the duties of the staff and fix salaries and compensation from such funds as may be appropriated or received.

B. Additional staff support for the functions of the Center may be provided upon agreement by the participating institutions.

1997, c. 813, § 23-231.17; 1998, cc. 45, 55; 2016, c. 588.

Roanoke Regional Airport Commission

Created

1986 Acts of Assembly, c. 140.

Amendments

1996, c. 385 (§ 24)
2005, c. 279 (§§ 8, 9, 10, 14, 24)

§ 1. Short title.

This act shall be known and may be cited as the "Roanoke Regional Airport Commission Act." (1986, c. 140)

§ 2. Creation; public purpose.

If the governing bodies of the County of Roanoke and the City of Roanoke shall by resolution declare that there is a need for an airport commission to be created for the purpose of establishing or operating an airport, or landing field, for such participating political subdivisions, and that they should unite in its formation, an airport commission, to be known as the "Roanoke Regional Airport Commission," shall thereupon exist for such participating county and city and shall exercise its

powers and functions as prescribed herein. The region for which such Commission shall exist shall be coterminous with the boundaries of the participating political subdivisions.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the "Roanoke Regional Airport Commission," such Commission shall be conclusively deemed to have been created as a body corporate, and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such county and city declaring that there is a need for such Commission and that they should unite in its formation. A copy of such resolution duly certified by the clerk of the county and city by which it is adopted shall be admissible as evidence in any suit, action or proceedings. Any political subdivision of the Commonwealth all or part of which is located within sixty miles of a Commission facility is authorized to join such Commission pursuant to the terms and conditions of this Act.

It is hereby found and declared that the ownership and operation by the Commission of modern and efficient air transportation and related facilities and the exercise of powers conferred by this Act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as herein provided. It is also declared that contract obligations of a city or town to provide payments over a period of more than one year to the Commission shall be excluded from existing indebtedness of such city or town for purposes of calculating debt limit pursuant to Section 10 (a) of Article VII of the Constitution of Virginia. It is further declared that the Commission is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county pursuant to Section 10 (b) of Article VII of the Constitution of Virginia. (1986, c. 140)

§ 3. Definitions.

As used in this Act the following words and terms have the following meanings, unless a different meaning clearly appears from the context:

1. "Act" means this Roanoke Regional Airport Commission Act.

2. "Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by the Commission pursuant to this Act.

3. "Commission" means the "Roanoke Regional Airport Commission" created by this Act.

4. "Commonwealth" means the Commonwealth of Virginia.

5. "Facility" means any and all airports, terminals, runways, hangars, loading facilities, repair shops, parking areas, facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies and airlines, and industrial

and commercial facilities, purchased, constructed or otherwise acquired or operated by the Commission pursuant to the provisions of this Act. Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, avigation rights, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

6. "Participating political subdivision" means the County of Roanoke or the City of Roanoke or any other political subdivision which may join or have joined the Commission pursuant to §§ 4 and 5 of this Act.

7. "Political subdivision" means a county, municipality or other public body of this Commonwealth. (1986, c. 140)

§ 4. Participating political subdivisions.

Prior to becoming a participating political subdivision, each political subdivision shall enter into a contract with the Commission and other participating political subdivisions setting forth the financial contribution to be made by such political subdivision to the Commission.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance or nonfeasance by or on the part of the Commission or any Commissioner thereof, or its agents, servants, or employees, except as otherwise provided in this Act with respect to contracts and agreements between the Commission and any other political subdivision. (1986, c. 140)

§ 5. Appointment and tenure of Commissioners.

The powers of the Commission shall be vested in the Commissioners thereof in office from time to time. The governing body of each participating political subdivision shall appoint the number of Commissioners, who may be members of the governing body, set forth opposite its name below:

City of Roanoke	three
County of Roanoke	two
Each other participating political subdivision	one

It being the intention of this Act that the governing body of the City of Roanoke shall always appoint a majority of the Commissioners, whenever an additional political subdivision shall join the Commission, such governing body shall be entitled to appoint one additional Commissioner.

Initially, the governing body of the City of Roanoke shall appoint one Commissioner for a four-year term, one Commissioner for a three-year term, and one Commissioner for a two-year term. Initially, the governing body of the County of Roanoke shall appoint one Commissioner for a four-year term and one Commissioner for a three-year term. After the initial terms, each Commissioner shall be appointed

for a four-year term or until his successor is appointed and qualified. Commissioners appointed by additional participating political subdivisions or additional Commissioners appointed by the City of Roanoke to maintain its majority shall also be appointed for four-year terms. The governing body of each political subdivision shall be empowered to remove at any time, without cause, any Commissioner appointed by it and appoint a successor Commissioner to fill the unexpired portion of the removed Commissioner's term.

Each Commissioner may be reimbursed by the Commission for the amount of actual expenses incurred by him in the performance of his duties. (1986, c. 140)

§ 6. Organization.

A majority of the Commissioners in office shall constitute a quorum. No vacancy in the membership of the Commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the Commission.

The Commission shall hold regular meetings at such times and places as may be established by its bylaws. Special meetings of the Commission may be called by any Commissioner or the Executive Director upon at least twelve hours' written notice to each Commissioner served personally or left at his usual place of business or residence.

The Commissioners shall annually elect a chairman and a vice-chairman from their membership, a secretary and a treasurer or a secretary-treasurer from their membership or not as they deem appropriate, and such other officers as they may deem appropriate. The Commissioners may appoint an executive director, who shall not be a Commissioner, who shall exercise such powers and duties as may be delegated to him by the Commissioners, including powers and duties involving the exercise of discretion.

The Commissioners may make and from time to time amend and repeal bylaws, not inconsistent with this Act, governing the manner in which the Commission's business may be transacted and in which the power granted to it may be enjoyed. The Commissioners may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees. (1986, c. 140)

§ 7. Powers.

The Commission is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purposes of this Act, including, for purposes of illustration, the following:

1. To sue and be sued in its own name;
2. To have perpetual succession;
3. To adopt a corporate seal and alter the same at its pleasure;
4. To maintain offices at such places as it may designate;

5. To acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate any airports, air landing fields, structures, air navigation facilities and other property incidental thereto within the territorial limits of the participating political subdivisions;

6. To construct, install, maintain and operate facilities for the servicing and storage of aircraft and for the accommodation of cargo, freight, mail, express, etc., and for the accommodation and comfort of air travelers, and for lease or sale to industrial or commercial users, and to purchase and sell equipment and supplies as an incident to the operation of its airport facilities;

7. To grant to others the privilege to operate for profit concessions, leases, and franchises, including but not limited to the sale of airplanes, fuel, parts and equipment, maintenance of aircraft, the accommodation and comfort of persons using its facilities and the providing of ground transportation and parking facilities for such persons, and such concessions, leases and franchises shall be exclusive or limited when deemed by the Commission necessary to further the public safety, improve the quality of air service, avoid duplication of service or conserve airport property and the airport operation;

8. To determine fees, rates, and charges for the use of its facilities;

9. To apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, this Commonwealth and political subdivisions, agencies and instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the Commission's facilities or for the payment of principal of any indebtedness of the Commission, interest thereon or other cost incident thereto, and to this end the Commission shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

10. To establish, operate and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce;

11. To appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

12. To establish personnel rules;

13. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

14. Subject to the provisions of any deed or deeds from the City of Roanoke to the Commission and any agreement or agreements among or between the Commission and any participating political subdivision, to sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein, if such disposition is in the public interest and in furtherance of the purposes of this Act or if such property is not necessary for the purposes of the Commission;

15. To make, assume and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

16. To borrow money, as hereinafter provided and, provided such borrowing shall mature within one year, to borrow money for the purpose of meeting casual deficits in its revenues;

17. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

18. To pay pensions and establish pension plans, pension trusts, and other compensation plans for any of its employees;

19. To purchase and maintain insurance or to provide indemnification on behalf of any person who is or was a Commissioner, officer, employee or agent of the Commission against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such; and

20. To do all things necessary or convenient to the purposes of this Act. Grant of regulatory authority by this Act, including regulations that displace, eliminate or limit competition by or among persons or entities, is based on the policy of the Commonwealth to provide for the safe, adequate, economical and efficient provision of air transportation and related facilities and services to the public. (1986, c. 140)

§ 8. Name of airport.

The name of the airport operated by the Commission within the boundaries of the City of Roanoke and Roanoke County shall be "Roanoke Regional Airport, Woodrum Field" or such other name as the Commission shall adopt, provided that the words "Woodrum Field" are part of such other name. (1986, c. 140; 2005, c. 279)

§ 9. Rules and regulations.

The Commission shall have the power to adopt, amend, and repeal rules and regulations for the use, maintenance and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Commission shall by unanimous vote of all Commissioners present determine that an emergency exists, the Commission shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

a. Make such rule, regulation, alteration, amendment or modification in convenient form available for public inspection in the office of the Commission for at least five days; and

b. Post in a public place a notice declaring the Commission's intention to consider adopting such rule, regulation, alteration, amendment or modification and informing the public that the Commission will at a public meeting consider the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least five days from the first day of the posting of the notice thereof.

The Commission's rules and regulations shall be available for public inspection in the Commission's principal office.

The Commission's rules and regulations relating to:

a. Traffic, including but not limited to motor vehicle speed limits and the location of and payment of public parking;

b. Access to Commission facilities, including but not limited to solicitation, handbilling, and picketing; and

c. Aircraft operation and maintenance; shall have the force and effect of law, as shall any other rule or regulation of the Commission which shall contain a determination by the Commission that it is necessary to accord the same force and effect of law in the interest of the public safety. The violation of any rule or regulation of the Commission relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the Commission's rules and regulations having the force and effect of law shall be punishable as misdemeanors.

All ordinances, rues and regulations duly adopted for the regulation, administration and operation of Roanoke Regional Airport, Woodrum Field, in force at the effective date of this Act shall remain in full force and effect insofar as they or any part thereof are not inconsistent with the provisions of this Act until amended or repealed in accordance with this Act. (1986, c. 140; 2005, c. 279)

§ 10. Police powers.

The Commission's employees meeting the minimum registration requirements of the Department of Criminal Justice Services may be appointed as special conservators of the peace by the circuit court of any participating political subdivision. The authority conferred upon such special conservators shall be exercised only upon the Commission's facilities located within such participating political subdivision, and shall be in all terms consistent with the requirements of Chapter 2 of Title 19.2 of the Code of Virginia.

Such special conservators of the peace shall have all powers vested in officers under Chapter 2 of Title 19.2 of the Code of Virginia and shall be authorized to enforce the Commission's rules and regulations and all other applicable statutes, ordinances, rules, and regulations of the United States of America and agencies and instrumentalities thereof and this Commonwealth and political subdivisions, agencies and instrumentalities thereof upon the Commission's facilities, subject to and limited by the Commission's applicable policies, procedures, and regulations.

Such special conservators of the peace may issue summons to appear, or arrest on view or on competent jurisdiction any person violating any rule or regulation of the Commission or other applicable statute, ordinance, rule or regulation.

For the purpose of enforcing such statutes, ordinances, rules and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the participating political subdivision wherein the offense was committed shall have jurisdiction to try a person charged with the violating of any such statutes, ordinances, rules and regulations.

The Commission shall have the authority to seek appointment of such other law-enforcement officers as shall be permitted by applicable law. (1986, c. 140; 2005, c. 279)

§ 11. Eminent domain.

The Commission is hereby granted full power to exercise within the participating political subdivisions the right of eminent domain in the acquisition of any lands, easements, privileges or other property interests which are necessary for airport and landing field purposes, including the right to acquire by eminent domain avigation easements over lands or water outside the boundaries of its airport or landing fields where necessary in the interests of safety for aircraft to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport and landing fields even though such avigation easement is inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition. Proceedings for the acquisition of such lands, easements and privileges by condemnation may be instituted and conducted in the name of the Commission in accordance with Title 25 of the Code of Virginia. (1986, c. 140)

§ 12. Reports.

The Commission shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. (1986, c. 140)

§ 13. Procurement.

All contracts that the Commission may let for construction or materials shall be subject to the Virginia Public Procurement Act, § 11-35 et seq., Code of Virginia. (1986, c. 140)

§ 14. Deposit and investment of funds.

All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this Act. All moneys of the Commission shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act.

Funds of the Commission not needed for immediate use or disbursement may, subject to the provisions of any contract between the Commission and the holders of its bonds, be invested in securities which are considered lawful investments for fiduciaries. (1986, c. 140; 2005, c. 279)

§ 15. Authority to issue bonds.

The Commission shall have power and is hereby authorized to issue bonds from time to time in its discretion for any of its purposes, including the payment of all or any part of the cost of any of its facilities and the refunding of any bonds previously issued by it.

Bonds may be issued under this Act notwithstanding any debt or other limitation prescribed in any statute without obtaining the consent of any city, town, or county government or any commission, board, bureau, or agency of the Commonwealth or of any of the foregoing, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this Act.

The Commission may issue such types of bonds as it may determine, including without limiting the generality of the foregoing, bonds payable as to principal and interest: (i) from its revenues generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency copartnership, association, or individual, as such participating political subdivision, or other entities may be authorized to make under general law or by pledge of any

income or revenues of the Commission, or where such mortgage has been approved by the participating political subdivisions, a mortgage of any facilities of the Commission.

Bonds of the Commission shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates as may be determined by the Commission, and may be made redeemable before maturity at the option of the Commission at such price or prices and under such terms and conditions as may be fixed by the Commission prior to the issuance of the bonds. The Commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Act or any recitals in any bonds issued under the provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the conversion and reconversion into coupon bonds of any bonds registered as to both principal and interest and vice versa. The Commission may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Commission.

Prior to the preparation of definitive bonds, the Commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. (1986, c. 140)

§ 16. Resolution or trust indenture to secure bonds.

In connection with the issuance of bonds and in order to secure the payment of such bonds, the Commission shall have power:

1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents, or revenues;

2. To covenant to impose and maintain such schedule of fees, rents and charges as will produce funds sufficient to pay operating costs and debt service;

3. To covenant against pledging all or any part of its fees, rents, and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and powers in the fees, rents and revenues from which are subject to a pledge;

5. To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or facilities of the Commission or any part thereof or with respect to limitations on its right to undertake additional projects;

6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

7. To covenant as to what other, or additional, debt may be incurred by it;

8. To provide for the terms, forms, registration, exchange, execution, and authentication of bonds;

9. To provide for the replacement of lost, destroyed, or mutilated bonds;

10. To covenant as to the use of any or all of its property, real or personal, subject to the continued use of such property for airport purposes;

11. To create or to authorize the creation of special funds in which there may be segregated: (i) the proceeds of any loan or grant; (ii) all of the fees, rents and revenues of any facility or facilities or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as reserve for such payments; and (v) any moneys held for any other reserve or contingencies; and to covenant as to the use and disposal of the moneys held in such funds;

12. To redeem its bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

15. To covenant as to the maintenance of its facilities; the insurance to be carried thereon and the use and disposition of insurance moneys;

16. To vest in a bondholder the right, in the event of the failure of the Commission to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional

obligation of the Commission with such interest, security and priority as may be provided in any trust indenture, lease or contract of the Commission with reference thereto;

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

18. To covenant as to the rights, liabilities, powers, and duties arising upon the breach of it of any covenant, condition or obligation;

19. To covenant to surrender possession of all or any part of any facility or facilities acquired or constructed from bond proceeds, the revenues from which have been pledged upon the happening of any event of default, as defined in the contract, and to vest in a bondholder the right without judicial proceeding to take possession and to use, operate, manage, and control such facility or any part thereof, and to collect and receive all fees, rents, and revenues arising therefrom in the same manner as the Commission itself might do and to dispose of the moneys collected in accordance with the agreement of the Commission with such obligee, subject to the continued use of such facilities for airport purposes;

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized. of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as any purchaser of the bonds of the Commission may reasonably require; and

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the Commission tend to make the bonds more marketable; notwithstanding that such covenants. acts or things may not be enumerated herein; it being the intention hereof to give the Commission power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of the Commonwealth or this Act. (1986, c. 140)

§ 17. Fees, rents and charges.

The Commission is hereby authorized to and shall fix, revise. charge, and collect fees, rents and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed

and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Commission, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall, to the extent necessary, be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Commission shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Commission irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Commission. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. (1986, c. 140)

§ 18. Credit of Commonwealth and political subdivisions not pledged.

The bonds of the Commission shall not be a debt of the Commonwealth or any political subdivision thereof, other than the Commission, and neither the Commonwealth nor any political subdivision thereof, other than the Commission, shall be liable thereon, nor shall such bonds be payable out of any funds or properties other than those of the Commission. All bonds of the Commission shall contain on the face thereof a statement to such effect. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. (1986, c. 140)

§ 19. Commissioners and persons executing bonds not liable thereon.

Neither the Commissioners nor any person executing the bonds shall be liable personally on the Commission's bonds by reason of the issuance thereof. (1986, c. 140)

§ 20. Remedies of bondholders.

Any holder of bonds issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this Act or under such trust indenture agreement or the

resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this Act or by such trust indenture or agreement or resolution to be performed by the Commission or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges. Any resolution authorizing the issuance of the Commission's bonds or trust indenture or agreement securing the same may limit or abrogate the individual right of action by the holders of such bonds or coupons appertaining thereto. (1986, c. 140)

§ 21. Taxation.

The exercise of the powers granted by this Act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience and prosperity, and as the operation and maintenance of any project which the Commission is authorized to undertake will constitute the performance of an essential governmental function, the Commission shall not be required to pay taxes on its real estate, tangible personal property and machinery and tools. Bonds issued under the provisions of this Act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations and organizations leasing property of the Commission or doing business on property of the Commission shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to, any leasehold tax on real property and taxes on tangible personal property and machinery and tools, taxes for admission, taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling and taxes upon consumers of gas, electricity, telephone and other public utility services. (1986, c. 140)

§ 22. Bonds as legal investments.

Bonds issued by the Commission under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1986, c. 140)

§ 23. Appropriation by political subdivision.

Any participating political subdivision, or other political subdivision of the Commonwealth all or part of which is located within sixty miles of a Commission facility, is authorized to provide services, to

donate real or personal property and to make appropriations to the Commission, for the acquisition, construction, maintenance, and operation of the Commission's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Commission, and such political subdivisions may enter into contracts obligating such bond proceeds to the Commission.

The Commission may agree to assume, or reimburse a participating political subdivision for, any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Commission. With the consent of the governing body of the participating political subdivision, any such agreement may be made subordinate to the Commission's indebtedness to others. (1986, c. 140)

§ 24. Fiscal year; Commission budget.

A. The fiscal year of the Commission shall begin on July 1 and end on June 30.

B. The Commission shall annually, prior to March 31, prepare and submit to the participating political subdivisions (i) a proposed operating budget showing its estimated revenues and expenses on an accrual basis for the forthcoming fiscal year, and if such estimated expenses exceed such estimated revenues, the portion of the deficit proposed to be borne by each participating political subdivision, and (ii) a proposed capital budget showing its estimated expenditures for such fiscal year for assets costing more than $20,000 (or such higher amount as the Commission and the participating political subdivisions may determine) and having an estimated useful life of 20 years or more and the source of funds for such expenditures, including any amount requested from the participating political subdivisions. Depreciation shall be excluded from the Commission's operating budget with respect to assets purchased by the Commission with funds appropriated to it for such purpose by a participating political subdivision and, for this determination, it shall be assumed that any appropriation so made is for the purchase of assets set forth in the applicable Commission budget to the extent such purchase price is included in the approved budget. Assets purchased by the Commission with bond proceeds shall be depreciated over the useful life of such assets purchased with bond proceeds.

C. If the governing body of a participating political subdivision shall approve the Commission's proposed operating budget, it shall appropriate to the Commission such political subdivision's portion of such deficit. If during any fiscal year the Commission shall receive revenues in excess of those estimated by the Commission in its approved budget for such year, the budgeted deficit for such fiscal year shall automatically be reduced and, except as herein provided, the appropriation of each participating political subdivision shall be proportionately reduced. Notwithstanding the foregoing, with the consent of the governing bodies of the participating subdivisions, all or a portion of such appropriations may be maintained so as to enable the Commission to expend such excess revenues for its proper purposes.

D. If the governing body of a participating political subdivision shall approve the Commission's proposed capital budget, it shall appropriate to the Commission such participating political subdivision's portion of the expenditures set forth therein. Any such appropriation shall automatically be reduced by the participating political subdivision's proportionate share of any grant funds received by the Commission for the purchase of assets included in the Commission's approved capital budget in excess of the grant funds shown in such capital budget as a source of funds for such expenditure, unless prohibited by the basic provider of the grant funds.

E. The Commission may expend any and all moneys within its control without obtaining the approval of the participating political subdivisions, but, except as otherwise provided in this Act with respect to contracts and agreements between the Commission and any political subdivision, the Commission shall not commit any participating political subdivision in an amount in excess of that appropriated to the Commission by the governing body of such political subdivision.

F. If at any time during any fiscal year it shall appear that the cash disbursements of the Commission will exceed its cash receipts for such fiscal year, including amounts appropriated to it by the participating political subdivisions, the Commission may request supplemental appropriations from the participating political subdivisions and any other political subdivision. (1986, c. 140; 1996, c. 385; 2005, c. 279)

§ 25. Allocation of deficit; denial of voting privileges.

A. Any deficit budgeted by the Commission in any fiscal year, i.e., any excess of its estimated expenses over its estimated revenues, and the cost of any budgeted capital expenditures in excess of the amount shown as available therefor, as shown on the Commission's operating and capital budgets approved by the participating political subdivisions, shall be allocated among the participating political subdivisions in proportion to their respective populations as most recently before such fiscal year determined by the Tayloe Murphy Institute of Government. In the event the appropriation of any participating political subdivision is insufficient to pay its portion of the deficit incurred in any fiscal year, the allocation of any deficit for any succeeding fiscal year shall take into account the cumulative deficiency attributable to such participating political subdivision; however, no participating political subdivision shall be required to pay the Commission in any fiscal year any amount in excess of that appropriated to the Commission by the governing body of such participating political subdivision.

B. Any participating political subdivision not contributing its proportionate share of any deficit as determined by the Commission pursuant to § 25 of this Act, either of the Commission's operating budget or capital budget in accordance with a schedule established by the Commission shall automatically be denied voting privileges. The denial of voting privileges shall terminate upon the delivery of its proportionate share by such political subdivision. (1986, c. 140)

§ 26. Contracts with political subdivisions.

The Commission is authorized to enter into contracts with any one or more political subdivisions, which contracts may restrict the powers of the Commission otherwise granted by this Act. Any participating political subdivision, or other political subdivision of the Commonwealth all or part of which is located within sixty miles of a Commission facility, is authorized to enter into contracts with the Commission, pursuant to which the Commission undertakes to provide the facilities and render the services specified therein. Any such contract or agreement may provide that the political subdivision will make payments to the Commission based on the services rendered by the Commission to the residents of such political subdivision, determined in such reasonable manner as the Commission and the political subdivision may mutually agree. Each political subdivision entering into such a service contract with the Commission is authorized to do everything necessary or proper to carry out and perform such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations. (1986, c. 140)

§ 27. Retirement benefits for certain employees formerly employed by a participating political subdivision.

When a local political subdivision joins the Commission, any employee of such local political subdivision who then becomes an employee of the Commission, if such employee is a member of a local retirement system, may elect to and may continue to be eligible to remain a member of such local retirement system in lieu of becoming a member of any retirement system with which the Commission may affiliate. Such election to remain a member of a local retirement system shall be made in writing within 120 days of such employee's political subdivision becoming a member of the Commission. In such event, service of such employee with the Commission shall be creditable as service with the participating political subdivisions and compensation received by such employee shall be deemed paid by the participating political subdivision for all purposes of the benefit programs of the participating political subdivision. Participation by an employee of the Commission in the local retirement system of a participating political subdivision shall be pursuant to all duly adopted ordinances and rules and regulations governing such retirement system. Any employee so electing shall not be entitled to any benefit under the Commission's retirement system, and the Commission shall pay the employer share of benefits provided the Commission's employees by such political subdivision. Nothing herein shall apply to any health and accident insurance plan or to the Federal Old Age and Survivors Insurance System. (1986, c. 140)

§ 28. Dissolution of Commission.

Whenever it shall appear to the Commission that the need for the Commission no longer exists, it may petition the circuit court of a participating political subdivision for the dissolution of the Commission. If the court shall determine that the need for the Commission as set forth in this Act no longer exists and that all debts and pecuniary obligations of the Commission have been fully paid or provided for, it may enter an order dissolving the Commission.

Upon dissolution, the court shall order any real property contributed to the Commission by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Commission shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Commission.

Each participating political subdivision and all holders of the Commission's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia. (1986, c. 140)

§ 29. Agreement with Commonwealth and participating political subdivisions.
The Commonwealth and, by participating in the Commission, each participating political subdivision pledge to and agree with the holders of any bonds issued by the Commission that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Commission to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Commission is authorized to include this pledge and agreement in any contract with the holders of the Commission's bonds. (1986, c. 140)

§ 30. Liberal construction.
Neither this Act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the Commission might otherwise have under any laws of this Commonwealth, and this Act is cumulative to any such powers. This Act does and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds, notes or other obligations. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is expressly provided in this Act. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this Act. (1986, c. 140)

§ 31. Application of local ordinances, service charges and taxes upon leaseholds.
Nothing herein contained shall be construed to exempt the Commission's property from any applicable zoning, subdivision, erosion and sediment control and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Commission from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any

lessee of any of the Commission's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom. (1986, c. 140)

§ 32. Existing contracts, leases, franchises, etc., not impaired.

No provisions of this Act shall relieve, impair or affect any right, duty, liability or obligation arising out of any contract, concession, lease or franchise now in existence except to the extent that such contract, concession, lease or franchise may permit. Notwithstanding the foregoing provisions of this section, the Commission may renegotiate, renew, extend the term of or otherwise modify at any time any contract, concession, lease or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease or franchise consents to said renegotiation, renewal, extension or modification. (1986, c. 140)

Roanoke River Basin Advisory Committee, Virginia

§ 62.1-69.34.Virginia Roanoke River Basin Advisory Committee established; purpose; membership; terms; meetings

A. The Virginia Roanoke River Basin Advisory Committee, hereinafter referred to as the "Committee," is hereby established in the executive branch of state government as an advisory committee to the Virginia delegation to the Roanoke River Basin Bi-State Commission. The Committee shall assist the delegation in fulfilling its duties and carrying out the objectives of the Commission, pursuant to § 62.1-69.39. The advisory committee shall be composed of 23 members as follows: two members of the Senate, whose districts include a part of the Virginia portion of the Roanoke River Basin, to be appointed by the Senate Committee on Rules; four members of the House of Delegates, whose districts include a part of the Virginia portion of the Roanoke River Basin, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one nonlegislative citizen member at large appointed by the Senate Committee on Rules; one nonlegislative citizen member at large appointed by the Speaker of the House of Delegates; 11 nonlegislative citizen members selected by the legislative members of the advisory committee such that two are chosen from recommendations of each of the following: the Central Virginia Planning District Commission, the West Piedmont Planning District Commission, the Southside Planning District Commission, the Piedmont Planning District Commission, and the Roanoke Valley Alleghany Planning District Commission; and one member selected by the legislative members of the advisory committee from among recommendations submitted by the New River Valley Planning District Commission; and the Virginia member of the United States House of Representatives, whose district includes the largest portion of the Basin, or his designee, and three representatives of the State of North Carolina appointed in a manner as the General Assembly of North Carolina may determine appropriate. Except for the representatives of North Carolina, all nonlegislative citizen members shall be citizens of the Commonwealth of Virginia. The Virginia member of the United States House of Representatives, the members of the Virginia General Assembly, and the representatives of North Carolina shall serve ex officio without voting privileges. Of the recommendations submitted by planning district commissions authorized to recommend two members, one member shall be a nonlegislative citizen who resides within the respective planning district. However, the New River Valley Planning District Commission may recommend either one nonlegislative citizen at large who resides within the planning district or one member, who at the time of the recommendation, is serving as an elected member or an employee of a local governing body, or one member of the board of directors or an employee of the planning district commission. All persons recommended by the planning district commissions to serve as members of the advisory committee shall reside within the Basin's watershed, represent the diversity

of interests in the jurisdictions comprising the respective planning district commissions, and demonstrate interest, experience, or expertise in water-related Basin issues.

B. State and federal legislative members and local government officials appointed to the advisory committee shall serve terms coincident with their terms of office. Nonlegislative citizen members appointed by the Senate Committee on Rules and the Speaker of the House of Delegates to serve on the advisory committee, and ex officio members representing the State of North Carolina shall serve a term of two years. Initially, planning district commissions authorized to recommend two nonlegislative citizen members to the advisory committee shall recommend one member for a term of two years and one member for a term of one year. However, the nonlegislative citizen member recommended to serve on the advisory committee by the New River Valley Planning District Commission shall serve a term of one year. After the initial staggering of terms, the term of office of nonlegislative citizen members recommended by the planning district commissions shall be for two years. Nonlegislative citizen members recommended by planning district commissions shall be eligible for reappointment, if such members shall have attended at least one-half of all meetings of the Commission during their current term of service. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointment.

The advisory committee shall elect a chairman and a vice-chairman from among its voting members. A majority of the voting members shall constitute a quorum. The meetings of the advisory committee shall be held at the call of the chairman or whenever the majority of the voting members so request.

2002, cc. 657, 843; 2003, c. 885; 2004, c. 403; 2010, cc. 394, 729.

§ 62.1-69.35.Compensation and expenses

Legislative members of the advisory committee shall receive such compensation as provided in § 30-19.12, and nonlegislative members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of members shall be paid from such funds as may be provided to the Department of Environmental Quality in the appropriations act for this purpose.

2002, c. 843; 2003, c. 885.

§ 62.1-69.35:1.Staffing

The Department of Environmental Quality shall provide staff support to the advisory committee. All agencies of the Commonwealth shall provide assistance to the advisory committee, upon request.

2003, c. 885.

§ 62.1-69.35:2.Chairman's executive summary of activity and work of the advisory committee

The chairman of the advisory committee shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the advisory committee no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

2003, c. 885.

Rural Coastal Virginia Community Enhancement Authority

§ 15.2-7600.Authority created; name

The Rural Coastal Virginia Community Enhancement Authority, hereinafter referred to as the Authority, is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter. The Authority, if approved by the respective governing bodies, may consist of up to 12 of the counties within the Northern Neck, Middle Peninsula, and Accomack-Northampton planning districts as follows: Accomack, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, and Westmoreland.

2017, c. 388.

§ 15.2-7601.Purpose

The Authority is created for the purpose of serving as a regional economic development body and represents a partnership of the Commonwealth, the three planning districts, and the 12 counties of the coastal region.

2017, c. 388.

§ 15.2-7602.Board of Authority; members and officers; staff; annual report

A. All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Rural Coastal Virginia Community Enhancement Authority, hereinafter referred to as the Board or the Board of the Authority. Initial appointments shall begin July 1, 2017. The Board shall consist of up to 15 members as follows: one member of each of the 12 counties' governing bodies if so appointed by the respective governing bodies and three at-large members, who shall be appointed by the Governor and who shall be residents of the coastal region. In addition, the Secretary of Commerce and Trade or his designee shall serve as a nonvoting ex officio member of the Board. All members shall serve for a term of four years and may be reappointed for one additional term. A position shall be considered vacant if a member's term of office has ended. Vacancies shall be filled for the unexpired term in the same manner as the original appointee. For the initial appointments only, approximately half of the members appointed by the governing bodies shall be appointed for two-year terms, and such initial terms shall not be counted toward the term limitation.

B. Each member of the Board shall, before entering upon the discharge of the duties of his office, take and subscribe to the oath prescribed in § 49-1. Members shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

C. A majority of the members of the Board shall constitute a quorum, and the affirmative vote of a majority present shall be necessary for any action taken by the Board. No vacancy in the membership

of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

D. The Board shall elect from its membership a chairman and a vice-chairman for each calendar year.

E. Staffing and support for the Authority shall be provided by the counties and the planning district commissions that make up the Authority. Additional staff support may be hired or contracted for by the Authority through funds raised by or provided to it. The Authority is authorized to determine the duties of such staff and fix staff compensation within available resources.

F. All agencies of the Commonwealth shall cooperate with the Authority and, upon request, shall assist the Authority in fulfilling its purposes and mission. The Secretary of Commerce and Trade or his designee shall act as the chief liaison between the administrative agencies and the Authority.

G. The Board, promptly following the close of the fiscal year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, and the board of supervisors of each member county. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year.

2017, c. 388.

§ 15.2-7603.Powers of Authority

The Authority acting through its Board:

1. Is vested with the powers of a body corporate, including the power to sue and be sued, plead and be impleaded, make contracts, and adopt and use a common seal and alter the same as may be deemed expedient;

2. May retain legal counsel to represent the Authority in hearings, controversies, or matters involving the interests of the Authority and the furtherance of its purposes; and

3. May adopt, alter, or repeal its own bylaws and regulations that govern the manner in which its business may be transacted and may provide for the appointment of such committees, and the functions thereof, as the Authority deems necessary to facilitate its business. Each committee shall consist of the number of persons as the Authority deems advisable.

2017, c. 388.

§ 15.2-7604.Further powers

A. 1. The Authority may seek and approve loans and solicit donations, grants, and any other funding from the Commonwealth, the federal government, and regional, local government, and private entities to carry out its purposes, powers, and duties;

2. The Authority will assist the region in obtaining necessary job training or employment-related education, leadership and civic development, and business development, especially entrepreneurship for the coastal region;

3. The Authority will provide special assistance to distressed and underdeveloped counties within the coastal region; and

4. The Authority will fund demonstration projects, and conduct research, evaluations, and assessments of the coastal region's assets and needs.

B. Agencies of the Commonwealth shall review grant program eligibility requirements, and amend such requirements as appropriate, for purposes of recognizing the unique socioeconomic and demographic challenges faced by rural coastal localities and the inability to qualify for financial assistance.

2017, c. 388.

§ 15.2-7605.Duties of Authority; governmental functions

A. The Authority shall (i) develop comprehensive and coordinated plans and programs, establish priorities, and approve grants for the economic development of the coastal region; (ii) provide for research, demonstration, investigation, assessment, and evaluation of the region's assets and needs; (iii) encourage the formation and capacity of local government and private investment in compatible industries, including natural resources, commercial, industrial, and other economic development projects; and (iv) provide a forum for the consideration of problems and possible solutions of the coastal region.

B. The Authority shall (i) develop a definition for what constitutes "distressed" and annually designate distressed, moderately distressed, and economically strong counties within the region and (ii) allocate at least 50 percent of the grants, loans, and donations made available to the Authority for programs and projects for the distressed counties. Such funds shall not be used within economically strong counties without a two-thirds vote of approval by a quorum of the Board. Nothing herein shall prevent the Authority from applying for and receiving federal, state, or private funds to advance the purpose of the Authority regardless of distressed county status.

2017, c. 388.

§ 15.2-7606.Duties of planning districts within the coastal region

Each member planning district commission of the Authority shall approve annually a development plan for its area within the coastal region. Comprehensive Economic Development Strategy (CEDS) plans shall satisfy this requirement if updated and reaffirmed annually by the planning district commission.

The development plan shall outline factors to be considered by the Authority in considering programs and projects for assistance under this chapter and in establishing priorities among assistance requests.

The Authority shall use the plans developed by the planning district commissions to guide the development of a work program for the Authority.

2017, c. 388.

§ 15.2-7607.Dissolution of Authority

Each member locality of the Authority may withdraw from the Authority only upon dissolution of the Authority as set forth herein. Whenever the Board determines that the purpose for which the Authority was created has been substantially fulfilled or is impractical or impossible to accomplish and that all obligations incurred by the Authority have been paid or that cash or a sufficient amount of United States government securities has been deposited for their payment, or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the Board may adopt resolutions declaring and finding that the Authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving the Authority may be introduced in the General Assembly. The dissolution of the Authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by the Authority at the time of such dissolution shall vest in the counties that have contributed to the Authority's resources in proportion to their respective contributions.

2017, c. 388.

Sanitary Districts

§ 21-112.22.Definitions

Whenever the words "circuit court" are used in this chapter, they shall also be construed to mean "circuit or corporation court" of a city; whenever the word "county" appears in this chapter, it shall also be construed to mean "city," and whenever the words "governing body of a county" shall appear, they shall also be construed to mean "city council."

1964, c. 525.

§ 21-113.Creation; inclusion of town in new or enlarged district

The governing body of a county in the Commonwealth, upon the petition of 50 qualified voters of a proposed district or, if the proposed district contains less than 100 qualified voters, upon petition of 50 percent of the qualified voters of the proposed district, may, by ordinance, create a sanitary district or districts in and for the county, which ordinance shall prescribe the metes and bounds of the district.

With the approval of the board of supervisors of a county and the council of any town therein, such town or any part thereof may be included within a sanitary district created or enlarged under the provisions of this chapter.

1930, p. 1002; 1933, p. 32; 1936-7, p. 69; Michie Code 1942, § 1560m; 1970, c. 584; 2017, c. 14.

§ 21-114.Hearing and notice thereof

Upon the filing of the petition, the governing body of a county shall fix a day for a hearing on the question of the proposed sanitary district, which hearing shall embrace a finding of fact of whether creation of the proposed district or enlargement of the existing district is necessary, practical, fiscally responsible, and supported by at least 50 percent of persons who own real property in (i) the proposed district or (ii) in cases of enlargement, the area proposed to be included in an existing district. All interested persons who reside in or who own real property in (a) a proposed district or (b) an existing district in cases of enlargement shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearing. Such hearing shall be subject to minimum standards regarding timeliness; notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the governing body. At least 10 days shall intervene between the completion of the publication and the date set for the hearing, and such publication shall be considered complete on the twenty-first day after the first publication, and no such district shall be created until the notice has been given and the hearing had.

1930, p. 1002; 1940, p. 173; Michie Code 1942, § 1560n; 1985, c. 104; 2017, c. 14.

§ 21-115.Answer and defense

Any person interested may answer the petition and make defense thereto; and if upon such hearing the governing body of a county be of opinion that any property embraced within the limits of such proposed district will not be benefited by the establishment of such district, then such property shall not be embraced therein.

1940, p. 173; Michie Code 1942, § 1560n; 2017, c. 14.

§ 21-116.Enlargement of sanitary districts

The governing body of a county, upon the petition of 25 percent of the qualified voters, if any, residing within the limits of the territory proposed to be added, may, by ordinance, extend the boundaries and enlarge any sanitary district created under the provisions of this article, which ordinance shall prescribe the metes and bounds of the territory so added.

Upon the filing of the petition a hearing shall be had as provided in §§ 21-114 and 21-115, and the notice of such hearing may require all interested persons to appear and show cause why any special tax levied or to be levied in the sanitary district for special sanitary district purposes may not be likewise levied and collected in the territory proposed to be added to such district, and to appear and show cause why the net operating revenue derived in the added territory from the operation of any system or systems established under the provisions of § 21-118 may not be set apart to pay the interest on and retire at maturity the principal of any bonds theretofore issued in connection with such system or systems. Nothing in such ordinance enlarging a sanitary district as provided herein shall be construed to limit or adversely affect the rights and interests of any holder of bonds issued by the district, and such ordinance shall expressly preserve and protect such rights and interests. All interested persons who reside in or who own real property in (i) a proposed district or (ii) an existing district in cases of enlargement shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearing.

1947, p. 136; Michie Suppl. 1948, § 1560s4; 1964, c. 517; 1985, c. 104; 2017, c. 14.

§ 21-116.1.Alteration of boundaries or reduction of area of sanitary districts in certain counties

Chapter 549 of the Acts of 1950, as amended by Acts 1952, c. 202, relating to alteration of boundaries or reduction of area of sanitary districts in any county adjoining a county having a population in excess of 2,000 per square mile, is incorporated in this Code by this reference.

1950, c. 549; 1952, c. 202.

§ 21-117.Merger of sanitary districts

Any two or more sanitary districts heretofore or hereafter created in any county under the provisions of this article may be merged into a single district by the governing body of the county, by ordinance, upon the petition of not less than 50 qualified voters residing within the boundaries of each of the districts desiring to be so merged, which ordinance shall prescribe the metes and bounds and the

name or other designation of the single district created by such merger. From and after the adoption of such ordinance, the governing body of such county shall, as to the single districts so created, have all the powers and duties, and be subject to all the conditions and limitations prescribed by § 21-118, and all funds then on hand to the credit of each of the districts so merged shall be merged into a single fund for the use and benefit of the consolidated district, unless otherwise ordered by the governing body of the county upon the hearing next herein provided for.

Upon the filing of the petition, a hearing shall be had before the governing body of the county, after notice as provided by § 21-114, which notice shall require all interested parties to appear and show cause, if any they can, (i) why the funds then on hand to the credit of each of the merged districts should not be merged into a single fund for the purpose above mentioned; and (ii) why a special tax should not be levied on all the property within the limits of the consolidated district, subject to local taxation, sufficient to pay the interest and create a sinking fund for payment of the principal at maturity of any then outstanding bonds theretofore issued by any one or more of the districts so merged.

Upon the hearing, such ordinance shall be adopted as to the governing body of the county may seem equitable and proper, concerning the combination of the funds on hand to the credit of each of the districts so merged and the levying of a special tax on all the taxable property within the limits of the consolidated district, for the purposes hereinabove mentioned, provided that such ordinance shall preserve and protect the rights of the holders of any such outstanding bonds, whose rights and interests shall not be limited or affected by any of the provisions of this section.

1942, p. 247; Michie Code 1942, § 1560s1; 2017, c. 14.

§ 21-117.1.Abolishing sanitary districts

Any sanitary district heretofore or hereafter created in any county under the provisions of the preceding sections of this article may be abolished by ordinance adopted by the governing body of such county, upon the petition of no less than 50 qualified voters residing within the boundaries of the district desired to be abolished or, if the district contains less than 100 qualified voters, upon petition of 50 percent of the qualified voters residing within the boundaries of such district.

Upon filing of the petition, the governing body of the county shall fix a day for a hearing on the question of abolishing the sanitary district, which hearing shall embrace a consideration of whether the property in the sanitary district will or will not be benefited by the abolition thereof, and the governing body of the county shall be fully informed as to the obligations and functions of the sanitary district. Notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the governing body of the county. At least 10 days shall intervene between the completion of the publication and the date set for hearing, and such publication shall be considered complete on the twenty-first day after the first

publication, and no such district shall be abolished until the notice has been given and the hearing had.

Any interested parties may appear and be heard on any matters pertaining to the subject of the hearing.

Upon the hearing, such ordinance shall be adopted as to the governing body of the county may seem equitable and proper, concerning the abolition of the district and as to the funds on hand to the credit of the district, provided, however, that no such ordinance shall be adopted abolishing the sanitary district unless any bonds of the sanitary district that have theretofore been issued have been redeemed and the purposes for which the sanitary district was created have been completed, or unless all obligations and functions of the sanitary district have been taken over by the county as a whole, or unless the purposes for which the sanitary district was created are impractical or impossible of accomplishment and no obligations have been incurred by said sanitary district.

1954, c. 135; 2017, c. 14.

§ 21-118.Powers and duties of governing body

After the adoption of such ordinance creating a sanitary district in such county, the governing body thereof shall have the following powers and duties, subject to the conditions and limitations hereinafter prescribed:

1. To construct, maintain and operate water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary districts.

2. To acquire by gift, condemnation, purchase, lease, or otherwise, and to maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district and to acquire by gift, condemnation, purchase, lease, or otherwise, rights, title, interest, or easements therefor in and to real estate in such district; and to sell, lease as lessor, transfer or dispose of any part of any such property, real, personal or mixed, so acquired in such manner and upon such terms as the governing body of the district may determine to be in the best interests of the district; provided a public hearing is first held with respect to such disposition at which inhabitants of the district shall have an opportunity to be heard. At least ten days' notice of the time and place of such hearing and a brief description of the property to be disposed shall be published in a newspaper of general circulation in the district. Such public hearing may be adjourned from time to time.

3. To contract with any person, firm, corporation or municipality to construct, establish, maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district.

4. To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. The owners or tenants shall have the right of appeal to the circuit court or the judge thereof in vacation within 10 days from action by the governing body.

5. To fix and prescribe or change the rates of charge for the use of any such system or systems after a public hearing upon notice as provided in § 21-118.4 (d), and to provide for the collection of such charges. In fixing such rates the sanitary district may seek the advice of the State Corporation Commission.

6. To levy and collect an annual tax upon all the property in such sanitary district subject to local taxation to pay, either in whole or in part, the expenses and charges incident to constructing, maintaining and operating water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary district. Any locality imposing a tax pursuant to this subdivision may base the tax on the full assessed value of the taxable property within the district, notwithstanding any special use value assessment of property within the sanitary district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, provided the owner of such property has given written consent.

7. To employ and fix the compensation of any technical, clerical or other force and help which from time to time, in their judgment, may be deemed necessary for the construction, operation or maintenance of any such system or systems and sidewalks.

8. To negotiate and contract with any person, firm, corporation or municipality with regard to the connections of any such system or systems with any other system or systems now in operation or hereafter established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the sanitary district.

9. The governing body shall have the same power and authority for the abatement of nuisances in such sanitary district as is vested by law in councils of cities and towns for the abatement of nuisances therein, and it shall be the duty of the governing body to exercise such power when any such nuisance shall be shown to exist.

10. Proceedings for the acquisition of rights, title, interest or easements in and to real estate, by such sanitary districts in all cases in which they now have or may hereafter be given the right of eminent domain, may be instituted and conducted in the name of such sanitary district. If the property proposed to be condemned is:

a. For a waterworks system, the procedure shall be in the manner and under the restrictions prescribed by Chapter 19.1 (§ 15.2-1908 et seq.) of Title 15.2, and by Chapter 2 (§ 25.1-200 et seq.) of Title 25.1;

b. For the purpose of constructing water or sewer lines, the proceedings shall be instituted and conducted in accordance with the procedures prescribed either by Chapter 2 of Title 25.1 or in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1; or

c. For the purpose of constructing water and sewage treatment plants and facilities and improvements reasonably necessary to the construction and operation thereof, the proceedings shall be instituted and conducted in accordance with the procedures provided for the condemnation of land in Chapter 3 of Title 25.1.

11. To appoint, employ and compensate out of the funds of the district as many persons as special policemen as may be deemed necessary to maintain order and enforce the criminal and police laws of the Commonwealth and of the county within such district. Such special policemen shall have, within such district and within one-half mile thereof, all of the powers vested in policemen appointed under the provisions of Article 1 (§ 15.2-1700 et seq.) of Chapter 17 of Title 15.2.

1930, p. 1002; 1934, p. 494; 1936, p. 463; 1938, p. 19; Michie Code 1942, § 1560a; 1952, c. 113; 1956, c. 588; 1960, c. 36; 1962, c. 497; 1976, cc. 585, 684; 1977, cc. 276, 516; 1981, c. 564; 2002, c. 194; 2003, c. 940; 2017, c. 14.

§ 21-118.1.Authority to acquire property from United States or any agency thereof

Notwithstanding the provisions of any other law, the governing body of any sanitary district may, by ordinance or resolution, authorize the acquisition and purchase from the United States, or any agency thereof, whether now existing or hereafter created, of any equipment, supplies, materials, or other property, real or personal, in such manner as such governing body may determine.

It is the purpose of this section to enable sanitary districts to secure from time to time promptly the benefits of acquisitions and purchases as authorized by this section, to aid them in securing advantageous purchases, to prevent unemployment and thereby to assist in promotion of public welfare and to these ends such districts shall have power to do all things necessary or convenient to carry out such purpose, in addition to the expressed power conferred by this section. This section is remedial in nature and the powers hereby granted shall be liberally construed.

1945, p. 35; Michie Suppl. 1946, § 2734e.

§ 21-118.2.Certain counties authorized to use sanitary district funds for certain purposes

The board of supervisors of any county operating sanitary districts under the provisions of this chapter as amended or under the provisions of an act or acts continued in effect by § 21-120, may use sanitary district funds for police protection and for construction and operation of community houses within the district, provided that this section shall apply only to Chesterfield County and Henrico County. Action hereunder shall be subject to the rights of the holders of any bonds issued by such district.

1952, c. 26; 2007, c. 813.

§ 21-118.3.Levy and expenditure of taxes in certain counties; validation of expenditures

In addition to the powers granted in § 21-118 of the Code of Virginia, the governing body of any county having a population in excess of 30,000 but not in excess of 35,000 and containing two cities of the first class, in which a sanitary district has been created pursuant to the provisions of this article, may levy and collect an annual tax upon all the property in such sanitary district subject to local taxation to pay the whole or any part of the cost of construction of a sewerage and/or water supply system in such district and to pay the costs of preliminary engineering surveys and other expenses in connection with the construction of any such system.

Such governing body may expend funds from the general county levy to pay the costs for which taxes are hereinabove authorized to be levied in anticipation of the collection of such taxes. Should it be determined that a sewerage and/or water supply system in such district is not feasible, or for any other reason should the same not be constructed, the governing body of said county, after the creation of such district has been ordered, may levy and collect an annual tax upon all the property within the boundaries of such sanitary district subject to local taxation, to reimburse the county's general levy fund for any expenditures advanced therefrom in connection with engineering surveys and other expenses in and about the creation of any such district. Any such expenditure made prior to April 3, 1952, is hereby validated.

1952, c. 555.

§ 21-118.4.Certain additional powers of governing body

Notwithstanding any other provisions of law, when an ordinance has been adopted creating a sanitary district in such county, the board of supervisors or other governing body hereinafter referred to as "board of supervisors" shall have the following powers and duties, in addition to such powers and duties created by any law, subject to the conditions and limitations hereinafter prescribed:

(a) To construct, reconstruct, maintain, alter, improve, add to, and operate dams, motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs, and fire-fighting systems, for the use and benefit of the public in such sanitary district and as to such motor vehicle parking lots systems to make such charges for the use of such facilities as may be prescribed by said board or body;

(a1) To acquire, construct, maintain, and operate, or to contract for such acquisition, construction, maintenance, and operation, within such sanitary district, such community buildings, community centers, other recreational facilities, and advisory community planning councils as the board may deem expedient or advisable, and to make such charges for the use of such facilities as may be prescribed by the board;

(b) To acquire by gift, condemnation, purchase, lease, or otherwise, and to maintain and operate any such dams, motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat,

light, power, gas, sidewalks, curbs, gutters, streets and street name signs, and fire-fighting systems in such district;

(c) To contract with any person, firm, corporation, municipality, county, authority, or the federal government or any agency thereof to acquire, construct, reconstruct, maintain, alter, improve, add to, and operate any such dams, motor vehicle parking lots, water supply, drainage, sewerage, garbage removal and disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs, and fire-fighting systems in such district, and to accept the funds of, or to reimburse from any available source, such person, firm, corporation, municipality, county, authority, or the federal government or any agency thereof for either the whole or any part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, addition to, and operation of any such system or systems;

(d) To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. In order to require owners or tenants of any property in the district to connect with any such system or systems, the board of supervisors shall have power and authority to adopt ordinances so requiring owners or tenants to connect with such systems, and to use the same, and the board of supervisors shall have power to provide for a punishment in the ordinance of not exceeding a $50 fine for each failure and refusal to so connect with such systems, or to use the same. Before adopting any such ordinance the board of supervisors shall give public notice of the intention to propose the same for passage by posting handbill notices of such proposal in three or more public places in the sanitary district at least 10 days prior to the time the ordinance shall be proposed for passage. The ordinance shall not become effective after its passage until 10 days' like notice has been given by posting copies of such ordinance in three or more public places in the district. The board of supervisors, in lieu of giving notice in such manner, may cause notice to be published in the manner provided in § 15.2-1427 for imposing or increasing any tax or levy. Violations of such ordinances shall be tried before the county court of the county as is provided for trial of misdemeanors, and with like right of appeal;

(e) To fix and prescribe or change the rates of charge for the use of any such system or systems, the rate of charge for connection to any such system or systems, a late charge not to exceed 10 percent of the amount due or $10, whichever is the greater, and interest on outstanding bills at the rate provided for in § 58.1-3918, after a public hearing upon notice as provided in subdivision (d) and to provide for the collection of such charges. In fixing such rates the sanitary district may seek the advice of the State Corporation Commission. The Commission may charge the district a reasonable fee for any advice given pursuant to this section. The board of supervisors may provide for the exemption from, deferral of or reduction of the rates of charge for the use of any garbage disposal system or systems by persons at least 65 years of age or persons permanently and totally disabled as defined in § 58.1-3217. Any such exemptions, deferrals or reductions may be conditioned upon only the income criteria

as provided by § 58.1-3211 as in effect on December 31, 2010. And to enable the board to enforce the collection of charges for the use of any such system against the person or persons, firm or corporation using the same, the charges when made for the use of any such system shall be collectible by distress, levy, garnishment, attachment or otherwise without recourse to court procedure, except so far as the selected procedure may require the same. And the board shall have power to designate as its agent for the purpose of collection such officer or officers or person or persons as it may determine, and the officer or officers or person or persons shall be vested with the same power and authority as a sheriff or constable may have in like procedure.

Water and sewer connection fees established by any county, city, town, or sanitary district shall be fair and reasonable. Such fees shall be reviewed by the county, city, town or sanitary district periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

If any rates, fees or charges for the use of and for the services furnished by any system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within 30 days after the same shall become due and payable, and the person who incurred the debt is the occupant of such premises, the board may at the expiration of such 30-day period disconnect the premises from the water and/or sewer system, or otherwise suspend services, and the board may proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action.

If any rates, fees, or charges for the use and services of any water or sewer system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within 30 days after the same becomes due and payable, the occupant-debtor of such premises shall cease to dispose of sewage or industrial wastes originating from or on such premises by discharge thereof directly or indirectly into the sewer system until such rates, fees, or charges with interest shall be paid. If such occupant-debtor does not cease such disposal at the expiration of such 30-day period, the political subdivision or district or other public corporation, board, or body supplying water to or selling water for use on such premises may, within five days after the receipt of notice of such delinquency, cease to supply water to or to sell water to such occupant-debtor. If such political subdivision or district or public corporation, board, or body shall not, at the expiration of such five-day period, cease supplying water to or selling water for use by such occupant-debtor, then the governing body within whose geographical boundaries such sanitary district lies may shut off the supply of water to such person.

The water supply to or for any occupant-debtor shall not be shut off or stopped under the provisions of this section, if the State Health Commissioner, upon application of the local board of health or health officer of the county, city or town wherein such water is supplied or such real estate is located, shall have found and shall certify to the authorities charged with the responsibility of ceasing to supply or

sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person or the health of others in such county, city or town.

Any unpaid charge shall become a lien superior to the interest of any owner, lessee or tenant, and next in succession to county taxes, on the real property on which the use of any such system was made and for which the charge was imposed. However, such lien shall not bind or affect a subsequent bona fide purchaser of such real estate for valuable consideration without actual notice of such lien, except and until from the time that the amount of such charge is entered in the Judgment Lien Docket kept in the office where deeds may be recorded in the political subdivision wherein the real estate or a part thereof is located. It shall be the duty of the clerk in whose office deeds may be recorded to keep and preserve and hold available for public inspection such Judgment Lien Docket and to cause entries to be made and indexed therein from time to time upon certification by the board for which he shall be entitled to a fee of five dollars per entry to be paid by the board and added to the amount of the lien.

No such lien shall be placed by the board unless the board or its billing and collection agent (i) shall have advised the owner of such real estate at the time of initiating service to a lessee or tenant of such real estate that a lien will be placed on such real estate if the lessee or tenant fails to pay any fees, rents or other charges when due for services rendered to such lessee or tenant; (ii) shall have mailed to the owner of such real estate a duplicate copy of the final bill rendered to such lessee or tenant at the time of rendering the final bill to such lessee or tenant; and (iii) shall employ the same collection efforts and practices to collect amounts due the board from a lessee or a tenant as are employed with respect to collection of such amounts due from customers who are owners of the real estate for which service is provided.

Such lien on any real estate may be discharged by the payment to the board of the total amount of such lien, and interest accrued thereon to the date of such payment, and the entry fee of two dollars, and it shall be the duty of the board to deliver a certificate thereof to the person paying the same, and upon presentation thereof and the payment of the further fee of one dollar by such person, the clerk having the record of such lien shall mark the entry of such lien satisfied.

Jurisdiction to enforce any such lien shall be in equity and the court may decree the real estate subject to the lien, or any part thereof, to be sold and the proceeds applied to the payment of such lien and the interest which may accrue to the date of such payment.

Nothing contained herein shall be construed to prejudice the right of the board to recover the amount of such lien, or of the charge, and the interest which may accrue, by action at law or otherwise, which relief shall be cumulative and not alternative;

(f) To employ and fix the compensation of any technical, clerical, or other force and help which from time to time, in their judgment, may be deemed necessary for the construction, operation, or maintenance of any such system or systems;

(g) To negotiate and contract with any person, firm, corporation, county, authority, or municipality with regard to the connection of any system or systems with any other system or systems now in operation or hereafter to be established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the sanitary district;

(h) To contract for the extension of any such system into territory outside of the district, and for the use thereof, upon such terms and conditions as the board may from time to time determine upon;

(i) With respect to the maintenance and operation of said motor vehicle parking lots system, the board is authorized to purchase, install, maintain, and operate, and to fix and charge parking meter fees for the use of, such parking lot or lots;

(j) Insofar as is permitted by Article VIII, Section 5 and Article VIII, Section 7 of the Constitution of Virginia to construct or contract to construct within such sanitary district, at the request of the school board and subject to all provisions of law applicable to the construction of school buildings, and additions thereto;

(k) To borrow not earlier than January 1 of any year, or the first day of the fiscal year of the district, for the purpose of meeting casual deficits in the revenue of the district or creating a debt in anticipation of the collection of the revenue of the district, a sum of money not to exceed one-half of the amount reasonably anticipated to be produced by the revenues of the district, including taxes levied pursuant to § 21-119, for the year in which the loan is negotiated; provided, there shall be excluded from the amount reasonably anticipated to be produced by the revenue of the district any anticipated tax revenues of the district which have not actually been levied and assessed against property within the district.

Notwithstanding any provisions of law to the contrary, any sanitary district is empowered to borrow in advance of grants and reimbursements due the district from the federal and state governments for the purpose of meeting appropriations for the then current fiscal year. "Grants" and "reimbursements" as used herein shall mean grants which the district has been formally advised in writing it will receive, and reimbursements on moneys which the federal or state governments are obligated to pay the district on account of expenditures made in anticipation of receiving such payment from the federal or state government. The district may borrow the full amount of the grant or reimbursement that the federal or state government is obligated to pay at the time the loan is issued. The loan shall be repaid within 60 days of the time the grant or reimbursement is received, but in any event, the loan shall be repaid within one year from the date of its issue.

Such temporary loans shall be evidenced by notes or bonds, negotiable or nonnegotiable as the board of supervisors may determine; shall bear interest at a rate as provided in § 2.2-5000; and shall be repaid not later than either December 15 of the year in which they are borrowed or 15 days before the last day of the fiscal year of the district. No extension of any such loan shall be valid. No additional loan under this subsection shall be made until all temporary loans of preceding years shall have been paid. No election shall be required for the issuance of any bond pursuant to the provisions of this subsection. Except as this subsection otherwise provides, any bonds issued pursuant to this subsection may be issued in accordance with the provisions of §§ 21-130 through 21-136;

(l) Notwithstanding any other provision of this chapter to the contrary, where the use of any water or sewer systems described in this section is contracted for by an occupant who is not the owner of the premises and where such occupant's premises are separately metered for service, the owner of any such premises shall be liable only for the payment of delinquent rates or charges applicable to three delinquent billing periods but not to exceed a period of 90 days for such delinquency. No board shall refuse to service other premises of the owner not occupied by an occupant who is delinquent in the payment of such rates or charges on account of such delinquency provided that such owner has paid in full any delinquent charges for which he would be responsible for paying. No board shall refuse to service or unreasonably delay reinstatement of service to premises where such occupant who is delinquent has vacated the premises and a new party has applied for service provided such owner has paid in full such delinquent charges as he would be responsible for paying.

1962, c. 571; 1964, c. 517; 1970, c. 674; 1975, cc. 251, 490; 1976, c. 684; 1977, c. 516; 1981, cc. 554, 563, 564; 1982, c. 447; 1983, c. 422; 1994, c. 432; 1997, c. 12; 2000, c. 230; 2011, cc. 438, 496; 2012, c. 485; 2017, c. 14.

§ 21-118.5.Unified water supply and sewerage systems for counties and sanitary districts; power of county governing body to fix rates; application of Public Finance Act

Whenever the board of supervisors of any county, as the governing board of such county, shall enter into, or has heretofore entered into, an agreement with one or more sanitary districts located within such county whereby the county has agreed to connect, operate, maintain, alter, improve, add to and extend within and without the territory of such sanitary district or districts the water supply or sewerage systems, or the water supply and sewerage systems, of such county and such district or districts, or the water supply or sewerage systems, or the water supply and sewerage systems, of two or more such sanitary districts, in the manner of and as a unified single water supply or sewerage system, or a unified single water supply and sewerage system, each of which is hereinafter referred to in this chapter as a "unified system," then, notwithstanding the provisions of the first sentence of § 21-118.4 (e), such board of supervisors is empowered to fix and prescribe the rate of charge for the use of such unified system with a view to the needs of such unified system as a whole. Such unified system shall constitute a "project" and a "revenue producing undertaking" for the purposes of and as defined in the

Public Finance Act, Chapter 26 (§ 15.2-2600 et seq.) of Title 15.2. Such county in respect of such project and revenue producing undertaking shall have all the powers granted to counties by the Public Finance Act. Water and sewer connection fees established by any county, city, town or sanitary district shall be fair and reasonable. Such fees shall be reviewed by the county, city, town or sanitary district periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

1972, c. 221; 1997, c. 12.

§ 21-118.6.Same; application of revenues; tax levy where revenues insufficient

Whenever a county and one or more sanitary districts have entered into an agreement for a unified water supply or sewerage system, or unified water supply and sewerage system, and such county has agreed therein to pay from the revenues of such unified system the principal of and interest on all bonds issued for water or sewer purposes, or both, as the case may be, by such sanitary district or districts, and to impose such schedule of rates, rentals, fees and charges for the use and services of such unified system so as to produce revenues sufficient for such payment, such county may also apply the revenues derived from such rates, rentals, fees and charges to the payment of the cost of operation and maintenance of the unified system, to the cost of renewals and replacements and to any other lawful purposes connected with or pertaining to such unified system, including the making of additions to and expansions of such unified system, to the payment of the principal of and interest on any bonds issued by such county for the purpose of such unified system and to the creation and maintenance of such reserves as may be deemed necessary by such county to effect any financing for such unified system. The order of any priority of the application of such revenues to any of the foregoing purposes, including to the payment of the principal of and interest on such bonds of the sanitary districts, may be determined by the board of supervisors as the governing body of the county. If at any time the revenues derived from rates, rentals, fees and charges for the use and services of such unified system, are insufficient to provide for the operation and maintenance of the unified system, and for payment of principal of and interest on such bonded indebtedness of the sanitary district as the same shall become due, such sanitary district shall levy an annual tax upon all property in such sanitary district subject to local taxation to pay such principal and interest as the same shall become due. Nothing contained in the immediately preceding sentence shall, however, be construed to relieve the county of its obligations under any such agreement to impose rates, rentals, fees and charges for the use and services of such system sufficient to pay such costs of operation and maintenance and to provide for the payment of such principal and interest.

1972, c. 221.

§ 21-118.7.Same; payment to county of revenues held by district

Any agreement for the creation of a unified system may provide for the payment over to the county of net revenues held by the district or districts theretofore derived from the water supply or sewerage systems, or both, of the district or districts that are to become part of such unified system.

1972, c. 221.

§ 21-118.8.Same; ratification of prior agreements

Any agreement heretofore entered by a county with one or more sanitary districts with respect to a unified system containing provisions substantially in compliance with §§ 21-118.5, 21-118.6 or 21-118.7, and the proceedings heretofore taken with respect to such agreement, are hereby ratified, validated, confirmed and approved, notwithstanding that any provisions of said agreement may have been inconsistent with the provisions of this chapter prior to the enactment of §§ 21-118.5 to 21-118.8.

1972, c. 221.

§ 21-119.Sanitary districts are special taxing districts; nature of improvements; jurisdiction of governing bodies, etc., not affected

A. Each sanitary district created or purported to be created by the governing body of a county, heretofore or hereafter made and adopted pursuant to any general law of the Commonwealth, is hereby determined to be and is hereby made, from and after the date of such creation or purported creation, a special taxing district for the purposes for which created; and any improvements heretofore or hereafter made by or for any such district are hereby determined to be general tax improvements and of general benefit to all of the property within the sanitary district, as distinct from peculiar or special benefits to some or all of the property within the sanitary district.

B. Neither the creation of the sanitary districts as special taxing districts nor any other provision in this chapter shall in any wise affect the authority, power and jurisdiction of the respective county governing bodies, sheriffs, treasurers, commissioners of the revenue, circuit courts, clerks, judges, magistrates or any other county, district or state officer over the area embraced in any such district, nor shall the same restrict or affect in any way any county, or the governing body of any county, from imposing on and collecting from abutting landowners, or other landowners receiving special or peculiar benefits, in any such district, taxes or assessments for local public improvements as permitted by the Constitution and by other statutes of the Commonwealth.

C. Notwithstanding subsections A and B, the board of supervisors of Buckingham County, Nottoway County, or Westmoreland County may impose on, and collect from, landowners abutting a street being improved by the sanitary district a user fee for such service. Such fee may be enforced as provided in § 21-118.4.

1936, p. 497; Michie Suppl. 1946, § 1560s3; 1997, c. 261; 2005, c. 839; 2007, c. 813; 2017, c. 14.

§ 21-119.1.Transfer of certain sanitary districts to towns

(1) The governing body of any county in which a sanitary district has been established and subsequent thereto a town has been created, the boundaries of such town being the same as those of the sanitary district, is authorized to transfer all jurisdiction and control over such district to such town.

(2) Such transfer shall be subject to approval by the bondholders.

(3) Upon the transfer of such district to the town all power and authority of the county over the affairs of such district shall terminate and all such power and authority shall be transferred to and vest in the governing body of the town and all obligations and indebtedness of such district shall be and become an obligation of the town. Such transfer shall not be made, unless, in addition to the other conditions herein set forth, the governing body of such town assents thereto.

1952, c. 626.

§ 21-120.In certain cities and counties

Chapter 161 of the Acts of 1926, as amended, codified as §§ 1560a-1560l2 of Michie Code 1942 and Michie Suppl. 1946, and last amended by chapter 465 of the Acts of 1948, providing for sanitary districts in counties having more than 500 inhabitants per square mile or adjoining a county having more than 1,000 inhabitants per square mile or adjoining a city having a population of 170,000 or more, is continued in effect. Chapter 189 of the Acts of 1932, codified as §§ 1560t-1560z of Michie Code 1942, providing for sanitary districts in counties having a population of between 35,000 and 37,000 according to the census of 1930, is continued in effect. Chapter 232 of the Acts of 1944, codified as § 1560l3 of Michie Suppl. 1946, relating to levy of sanitary district tax in lieu of issuance of bonds in counties having an area of more than forty-five and less than sixty square miles, is continued in effect. Chapter 305 of the Acts of 1944, as amended by Chapter 372 of the Acts of 1946, and Chapter 70 of the Acts of 1948, relating to levy of assessments in sanitary districts in counties adjoining a county having more than 1,000 inhabitants per square mile, is continued in effect.

The following amendments and repeal of Acts of Assembly continued in effect by this section are incorporated in this Code by this reference:

Amendments to Chapter 161, as amended, of the Acts of 1926.

Chapter 198 of the Acts of 1950.

Chapter 442 of the Acts of 1950.

Chapter 300 of the Acts of 1952.

Chapter 324 of the Acts of 1954.

Chapter 691 of the Acts of 1956.

Chapter 454 of the Acts of 1958.

Chapter 521 of the Acts of 1958.

Chapter 561 of the Acts of 1960.

Chapter 554 of the Acts of 1962.

Chapter 344 of the Acts of 1964.

Chapter 678 of the Acts of 1968.

Chapter 253 of the Acts of 1970.

Chapter 597 of the Acts of 1970.

Chapter 219 of the Acts of 1972.

Chapter 222 of the Acts of 1972.

Chapter 303 of the Acts of 1977.

Chapter 294 of the Acts of 1981.

Chapter 732 of the Acts of 1984.

Chapter 51 of the Acts of 1989.

Chapter 394 of the Acts of 1989.

Chapter 1025 of the Acts of 1999.

Repeal of Chapter 189 of the Acts of 1932.

Chapter 139 of the Acts of 1956.

§ 21-121.Validation of proceedings

All proceedings had in the creation of sanitary districts in the Commonwealth prior to January 1, 1970, whether under general law or by special act, are validated and confirmed, and all such districts so created or attempted to be created under existing law or by special act are declared to have been validly created and established notwithstanding any defects or irregularities in the creation thereof.

1946, p. 64; 1958, c. 588; 1968, c. 62; 1970, c. 441.

§ 21-121.1.Further validation of proceedings

All proceedings had in the creation of sanitary districts in the Commonwealth prior to June 30, 1954, whether under general law or by special act, are validated and confirmed, and all such districts so created or attempted to be created, under existing general law or by special act, are declared to be validly created and established, notwithstanding any defects or irregularities in the creation thereof, including any curable unconstitutionality of a procedural character, such as failure of the act to correspond with title and such constitutional questions.

1950, p. 4; 1954, c. 68.

§ 21-121.2.Additional validation of proceedings

All proceedings heretofore taken in the creation of sanitary districts of whatsoever kind in the Commonwealth of Virginia, whether under general law or special act, are hereby validated, ratified, approved and confirmed, and all such districts so created or attempted to be created thereunder are hereby declared to have been validly created and established, notwithstanding any defects or irregularities in the creation thereof.

1960, c. 562; 1962, c. 26; 1964, c. 243.

§ 21-121.2:1.Same; bond issues

All proceedings heretofore taken in the creation of sanitary districts of whatsoever kind in the Commonwealth of Virginia, whether under general law or special act, are hereby validated, ratified, approved and confirmed, and all such districts so created or attempted to be created thereunder are hereby declared to have been validly created and established, notwithstanding any defects or irregularities in the creation thereof.

All proceedings heretofore taken and all elections heretofore held in sanitary districts of whatsoever kind in the Commonwealth of Virginia, whether under general law or special act, to provide for, and with respect to, the contracting of bonded indebtedness and the authorization, issuance, sale, execution and delivery of bonds by or on behalf of all such sanitary districts, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power of the governing body of the county in which any such district is located to authorize and issue such bonds, or to authorize the execution, sale or delivery thereof, and notwithstanding any defects or irregularities in any such proceedings or elections, or in such execution, sale or delivery; and such bonds so issued or to be issued are and shall be binding, legal, valid and enforceable obligations of any such sanitary districts, notwithstanding any statutory limitation on the amount thereof.

It is the intention of the General Assembly that this section shall be liberally construed to effectuate the purposes set out therein.

1966, c. 199.

§ 21-121.3.Powers of districts created under other laws

Any sanitary district heretofore created under general law or special act shall have all of the powers specified in this article notwithstanding any limitations contained in any general law or special act pursuant to which such sanitary district was created and notwithstanding any limitations contained in the proceedings taken for the creation thereof.

1964, c. 165.

§ 21-121.4.Powers of boards of supervisors and other governing bodies of counties with respect to sanitary districts

Notwithstanding anything in this article to the contrary, the board of supervisors or other governing body of a county and the requisite number of qualified voters may, with respect to any and all sanitary districts of whatsoever kind, whether heretofore or hereafter created pursuant to this article or pursuant to any other general or special act, exercise all of the powers granted them by §§ 21-116, 21-117, 21-117.1, 21-118, 21-118.1 and 21-118.4.

1968, c. 275.

§ 21-121.5. Validation of certain actions

All proceedings had in the creation, enlargement or merger of sanitary districts in the Commonwealth prior to January 1, 1977, whether under general law or by special act, are validated and confirmed, and all such districts so created, enlarged or merged or attempted to be created, enlarged or merged under existing law or by special act are declared to have been validly created, established, enlarged or merged notwithstanding any defects or irregularities in the creation, enlargement or merger thereof.

1977, c. 183.

§ 21-121.6. Sanitary districts in certain counties with a water and sewer authority

A. This section shall apply to any sanitary district created after January 1, 1993, in a county with an authority created pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.).

B. The circuit court shall not enter an order pursuant to § 21-123 requiring an election until a resolution of the governing body requesting the entry of such order has been filed with the circuit court.

C. Notwithstanding the provisions of §§ 21-125 and 21-128, if an election conducted pursuant to § 21-124 indicates that a majority of the qualified voters of the sanitary district voting on the question are in favor of issuing bonds for a purpose for which the sanitary district was created, no bonds of the sanitary district shall be issued, and the circuit court shall not require the issuance of such bonds, without the approval of the governing body of the county.

D. If a sanitary district levies a tax upon property within the sanitary district pursuant to subdivision 6 of § 21-118, such tax shall be based on the full assessed value of the taxable property within the sanitary district, notwithstanding any special use value assessment of property within the sanitary district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1. In addition to the notice required pursuant to § 21-114, the petitioners shall provide a written notice of the court hearing to each owner of property within the proposed district which is currently assessed at its use value pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1. Such notice shall be mailed, first class, at least twenty-one days prior to the hearing to each such owner as listed in the current real estate assessment records, and an affidavit shall be filed with the court evidencing that such notice has been mailed.

E. The county's claim of taxes and its lien on property pursuant to Article 11 (§ 58.1-3340 et seq.) of Chapter 32 of Title 58.1 shall have priority over any claim or lien for any tax levied pursuant to subdivision 6 of § 21-118.

F. The governing body of a sanitary district may enter into agreements with an authority created pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.) for the construction, operation, use, control, ownership, and maintenance of any water supply, sewerage or other systems or facilities located within or outside of the boundaries of the sanitary district. Such agreements may provide that the authority will provide any service which the authority is permitted to provide and which the sanitary district may provide through the construction, establishment, maintenance, and operation of its own system or systems. The governing body of the county shall have the power to issue bonds of the sanitary district for the construction, establishment, and maintenance of any systems providing such service, whether such systems are owned by the sanitary district or the authority. The sanitary district and the authority may also agree on the imposition, collection, and use of rates, fees, and charges relating to such systems, including reimbursements by or to persons utilizing such systems. Notwithstanding the provisions of subdivision 2 of § 21-118, the sanitary district may sell, lease as lessor, transfer or dispose of any of its property, real, personal or mixed, to the authority without holding a public hearing.

1993, c. 272.

Shenandoah Valley Regional Airport Commission

Created
1956 Acts of Assembly, c. 628 as Shenandoah Valley Joint Airport Commission.

Amendments
1958, c. 396 (§§ 1 through 4)
1978, c. 18 (§ 1; name changed to Shenandoah Valley Airport)
1988, c. 209 (§ 1; name changed to Shenandoah Valley Regional Airport Commission)
1994, c. 773 (§ 3)

§ 1. "Commission," as used herein, shall mean Shenandoah Valley Regional Airport Commission established under the provisions of Article 2, Chapter 3, Title 5 of the Code of Virginia, by the joint action of the counties of Augusta and Rockingham and the cities of Harrisonburg, Staunton and Waynesboro. (1956, c. 628; 1958, c. 396; 1978, c. 18; 1988, c. 209)

§ 2. The Commission is hereby created and constituted a political subdivision of the counties of Augusta and Rockingham and the cities of Harrisonburg and Staunton. With the consent of all of the members of the Commission and the governing body of the city of Waynesboro, said city of

Waynesboro shall become a member and an integral part of the Commission and the political subdivision established under this section. (1956, c. 628; 1958, c. 396)

§ 3. The Commission, in addition to the powers and duties delegated to it by the participating counties and cities, shall have the following powers:

To acquire under the power of eminent domain in the manner prescribed for railroad corporations by Title 25 of the Code of Virginia, or by purchase, lease or otherwise, property, real or personal, or any interest therein, including easements in structures, objects, natural growth, or use of lands which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or are otherwise hazardous to such landing or taking off of aircraft, as are necessary for the establishment, use, operation, maintenance or enlargement of an airport; provided, however, such power of eminent domain shall not extend to the taking of any radio or television towers or installation in existence on the effective date of this Act. Leases or contracts entered into pursuant to this section may be for terms of five years or less, notwithstanding any local ordinance to the contrary. (1956, c. 628; 1958, c. 396; 1994, c. 773)

§ 4. Proceedings for condemnation hereunder shall be instituted and conducted in the name of the Commission, and the procedure shall be in the manner and under the restrictions prescribed by the general statutes of this State relative to the condemnation of lands and the rights of all persons, partnerships, associations or corporations affected shall be subject to the general laws of this State, in so far as the same may be applicable under the general purposes of this act. (1956, c. 628; 1958, c. 396)

Small Business Financing Authority, Virginia

§ 2.2-2201.Short title; definitions

A. This article shall be known and may be cited as the "Virginia Commercial Space Flight Authority Act."

B. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Commercial Space Flight Authority.

"Board" means the board of directors of the Authority.

"Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility or the provision for or funding of any activity that will further the purposes described in § 2.2-2202.

1995, c. 758, §§ 9-266.1, 9-266.2; 2001, c. 844; 2012, cc. 779, 817.

§ 2.2-2202.Declaration of public purpose; Virginia Commercial Space Flight Authority created

The General Assembly has determined that there exists in the Commonwealth a need to promote industrial and economic development and scientific and technological research and development through the development and promotion of the commercial and government aerospace industry.

In order to facilitate and coordinate the advancement of these needs, there is hereby created the Virginia Commercial Space Flight Authority, with the powers and duties set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public functions, and the exercise by the Authority of the powers and duties conferred by this article shall be deemed and held to be the performance of an essential government function of the Commonwealth and a public purpose.

1995, c. 758, § 9-266.3; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2203.Board of directors; members and officers; Executive Director

The Authority shall be governed by a board of directors consisting of nine members, two of whom shall be the Secretary of Transportation and the Director of the Virginia Department of Aviation or their respective designees. The remaining seven members shall be appointed by the Governor and shall have experience in at least one of the following fields: (i) the aerospace industry, (ii) the financial industry, (iii) the marketing industry, (iv) scientific and technological research and development; or (v) higher education. Members of the Board appointed by the Governor shall be appointed for terms of four years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members shall serve at the pleasure of the Governor and shall be confirmed by the General Assembly. Members of the Board shall receive reimbursement for their

expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on Board business.

The Board shall annually elect one of its members as chairman and another as vice-chairman and may also elect from its membership, or appoint from the Authority's staff, a secretary and a treasurer and prescribe their powers and duties. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings. Five members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also serve as the Chief Executive Officer of the Authority and exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. Such compensation shall be established at a level that will enable the Authority to attract and retain a capable Executive Director. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary to carry out the powers and duties of the Authority.

1995, c. 758, § 9-266.4; 1999, cc. 412, 421, 433; 2001, c. 844; 2009, c. 82; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2204.Powers of the Authority

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the power to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board;

4. Adopt a strategic plan pursuant to § 2.2-2203.2 and plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain and operate projects pursuant to such plan;

5. Adopt an annual budget for the Authority's capital improvements and operations;

6. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the power of the Authority shall be exercised and its duties performed. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary and expedient. Such bylaws, rules, and regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.);

7. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of projects of, the sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority; the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties; the payment of the costs accomplishing its purposes set forth in § 2.2-2202; the payment of the principal of and interest on its obligations; and the creation of reserves for such purposes, for other purposes of the Authority and to pay the cost of maintaining, repairing and operating any project and fulfilling the terms and provisions of any agreements made with the purchasers or holders of any such obligations and any other purposes as set forth in this article;

8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2202 or for refunding bonds previously issued by the Authority, whether such outstanding bonds have matured or are then subject to redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof, by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to provide for the security for said bonds and the rights of holders thereof. However, the total principal amount of bonds, including refunding bonds, outstanding at any time shall not exceed $50 million, excluding from such limit any revenue bonds. The Authority shall not issue any bonds, other than revenue bonds, that are not specifically authorized by a bill or resolution passed by a majority vote of those elected to each house of the General Assembly;

9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including interstate compacts that have been authorized by the General Assembly and where necessary consented to by the United States Congress and agreements with any person or federal agency;

10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as

may be necessary, and to fix their compensation to be payable from funds made available to the Authority;

11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants, donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made;

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; foster the utilization of scientific and technological research, information discoveries and data and obtain patents, copyrights and trademarks thereon; coordinate the scientific and technological research efforts of public institutions and private industry and collect and maintain data on the development and utilization of scientific and technological research capabilities;

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority; and

15. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

1995, c. 758, § 9-266.5; 1996, c. 111; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2279.Short title; definitions

A. This article shall be known and may be cited as the "Virginia Small Business Financing Act."

B. As used in this article, unless the context requires a different meaning:

"Business enterprise" means any (i) industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing, or selling of any products of agriculture, mining, or industry or professional services; (ii) commercial enterprise making sales or providing services to industries described in clause (i); (iii) enterprise for research and development, including scientific laboratories; (iv) not-for-profit entity operating in the Commonwealth; (v) entity acquiring, constructing, improving, maintaining, or operating a qualified transportation facility under the Public-Private Transportation Act

of 1995 (§ 33.2-1800 et seq.); (vi) entity acquiring, constructing, improving, maintaining, or operating a qualified energy project; (vii) entity acquiring, constructing, improving, maintaining, or operating a qualified pollution control project; (viii) entity that modernizes public school buildings or facilities pursuant to Article 3 (§ 22.1-141.1 et seq.) of Chapter 9 of Title 22.1; or (ix) other business as will be in furtherance of the public purposes of this article.

"Cost," as applied to the eligible business, means the cost of construction; the cost of acquisition of all lands, structures, rights-of-way, franchises, easements, and other property rights and interests; the cost of demolishing, removing, rehabilitating, or relocating any buildings or structures on lands acquired, including the cost of acquiring any such lands to which such buildings or structures may be moved, rehabilitated, or relocated; the cost of all labor, materials, machinery and equipment, financing charges, letter of credit or other credit enhancement fees, insurance premiums, interest on all bonds prior to and during construction or acquisition and, if deemed advisable by the Authority, for a period not exceeding one year after completion of such construction or acquisition, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, commissions, guaranty fees, other expenses necessary or incident to determining the feasibility or practicality of constructing, financing, or operating a project of an eligible business; administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions, improvements and replacements, and such other expenses as may be necessary or incidental to the construction or acquisition of a project of an eligible business or the financing of such construction, acquisition, or expansion and the placing of a project of an eligible business in operation. Any obligation or expense incurred by the Commonwealth or any agency thereof, with the approval of the Authority for studies, surveys, borings, preparation of plans and specifications, or other work or materials in connection with the construction or acquisition of a project of an eligible business may be regarded as a part of the cost of a project of an eligible business and may be reimbursed to the Commonwealth or any agency thereof out of the proceeds of the bonds issued therefor.

"Eligible business" means any person engaged in one or more business enterprises in the Commonwealth that satisfies one or more of the following requirements: (i) is a for-profit enterprise that (a) has received $10 million or less in annual gross income under generally accepted accounting principles for each of its last three fiscal years or lesser time period if it has been in existence less than three years, (b) has fewer than 250 employees, (c) has a net worth of $2 million or less, (d) exists for the sole purpose of developing or operating a qualified transportation facility under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.), (e) exists for the primary purpose of developing or operating a qualified energy project, (f) is required by state or federal law to develop or operate a qualified pollution control project, or (g) meets such other satisfactory requirements as the Board shall determine from time to time if it finds and determines such person is in need of its

assistance or (ii) is a not-for-profit entity granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating in the Commonwealth.

"Federal Act" means the Small Business Investment Act of 1958, 15 U.S.C. § 661 et seq., as amended from time to time.

"Indenture" means any trust agreement, deed of trust, mortgage, or other security agreement under which bonds authorized pursuant to this article shall be issued or secured.

"Internal Revenue Code" means the federal Internal Revenue Code of 1986, as amended.

"Lender" means any federal- or state-chartered bank, federal land bank, production credit association, bank for cooperatives, federal- or state-chartered savings institution, building and loan association, small business investment company, or any other financial institution qualified within the Commonwealth to originate and service loans, including insurance companies, credit unions, investment banking or brokerage companies, and mortgage loan companies.

"Loan" means any lease, loan agreement, or sales contract defined as follows:

1. "Lease" means any lease containing an option to purchase the project or projects of the eligible business being financed for a nominal sum upon payment in full, or provision thereof, of all bonds issued in connection with the eligible business and all interest thereon and principal of and premium, if any, thereon and all other expenses in connection therewith.

2. "Loan agreement" means an agreement providing for a loan of proceeds from the sale and issuance of bonds by the Authority or by a lender with which the Authority has contracted to loan such proceeds to one or more contracting parties to be used to pay the cost of one or more projects of an eligible business and providing for the repayment of such loan including all interest thereon, and principal of and premium, if any, thereon and all other expenses in connection therewith, by such contracting party or parties and which may provide for such loans to be secured or evidenced by one or more notes, debentures, bonds, or other secured or unsecured debt obligations of such contracting party or parties, delivered to the Authority or to a trustee under an indenture pursuant to which the bonds were issued.

3. "Sales contract" means a contract providing for the sale of one or more projects of an eligible business to one or more contracting parties and includes a contract providing for payment of the purchase price including all interest thereon, and principal of and premium, if any, thereon and all other expenses in connection therewith, in one or more installments. If the sales contract permits title to a project being sold to an eligible business to pass to such contracting party or parties prior to payment in full of the entire purchase price, it also shall provide for such contracting party or parties to deliver to the Authority or to the trustee under the indenture pursuant to which the bonds were issued,

one or more notes, debentures, bonds, or other secured or unsecured debt obligations of such contracting party or parties providing for timely payments of the purchase price thereof.

"Municipality" means any county or incorporated city or town in the Commonwealth.

"Preferred lender" means a bank that is subject to continuing supervision and examination by state or federal chartering, licensing, or similar regulatory authority satisfactory to the Authority and that meets the eligibility requirements established by the Authority.

"Qualified energy project" means a solar-powered or wind-powered electricity generation facility located in the Commonwealth on premises owned or leased by an eligible customer-generator, as defined in § 56-594, the electricity generated from which is sold exclusively to the eligible customer-generator under a power purchase agreement used to provide third party financing of the costs of such a renewable generation facility (third party power purchase agreement) pursuant to a pilot program established under Chapter 382 of the Acts of Assembly of 2013.

"Qualified pollution control project" means environmental pollution control and prevention equipment certified by the business enterprise or eligible business as being needed to comply with the federal Clean Air Act (42 U.S.C. § 7401 et seq.), the federal Clean Water Act (33 U.S.C. § 1251 et seq.), or the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.).

"Revenues" means any and all fees, rates, rentals, profits, and receipts collected by, payable to, or otherwise derived by, the Authority, and all other moneys and income of whatsoever kind or character collected by, payable to, or otherwise derived by, the Authority in connection with loans to any eligible business in furtherance of the purposes of this article.

"Statewide Development Company" means the corporation chartered under this article for purposes of qualification as a state development company as such term is defined in the Federal Act.

1984, c. 749, §§ 9-197, 9-199; 1996, c. 77; 2001, c. 844; 2003, c. 339; 2008, c. 744; 2009, c. 565; 2014, c. 732; 2019, cc. 818, 819.

§ 2.2-2280. Declaration of public purpose; Authority created

A. The General Assembly finds and determines that (i) there exists in the Commonwealth a need to assist small and other eligible businesses in the Commonwealth in obtaining financing for new business or in the expansion of existing business in order to promote and develop industrial development and to further the long-term economic development of the Commonwealth through the improvement of its tax base and the promotion of employment and (ii) it is necessary to create a governmental body to provide financial assistance to small and other eligible businesses in the Commonwealth by providing loans, guarantees, insurance and other assistance to small and other eligible businesses, thereby encouraging the investment of private capital in small and other eligible businesses in the Commonwealth. The creation of this governmental body to assist in such matters is

essential to the industrial development of the Commonwealth. In making these determinations, the General Assembly has considered and affirmatively expresses its policy to assist small and other eligible businesses in Virginia, acknowledging that this determination has and will affect competition.

It is further declared that all of the foregoing are public purposes and that the activities of the Authority will serve a public purpose in that they will promote industry, develop trade and increase employment opportunities for the benefit of the inhabitants of the Commonwealth, either through the increase of commerce or through the promotion of safety, health, welfare, convenience or prosperity; and that the necessity of enacting the provisions herein set forth is in the public interest and is so declared as a matter of express legislative determination.

B. The Virginia Small Business Financing Authority is created, with such powers and duties as are set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. All powers, rights and duties conferred by this article or other provisions of law upon the Authority shall be exercised by the Board.

1984, c. 749, § 9-201; 2001, c. 844; 2009, c. 565.

§ 2.2-2281.Construction of article

Nothing contained in this article shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any other law of the Commonwealth, and this article supersedes all other laws in conflict herewith and is cumulative to such powers. Insofar as the provisions of this article are inconsistent with the provisions of any other law, the provisions of this article shall be controlling and the powers conferred by this article shall be regarded as supplemental and additional to powers conferred by any other laws. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument or the security therefor, except as provided in this article.

The provisions of this article shall be liberally construed to accomplish the purposes of this article.

1984, c. 749, § 9-200; 2001, c. 844.

§ 2.2-2282.Board of directors; membership; terms, compensation and expenses; chairman, vice-chairman, secretary and treasurer; quorum; staff

A. The Board shall consist of the State Treasurer or his designee, the Director of the Department of Small Business and Supplier Diversity, and nine members who are not employees of the Commonwealth or of any political subdivision thereof who shall be appointed by the Governor and who shall have such small business experience as he deems necessary or desirable. The appointment of members of the Board by the Governor shall be subject to confirmation by the General Assembly. All members of the Board shall be residents of the Commonwealth and shall have full voting privileges. Appointments shall be for terms of four years, except that appointments to fill vacancies shall be made for the unexpired terms. No member appointed by the Governor shall serve

more than two complete terms in succession. The members of the Board shall receive no salaries but shall be paid travel and other expenses incurred to attend meetings or while otherwise engaged in the discharge of their duties, all as may be deemed appropriate by the Board.

B. The Governor shall appoint one member as chairman for a two-year term. No member shall be eligible to serve more than two consecutive terms as chairman. Five members of the Board shall constitute a quorum for the transaction of all business of the Authority. The Board shall elect one member from the group of nine members appointed by the Governor as vice-chairman who shall exercise the powers of the chairman in the absence of the chairman. The Board shall elect a secretary and a treasurer, or a secretary-treasurer, who need not be members of the Board and who shall continue to hold such office until their respective successors are elected. The Department of Small Business and Supplier Diversity of the Commonwealth shall serve as staff to the Authority.

1984, c. 749, § 9-202; 1987, c. 688; 1991, c. 190; 1996, cc. 589, 599; 2001, c. 844; 2004, c. 239; 2011, cc. 691, 714; 2013, c. 482.

§ 2.2-2283.Meetings of the Board

Board meetings shall be held at the call of the chairman or whenever any four members so request. In any event, the Board shall meet as necessary to attend to the business of the Authority.

1984, c. 749, § 9-203; 1990, c. 387; 2001, c. 844.

§ 2.2-2284.Executive Director; appointment; duties

The Director of the Department of Small Business and Supplier Diversity shall appoint the Executive Director of the Authority. The Executive Director shall administer, manage and direct the affairs and activities of the Authority in accordance with the policies and under the control and the direction of the Board and the Director of the Department of Small Business and Supplier Diversity. Except as otherwise stated in this article, the Executive Director shall approve all accounts for allowable expenses for the Authority or of any employee or consultant or other person providing services to the Board, and for expenses incidental to the operation of the Authority subject to approval of the Director of the Department of Small Business and Supplier Diversity. The Executive Director shall maintain and be custodian of all books, documents and papers of or filed with the Authority, including but not limited to the minute book or journal of the Authority, and of its official seal. The Executive Director may cause copies to be made of all minutes and other records and documents of the Authority and may in the place and stead of the Secretary of the Authority give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Executive Director also shall perform such other duties as prescribed by the Board in carrying out the purposes of this article.

1984, c. 749, § 9-204; 1990, c. 387; 1996, cc. 589, 599; 2001, c. 844; 2013, c. 482.

§ 2.2-2285.Powers of the Authority

The Authority is granted all powers necessary or appropriate to carry out and effectuate its purposes including, but not limited to, the following powers to:

1. Have perpetual existence as a public body corporate and as a political subdivision of the Commonwealth;

2. Adopt, amend, and repeal bylaws, rules and regulations not inconsistent with this article, to regulate its affairs and to carry into effect the powers and the purposes of the Authority and for the conduct of its business;

3. Sue and be sued in its name including but not limited to bringing actions pursuant to Article 6 (§ 15.2-2650 et seq.) of Chapter 26 of Title 15.2 to determine the validity of any issuance or proposed issuance of its bonds under this article and the legality and validity of all proceedings previously taken or proposed in a resolution of the Authority to be taken for the authorization, issuance, sale and delivery of such bonds and for the payment of the principal thereof and interest thereon;

4. Have an official seal and alter it at will;

5. Maintain an office at such place within the Commonwealth as it may designate;

6. Make and execute contracts and all other instruments necessary and convenient for the performance of its duties and the exercise of its powers under this article upon such terms and conditions it deems appropriate;

7. Employ office personnel, advisers, consultants, professionals and agents as may be necessary in its judgment, and to fix their compensation;

8. Procure insurance against any loss in connection with its property and other assets, including but not limited to loans in such amounts and from such insurers as it deems advisable;

9. Borrow money and issue bonds as provided by this article;

10. Procure insurance or guarantees from any public or private entities, including any department, agency or instrumentality of the United States of America, or, subject to the provisions of and to the extent moneys are available in the fund created by § 2.2-2290, insure or guarantee the payment of any bonds issued by the Authority, including the power to pay premiums on any such insurance or guarantees or other instruments of indebtedness;

11. Receive and accept from any source aid or contributions of money, property, labor or other things of value to be held, used and applied to carry out the purposes of this article (subject, however, to any conditions upon which grants or contributions are made) including, but not limited to gifts or grants from any department, agency or instrumentality of the United States;

12. Enter into agreements with any department, agency or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of

planning, regulating and providing for the financing or assisting in the financing of any eligible business or any project thereof;

13. Enter into contracts or agreements with lenders for the servicing and/or processing of loans;

14. Provide technical assistance to local industrial development authorities and to profit and nonprofit entities in the development or operation by, or assistance to, persons engaged in small business enterprises and distribute data and information concerning the encouragement and improvement of small business enterprises in the Commonwealth;

15. To the extent permitted in the proceedings pursuant to which the bonds of the Authority are issued, consent to any modification with respect to the rate of interest, time for, and payment of, any installment of principal or interest, or any other term of any contract, loan, sales contract, lease, indenture or agreement of any kind to which the Authority is a party;

16. To the extent permitted in the proceedings pursuant to which the bonds of the Authority are issued, enter into contracts with any lender containing provisions authorizing the lender to reduce the charges or fees, exclusive of loan payments, to persons unable to pay the regular schedule thereof when, by reason of other income or payment by any department, agency or instrumentality of the United States or the Commonwealth, the reduction can be made without jeopardizing the economic stability of the eligible business being financed;

17. Allocate any of its property to the insurance or guarantee fund established by § 2.2-2290 or to any other fund of the Authority, such property consisting of:

a. Moneys appropriated by the Commonwealth;

b. Premiums, fees and any other amounts received by the Authority with respect to financial assistance provided by the Authority;

c. Proceeds as designated by the Authority from the loan or other disposition of property held or acquired by the Authority;

d. Income from investments that were made by the Authority or on the behalf of the Authority from moneys in one or more of its funds; or

e. Any other moneys made available to the Authority consistent with this article;

18. Use any fund of the Authority for any and all expenses to be paid by the Authority including, but not limited to: (i) any and all expenses for administrative, legal, actuarial, and other services; (ii) all costs, charges, fees and expenses of the Authority relating to the authorizing, preparing, printing, selling, issuing, and insuring of bonds and the funding of reserves; and (iii) all expenses and costs relating to the guaranteeing, insuring or procurement of guarantees, insurance or other instruments providing credit or the enhancement of credit for the bonds;

19. Collect fees and charges the Authority determines to be reasonable in connection with its loans, insurance, guarantees, commitments and servicing thereof;

20. Sell, at public or private sale, with or without public bidding, any obligation held by the Authority;

21. Invest any funds not needed for immediate disbursement, including any funds held in reserve, in any obligations or securities that may be legally purchased by political subdivisions in the Commonwealth or as may be otherwise permitted by § 2.2-2305;

22. Administer the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title 15.2 jointly with the Director of the Department of Housing and Community Development and the Virginia Housing Development Authority;

23. Create and establish such funds and accounts as may be necessary or desirable for its purposes;

24. Enter into agreements the purpose of which is to authorize lenders that have been designated as preferred lenders to undertake loan decisioning and processing functions and responsibilities with respect to certain Authority guaranteed loans without obtaining prior Authority approval. Under such agreements, the Authority will provide each preferred lender credit authority equal to an amount determined by the Authority, or an amount equal to the funds available for such guarantees, whichever is less, for the period designated in the allocation. The preferred lender's allocation of credit authority shall be increased only by written permission of the Authority and shall not be restored automatically by the receipt of payments on Authority loans; and

25. Take any action necessary or convenient for the exercise of the powers granted by this article or reasonably implied from them.

1984, c. 749, §§ 9-205, 9-228; 1995, c. 128; 2001, c. 844; 2003, c. 339; 2005, c. 624; 2008, cc. 445, 744.

§ 2.2-2286.Power to condemn

The Authority may condemn property in furtherance of its purposes; provided, that any such condemnation shall be approved by the governing body of the municipality having jurisdiction over the property so condemned. Any property condemned by the Authority shall not be sold or leased by the Authority unless the Authority, preceding the consummation of any such sale or lease, finds and determines that such sale or lease is in furtherance of, or incidental to, the main purposes of the Authority under this article or that such property is no longer needed in furtherance of, or incidental to, such purposes. Any exercise of the power to condemn as authorized by this section shall be in accordance with the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1.

1984, c. 749, § 9-206; 2001, c. 844; 2003, c. 940.

§ 2.2-2287.Power to borrow money and issue bonds

The Authority may borrow money and issue bonds to pay the cost of the projects for which the bonds have been issued, including but not limited to the power to issue bonds to renew or to pay bonds, including the interest thereon. Whenever it deems refunding expedient it may refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund outstanding bonds. Refunding bonds may be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded, or exchanged for the bonds to be refunded. The Authority may undertake the financing of the cost of a project for an eligible business from the proceeds of its bonds by one or more of the following methods: (i) entering into a lease for the facilities of the eligible business being financed; (ii) selling such facilities to the eligible business under a sales contract; (iii) lending the proceeds of the sale of the bonds under a loan agreement with the eligible business; (iv) entering into a loans to lenders transaction in the manner described in § 2.2-2293; or (v) entering into such other transactions as the Board deems appropriate to accomplish the purposes of this article.

1984, c. 749, § 9-207; 2001, c. 844; 2003, c. 339.

§ 2.2-2288.Power to issue bonds to purchase ninety percent guaranteed portion of loans

In addition to and not as a limitation upon the powers to issue bonds as elsewhere expressed in this article, the Authority may, with proceeds of an issue of its bonds, participate with lenders in making or purchasing small business loans, not exceeding as to any one such loan one million dollars in principal amount, to be serviced by such lenders, provided that:

1. The Authority's share shall not exceed ninety percent of the total principal amount of any such loan, and such participation shall be payable with interest at the same times, but not necessarily at the same interest rate, as the share of the lender, and both shares shall be equally and ratably secured by a valid mortgage on, or security interest in, real or personal property or by any other security satisfactory to the Authority to secure payment of the loan; however, the Authority's share of any such loan may equal 100 percent of the total principal amount of the small business loan if the lender participating in the making or purchasing of such small business loan by servicing the loan, purchases 100 percent of the total amount of the bonds issued by the Authority in connection with or allocable to such small business loan;

2. The total principal amount of the Authority's share shall not exceed ninety percent of the value of the property securing the small business loan, unless the amount in excess of ninety percent is:

a. Loaned from available funds that are not proceeds received directly from the sale of the Authority's bonds and are not restricted under the terms of the resolution authorizing, or the indenture securing such bonds, or

b. Insured or guaranteed by a federal agency or by a private insurer qualified to write such insurance in the Commonwealth, insuring a percentage of any claim for loss at least equal to that percentage of the value by which the small business loan exceeds ninety percent thereof;

3. The value of the property securing the small business loan is certified by the participating lender, on the basis of such appraisals, bids, purchase orders, and engineers' certificates as the Authority may require; provided that the value of items purchased and constructed from the proceeds of the small business loan shall not be deemed, for purposes of this section, to exceed the contract price in respect of purchase or construction;

4. The Authority shall not disburse funds under a commitment to participate in a small business loan for the construction or substantial improvement of property until the construction or improvement has been completed, unless a lender furnishes an irrevocable letter of credit or a qualified corporate surety furnishes payment and performance bonds, in either event satisfactory to the Authority and in an aggregate amount equal to the cost of such construction or improvement;

5. No other indebtedness may be secured by a mortgage on, or security interest in, property securing a small business loan made or purchased pursuant to this subdivision without the prior express written authorization of the Authority; and

6. The participating lender agrees to use the proceeds of the small business loan to lend to eligible small businesses in the Commonwealth.

1984, c. 749, § 9-209; 2001, c. 844.

§ 2.2-2289.Power to issue umbrella bonds

In addition to the powers of the Authority to issue bonds, it may issue bonds, the proceeds of which, after payment of the costs of issuance thereof, shall be used to make loans, no single loan to be in excess of ten million dollars in aggregate principal amount, to finance or refinance the projects of eligible businesses. The Authority shall adopt such rules and regulations as are necessary to carry out the purposes of this section and to provide procedures for the making of such loans and the repayment thereof.

1984, c. 749, § 9-210; 1986, c. 297; 2001, c. 844; 2009, c. 565.

§ 2.2-2290.Insurance or guarantee fund

There is created an insurance or guarantee fund of the Authority that may be used for any of the following purposes:

1. To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or penalties on, and interest on its bonds;

2. To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or penalties on, and interest on any instrument executed, obtained or delivered in connection with the issuance and sale of its bonds; and

3. To pay or insure the payment of any fees or premiums necessary to obtain insurance, guarantees, or other instruments or enhancement of credit for or support from any person in connection with financing assistance provided by the Authority under this article including but not limited to working capital loans made by a lender, a preferred lender, or both.

1984, c. 749, § 9-211; 2001, c. 844; 2008, c. 744.

§ 2.2-2291.Security for bonds; fees and expenses; limitations

A. The bonds or instruments with respect to which financial assistance is provided by the Authority shall be secured or unsecured in a manner approved by the Board in its sole discretion.

B. The Board may set the premiums and fees to be paid to it for providing financial assistance under this article. The premiums and fees and expenses set by the Board shall be payable in the amounts, at the time and in the manner that the Board, in its discretion, requires. The premiums and fees need not be uniform among transactions and may vary in amount among transactions and at different stages during the terms of the transactions.

C. No portion of the proceeds of an issue of the Authority's bonds that are exempt under federal taxation as qualified bonds under Section 141(e) of the Internal Revenue Code shall be used to provide facilities prohibited in Section 147(e) of the Internal Revenue Code.

1984, c. 749, §§ 9-212, 9-213, 9-215; 2001, c. 844; 2009, c. 565.

§ 2.2-2292.Public hearing and approval

Whenever federal law requires public hearings and public approval as a prerequisite to obtaining federal tax exemption for the interest paid on private activity bonds under Section 147(f) of the Internal Revenue Code, unless otherwise specified by federal law or regulation, the public hearing for private activity bonds of the Authority shall be conducted by the Authority and the procedure for the public hearing and public approvals shall be as follows:

1. For a public hearing by the Authority:

a. Notice of the hearing shall be published once a week for two successive weeks in a newspaper published or having general circulation in the municipality in which the facility to be financed is to be located of intention to provide financing for a named applicant. The applicant shall pay the cost of notification. The notice shall also be mailed or otherwise delivered to the clerk of the local governing body of the municipality. The notice shall specify the time and place of hearing at which persons may appear and present their views. The hearing shall be held not less than six days nor more than 21

days after the second notice shall appear in such newspaper. The hearing may be held at any place within the Commonwealth determined by the Board.

b. The notice shall contain (i) the name and address of the Authority; (ii) the name and address of the principal place of business, if any, of the applicant seeking financing; (iii) the maximum dollar amount of financing sought; and (iv) the type of business and purpose and specific location, if known, of the facility to be financed.

c. Every request for private activity bond financing when submitted to the Authority shall be accompanied by a statement in the following form:

Name of Applicant: _____

Facility: _____

Date: _____

Maximum amount of financing sought: $_____

Estimated taxable value of the facility's real property in the municipality in which it is located. $_____

Estimated taxable value of the facility's real property once constructed or expanded. $_____

Estimated real property tax per year using present tax rates on the facility's real property once constructed or expanded. $_____

Estimated personal property tax per year from property to be located in expanded or constructed facility using present tax rate. $_____

Estimated merchants' capital tax per year from property to be located in expanded or constructed facility using present tax rate. $_____

Estimated dollar value per year of goods and services that will be purchased in the Commonwealth during construction or expansion of facility. $_____

Estimated dollar value per year of goods and services that will be purchased in the Commonwealth for the operation of the facility. $_____

Estimated dollar value per year of goods and services that will be produced and sold from the facility. $_____

Estimated number of employees during construction or expansion _____

Estimated number of regular employees on a year round basis during operation of the facility _____

Average annual salary per regular employee during operation of the facility. $_____

Estimated payroll for labor during construction or expansion of the facility. $_____

If any of the above questions do not apply to the eligible business being financed, indicate by writing N/A (not applicable) on the appropriate line.

2. For public approval, the Governor is appointed by this article as the applicable elected representative within the meaning of Section 147(f)(2)(E) of the Internal Revenue Code.

1984, c. 749, § 9-216; 2001, c. 844; 2003, c. 339; 2009, c. 565.

§ 2.2-2293.Loans to lenders; conditions

The Authority may make, and undertake commitments to make, loans to lenders under terms and conditions requiring the proceeds thereof to be used by the lenders to make loans to eligible small businesses. Loan commitments or actual loans may be originated through and serviced by any such lender. As a condition to a lender's participating in the loan, the lender shall agree to use the proceeds of the loan within a reasonable period of time to make loans or purchase loans to provide to eligible small businesses, or finance the projects of eligible small businesses, in the Commonwealth or, if the lender has made a commitment to make loans to eligible small businesses on the basis of a commitment from the Authority to purchase the loans, the lender shall make the loans within a reasonable period of time.

1984, c. 749, § 9-217; 2001, c. 844.

§ 2.2-2294.Investment in, purchase or assignment of loans; conditions

The Authority may invest in, purchase or make commitments to invest in or purchase, and take assignments or make commitments to take assignments, of loans made by lenders for the acquisition, construction, rehabilitation, expansion or purchase of a project for eligible business.

1984, c. 749, § 9-218; 2001, c. 844; 2003, c. 339.

§ 2.2-2295.Regulations of the Authority

Prior to carrying out the powers granted under §§ 2.2-2293 and 2.2-2294, the Authority shall adopt rules and regulations governing its activities including but not limited to rules and regulations relating to the following:

1. Procedures for the submission of requests or invitations and proposals for making loans to lenders and the investment in, purchase, assignment and sale of loans;

2. The reinvestment by a lender of the proceeds, or an equivalent amount, from any loan to a lender in loans to provide financing for eligible business in the Commonwealth;

3. Assurances that the eligible business to be financed will improve employment conditions or otherwise improve industrial development in the Commonwealth;

4. Rates, fees, charges, and other terms and conditions for originating or servicing loans in order to protect against realization of an excessive financial return or benefit by the originator or servicer;

5. The type and amount of collateral or security to be provided to assure repayment of loans to lenders made by the Authority;

6. The type of collateral, payment bonds, performance bonds or other security to be provided for any loans made by a lender for construction loans;

7. The nature and amount of fees to be charged by the Authority to provide for expenses and reserves of the Authority;

8. Standards and requirements for the allocation of available money among lenders and the determination of the maturities, terms, conditions and interest rates for loans made, purchased, sold, assigned or committed pursuant hereto;

9. Commitment requirements for financing by lenders involving money provided, directly or indirectly, by the Authority; or

10. Any other appropriate matters related to the duties or exercise of the Authority's powers.

1984, c. 749, § 9-219; 2001, c. 844; 2003, c. 339.

§ 2.2-2296.How bonds paid and secured

Except as may otherwise be expressly provided by the Authority in proceedings relating to a particular issue of bonds, every issue of its bonds shall be payable solely out of any revenues of the Authority. The bonds additionally may be secured by a pledge of any grant, contribution or guarantee from the federal government or any person or a pledge by the Authority of any revenues from any source.

1984, c. 749, § 9-220; 2001, c. 844.

§ 2.2-2297.Liability of Commonwealth, political subdivisions and members of Board

No bonds issued or loans or loan guarantees made by the Authority under this article shall constitute a debt, liability or general obligation of the Commonwealth or any political subdivision thereof (other than the Authority), or a pledge of the faith and credit of the Commonwealth or any political subdivision thereof (other than the Authority), but shall be payable solely as provided by the Authority. No member or officer of the Board nor any person executing the bonds, loans, or loan guarantees shall be liable personally on the bonds, loans, or loan guarantees by reason of the issuance thereof. Each bond issued or loan or loan guarantee made under this article shall contain on the face thereof a statement that neither the Commonwealth, nor any other political subdivision thereof, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenue or money pledged by the Authority and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of, or the interest on, such bond, loan, or loan guarantee.

1984, c. 749, § 9-221; 1997, c. 815; 2001, c. 844.

§ 2.2-2298.Authorization of bonds by resolution; contents of bond sale; manner

The bonds shall be authorized by a resolution of the Board, shall bear such date or dates, and shall mature at such time as such resolution may provide, except that no bond shall mature more than fifty years from the date of issue. The bonds shall (i) bear interest at such rates, including variations of such rates; (ii) be in such denominations; (iii) be in such form; (iv) carry such registration privileges; (v) be executed in such manner; (vi) be payable in such medium of payment, at such place; and (vii) be subject to such terms of redemption, including redemption prior to maturity, as the resolution may provide. Except as expressly provided otherwise in this article, the provisions of other laws of the Commonwealth relating to the issuance of revenue bonds shall not apply to bonds issued by the Authority. Bonds of the Authority may be sold by the Authority at public or private sale and at such price as the Authority determines.

1984, c. 749, § 9-222; 2001, c. 844.

§ 2.2-2299.Resolution authorizing issuance of bonds; provisions

Any resolution authorizing the issuance of bonds may contain provisions for:

1. Pledging all or any part of the revenues of the Authority to secure the payment of the bonds, subject to the terms of the proceedings relating to other bonds of the Authority as may then exist;

2. Pledging all or any part of the assets of the Authority, including loans and obligations securing the same, to secure the payment of the bonds, subject to the terms of the proceedings relating to other bonds of the Authority as may then exist;

3. The use and disposition of the gross income from loans owned by the Authority and payment of the principal of loans owned by the Authority;

4. The setting aside of reserves or sinking funds and the regulations and disposition thereof;

5. Limitations on the purposes to which the proceeds from the sale of bonds may be applied and pledging the proceeds to secure the payment of the bonds;

6. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds;

7. The procedure, if any, by which the terms of any of the proceedings under which the bonds are being issued may be amended or abrogated, the number or percentage of bondholders who or which must consent thereto, and the manner in which the consent may be given;

8. The vesting in a trustee of such property, rights, powers and duties in trust as the Authority may determine, and limiting or abrogating the right of bondholders to appoint a trustee or limiting the rights, powers and duties of the trustee;

9. Defining the act or omissions to act that shall constitute a default and the obligations or duties of the Authority to the holders of the bonds, and providing for the rights and remedies of the holders of the

bonds in the event of default, which rights and remedies may include the general laws of the Commonwealth and other provisions of this article; or

10. Any other matter, of like or different character, which in any way affects the security or protection of the holders of the bonds.

1984, c. 749, § 9-223; 2001, c. 844.

§ 2.2-2300.Pledge by Authority

Any pledge made by the Authority shall be valid and binding from the time when the pledge was made. The revenues or properties so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

1984, c. 749, § 9-224; 2001, c. 844.

§ 2.2-2301.Purchase of bonds of Authority

The Authority, subject to the provisions in proceedings relating to outstanding bonds as may then exist, may purchase bonds out of any funds available therefor, which shall thereupon be cancelled, at any reasonable price which, if the bonds are then redeemable, shall not exceed the redemption price (and premium, if any) then applicable plus accrued interest to the redemption date thereof.

1984, c. 749, § 9-225; 2001, c. 844.

§ 2.2-2302.Bonds secured by indenture; contents; expenses; how treated

The bonds may be secured by an indenture by and between the Authority and a corporate trustee that may be any bank or other corporation having the power of a trust company or any trust company within or without the Commonwealth. The indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the exercise of its powers and the custody, safekeeping and application of all money. The Authority may provide by the indenture for the payment of the proceeds of the bonds and revenues to the trustee under the indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as the Authority may determine. If the bonds are secured by an indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

1984, c. 749, § 9-226; 2001, c. 844.

§ 2.2-2303.Signatures of prior members or officers; validity

In the event that any of the members or officers of the Board cease to be members or officers of the Board prior to the delivery of any bonds signed by them, their signatures or facsimiles thereof shall nevertheless be valid and sufficient for all purposes as if they had remained in office until such delivery.

1984, c. 749, § 9-227; 2001, c. 844.

§ 2.2-2304.Deposit of money; expenditures; security for deposits

All money of the Authority, except as otherwise authorized in this article, shall be deposited as soon as practicable in a separate account in banks or trust companies organized under the laws of the Commonwealth or in national banking associations doing business in the Commonwealth. The money in such accounts shall be paid by checks signed by the Executive Director or other officer or employees of the Authority as the Authority shall authorize. All deposits of money shall, if required by the Authority, be secured in such manner as the Authority determines to be prudent, and all banks or trust companies are authorized to give security for the deposits.

1984, c. 749, § 9-229; 2001, c. 844.

§ 2.2-2305.Contracts with holders of bonds; how money secured

Notwithstanding the provisions of § 2.2-2304, the Authority may contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any money of the Authority and of any money held in trust or otherwise for the payment of bonds, and to carry out such contract. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of money may be secured in the same manner as money of the Authority, and all banks and trust companies are authorized to give security for the deposits.

1984, c. 749, § 9-230; 2001, c. 844.

§ 2.2-2306.Bondholder protection

Subsequent amendments to this article shall not limit the rights vested in the Authority with respect to any agreements made with, or remedies available to, the holders of bonds issued under this article prior to the enactment of the amendments until the bonds, together with all interest thereon, and all costs and expenses in connection with any proceeding by or on behalf of the holders, are fully met and discharged.

1984, c. 749, § 9-231; 2001, c. 844.

§ 2.2-2307.Bonds as legal investments and securities

The bonds issued by the Authority in accordance with this article shall be legal investments in which all public officers or public bodies of the Commonwealth, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on insurance business, all banks, bankers, banking associations, trust companies, savings institutions,

building and loan associations, and investment companies, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or may later be authorized to invest in bonds or in other obligations of the Commonwealth, may invest funds, including capital, in their control or belonging to them. The bonds shall also be securities that may be deposited with and received by all public officers and bodies of the Commonwealth or any agency or political subdivision of the Commonwealth and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may be later authorized by law.

1984, c. 749, § 9-234; 1996, c. 77; 2001, c. 844.

§ 2.2-2308.Expenses of Authority; liability of Commonwealth or political subdivision prohibited

All expenses incurred by the Authority in carrying out the provisions of this article shall be payable solely from funds provided under this article, and nothing in this article shall be construed to authorize the Authority to incur indebtedness or liability on behalf of or payable by the Commonwealth or any of its other political subdivisions.

1984, c. 749, § 9-232; 2001, c. 844.

§ 2.2-2309.Creation, administration, and management of Virginia Export Fund

A. In addition to any other fund or account the Authority may create pursuant to subdivision 23 of § 2.2-2285, there shall be a permanent fund known as the Virginia Export Fund (the Fund). The Fund shall be comprised of (i) sums appropriated to it by the General Assembly, (ii) receipts by the Fund from loans or loan guarantees made against it, (iii) all income from the investment of moneys held by the Fund, and (iv) any other sums designated for deposit to the Fund from any source, public or private. The Fund shall be administered and managed by the Authority, and all moneys in the Fund shall be used to provide loans or loan guarantees as provided in subsection D. Any balances remaining in the Fund shall not revert to the general fund but shall be retained in order to make additional loans or loan guarantees.

B. All moneys belonging to the Fund shall be deposited to the credit of the State Treasurer and recorded on the books of the State Comptroller. Earnings from investments and interest shall be returned to the Fund.

C. The Authority, or its designated agent, may collect moneys due to the Fund. Proceedings to recover moneys due to the Fund may be instituted by the Authority in the name of the Fund in any appropriate court.

D. The Fund shall be used to make loans or to provide a guarantee for up to ninety percent of the principal amount of any commercial loan or line of credit made by a lender for the purpose of facilitating the sale of goods, products, or services outside of the United States by persons, firms, or corporations utilizing a Virginia air, land, or sea port to ship such goods, products, or services. Such guarantee shall not exceed one million dollars.

E. The Authority shall determine the terms and conditions of any loans or loan guarantee made against the Fund and may allow for use of the Fund in single or multiple transactions. No loan shall exceed a term of twelve months, nor shall a loan guarantee exceed a term of eighteen months. In the case of loans, the Authority shall charge an annual interest rate. In the case of guarantees, the Authority shall charge an annual guarantee fee. However, the Authority may waive such guarantee fees in an economically distressed area as defined in § 58.1-439. In connection with applications for loans or loan guarantees made against the Fund, the Authority may require the production of any document, instrument, certificate, legal opinion, or other information it deems necessary or convenient.

F. All loans or loan guarantees made against the Fund shall be approved by the Board or an authorized committee or subcommittee thereof.

1997, c. 815, §§ 9-228.1, 9-228.2, 9-228.3, 9-228.4; 1999, c. 785; 2001, c. 844.

§ 2.2-2310.Creation, administration, and management of Virginia Small Business Growth Fund

A. In addition to any other fund or account the Authority may create pursuant to subdivision 23 of § 2.2-2285, there shall be a permanent fund known as the Virginia Small Business Growth Fund (the "Fund"). The Fund shall be comprised of (i) sums appropriated to it by the General Assembly, (ii) all income from the investment of moneys held by the Fund, and (iii) any other sums designated for deposit to the Fund from any source, public or private. The Fund shall be administered and managed by the Authority, and all moneys in the Fund shall be used to create special reserve funds to cover potential future losses from the loan portfolios of participating banks and lending institutions as provided in subsection D. Any remaining balances in the Fund shall not revert to the general fund but shall be retained in order to create additional special reserve funds.

B. All moneys belonging to the Fund shall be deposited to the credit of the State Treasurer and recorded on the books of the State Comptroller. Earnings from investments and interest shall be returned to the Fund.

C. The Authority, or its designated agent, may collect moneys owed to the Fund. Proceedings to recover moneys owed to the Fund may be instituted by the Authority in the name of the Fund in any appropriate court.

D. The Fund shall be used as a special reserve fund to cover potential future losses from the loan portfolios of participating banks and lending institutions. The Authority shall (i) work with banks and lending institutions to establish a separate account for the Virginia Small Business Growth Fund in each participating bank or lending institution and (ii) deposit into such accounts moneys from the Fund in an amount at least equal to the total of the sum of the bank or lending institution's and the individual borrower's deposits into such account. Such matching sum by the Authority shall not exceed fourteen percent of the principal amount of the loan.

E. The Authority shall determine the qualifications, terms, and conditions for the use of the Fund and the accounts thereof. In connection with applications for claims made against the Fund, the Authority may require the production of any document, instrument, certificate, legal opinion, or any other information it deems necessary or convenient. All claims made against the Fund shall be approved by the Board or an authorized committee or subcommittee thereof. All claims made against each account shall be reported to the Board or an authorized committee thereof.

1997, c. 870, §§ 9-228.5, 9-228.6, 9-228.7, 9-228.8; 2000, c. 40; 2001, c. 844.

§ 2.2-2311.Repealed

Repealed by Acts 2015, cc. 696 and 697, cl. 2.

§ 2.2-2311.1.Creation, administration, and management of the Small, Women-owned, and Minority-owned Business Loan Fund

A. For the purposes of this section:

"Eligible small business" means any person engaged in a for-profit business enterprise in the Commonwealth and such enterprise has (i) $10 million or less in annual gross income under generally accepted accounting principles for up to each of its last three fiscal years or lesser time period if it has been in existence less than three years, (ii) fewer than 250 employees, or (iii) a net worth of $1 million or less, or such business enterprise meets such other satisfactory requirements as the Board shall determine from time to time upon a finding that such business enterprise is in need of assistance.

"Fund" means the Small, Women-owned, and Minority-owned Business Loan Fund.

"Minority-owned business" means a for-profit small business concern that is majority-owned by one or more individuals of an ethnic or racial minority. In the case of a corporation, a majority of the stock shall be owned by one or more such individuals and the management and daily business operations shall be controlled by one or more of the individuals of an ethnic or racial minority who own it.

"Women-owned business" means a for-profit small business concern that is majority-owned by one or more women. In the case of a corporation, a majority of the stock shall be owned by one or more women and the management and daily business operations shall be controlled by one or more of the women who own it.

B. There is created a permanent revolving loan fund to be known as the Small, Women-owned, and Minority-owned Business Loan Fund. The Fund shall be comprised of (i) moneys appropriated to the Fund by the General Assembly, (ii) moneys collected by the Authority as a result of loan repayments, (iii) all income from the investment of moneys held by the Fund, and (iv) any other moneys designated for deposit to the Fund from any source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest

thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used to provide direct loans to eligible small, women-owned, and minority-owned businesses. The Fund shall be managed and administered by the Authority with guidance from the Director of the Department of Small Business and Supplier Diversity.

C. The Authority, or its designated agents, shall determine the qualifications, terms, and conditions for the use of the Fund and the accounts thereof.

2015, cc. 696, 697; 2016, c. 519.

§ 2.2-2312.Annual report; audit

The Authority shall, within 120 days of the close of each fiscal year, submit an annual report of its activities for the preceding fiscal year to the Governor and the chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Each report shall set forth, for the preceding fiscal year, a complete operating and financial statement for the Authority and any loan fund or loan guarantee fund the Authority administers or manages. The Auditor of Public Accounts or his legally authorized representatives shall audit the books and accounts of the Authority and any loan fund or loan guarantee fund the Authority administers or manages as determined necessary by the Auditor of Public Accounts.

1984, c. 749, § 9-235; 1997, c. 815; 2001, c. 844; 2018, cc. 57, 307.

§ 2.2-2313.Exemption from taxation

The Authority is declared to be performing a public function and to be a public body corporate and a political subdivision of the Commonwealth. Accordingly, the income, including any profit made on the sale thereof from all bonds issued by the Authority, shall at all times be exempt from all taxation by the Commonwealth or any public subdivision thereof. If, after all indebtedness and other obligations of the Authority are discharged, the Authority is dissolved, its remaining assets shall inure to the benefit of the Commonwealth.

1984, c. 749, § 9-233; 2001, c. 844.

§ 2.2-2314.Administrative Process Act not applicable

The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to this article.

1984, c. 749, § 9-208; 2001, c. 844.

Soil and Water Conservation Districts

§ 10.1-500.Definitions

As used in this chapter, unless the context requires a different meaning:

"Board" means the Virginia Soil and Water Conservation Board.

"County" includes towns.

"City" includes all cities chartered under the Commonwealth.

"District" or "soil and water conservation district" means a political subdivision of this Commonwealth organized in accordance with the provisions of this chapter.

"District director" means a member of the governing body of a district authorized to serve as a director.

"Due notice" means notice published at least twice, with an interval of at least seven days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation is available, by posting at a reasonable number of conspicuous places within the appropriate area. Such posting shall include, where possible, posting at public places where it is customary to post notices concerning county or municipal affairs. Hearings held pursuant to such notice, at the time and place designated in the notice, may be adjourned from time to time without renewing the notice for the adjourned dates.

"Governing body of a city or county" means the entire governing body regardless of whether all or part of that city or county is included or to be included within a district.

"Government" or "governmental" includes the government of this Commonwealth, the government of the United States, and any of their subdivisions, agencies or instrumentalities.

"Land occupier" or "occupier of land" includes any person, firm or corporation who holds title to, or is in possession of, any lands lying within a district organized, or proposed to be organized, under the provisions of this chapter, in the capacity of owner, lessee, renter, tenant, or cropper. The terms "land occupier" and "occupier of land" shall not include an ordinary employee or hired hand who is furnished a dwelling, garden, utilities, supplies, or the like, as part payment, or payment in full, for his labor.

"Locality" means a county, city or town.

Code 1950, § 21-3; 1950, p. 76; 1954, c. 670; 1964, c. 512; 1970, c. 480; 1985, c. 448; 1988, c. 891.

§ 10.1-500.1.Certified mail; subsequent mail or notices may be sent by regular mail

Whenever in this chapter the Board or the Director is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board or the Director may be sent by regular mail.

2011, c. 566.

§ 10.1-501.Duty of the Attorney General

The Attorney General shall represent and provide consultation and legal advice in suits or actions under this chapter upon request of the district directors or districts.

Code 1950, § 21-89; 1964, c. 512; 1970, c. 480; 1988, c. 891; 2005, c. 236; 2008, c. 577.

§ 10.1-501.1.Defense of claims

The Attorney General shall provide the legal defense against any claim made against any soil and water conservation district, director, officer, agent or employee thereof (i) arising out of the ownership, maintenance or use of buildings, grounds or properties owned, leased or maintained by any soil and water conservation district or used by district employees or other authorized persons in the course of their employment, or (ii) arising out of acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization.

1988, cc. 763, 780, 891.

Solar Energy Development and Energy Storage Authority, Virginia

§ 67-1500.(Expires July 1, 2025) Definitions

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Solar Energy Development and Energy Storage Authority created pursuant to this chapter.

"Developer" means any private developer of a solar energy project or an energy storage project.

"Energy storage project" means an energy storage facility located within the Commonwealth and includes interests in land, improvements, and ancillary facilities.

"Solar energy project" means an electric generation facility located within the Commonwealth and includes interests in land, improvements, and ancillary facilities.

2015, cc. 90, 398; 2017, c. 813.

§ 67-1501.(Expires July 1, 2025) Authority created; purpose

The Virginia Solar Energy Development Authority is continued as the Virginia Solar Energy Development and Energy Storage Authority. The Authority constitutes a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Authority is established for the purposes of (i) facilitating, coordinating, and supporting the development, either by the Authority or by other qualified entities, of the solar energy and energy storage industries and solar energy and energy storage projects by developing programs that increase the availability of financing for solar energy projects and energy storage projects; (ii) facilitating the increase of solar energy generation systems and energy storage projects on public and private sector facilities in the Commonwealth; (iii) promoting the growth of the Virginia solar and energy storage industries; (iv) providing a hub for collaboration between entities, both public and private, to partner on solar energy projects and energy storage projects; and (v) positioning the Commonwealth as a leader in research, development, commercialization, manufacturing, and deployment of energy storage technology. The Authority may also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate. The Authority shall have only those powers enumerated in this chapter.

2015, cc. 90, 398; 2017, c. 813.

§ 67-1502.(Expires July 1, 2025) Membership; terms; vacancies; expenses

A. The Authority shall be composed of 15 nonlegislative citizen members appointed as follows: Eight members shall be appointed by the Governor; four members shall be appointed by the Speaker of the House of Delegates; and three members shall be appointed by the Senate Committee on Rules. All members of the Authority shall reside in the Commonwealth. Members may include representatives of solar businesses, solar customers, renewable energy financiers, state and local government solar

customers, institutions of higher education who have expertise in energy technology, and solar research academics.

B. Except as otherwise provided herein, all appointments shall be for terms of four years each. No member shall be eligible to serve more than two successive four-year terms. After expiration of an initial term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The initial appointments of members by the Governor made pursuant to Chapters 90 and 398 of the Acts of Assembly of 2015 shall be as follows: two members shall be appointed for terms of four years, two members shall be appointed for terms of three years, and two members shall be appointed for terms of two years. The initial appointments of members by the Speaker of the House of Delegates made pursuant to Chapters 90 and 398 of the Acts of Assembly of 2015 shall be as follows: one member shall be appointed for a term of four years, one member shall be appointed for a term of three years, and one member shall be appointed for a term of two years. The initial appointments of members by the Senate Committee on Rules made pursuant to Chapters 90 and 398 of the Acts of Assembly of 2015 shall be as follows: one member shall be appointed for a term of four years, and one member shall be appointed for a term of three years. Thereafter all appointments shall be for terms of four years.

D. The Authority shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.

E. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds as may be appropriated to the Authority by the General Assembly.

F. Members of the Authority shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

G. Except as otherwise provided in this chapter, members of the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

2015, cc. 90, 398; 2017, c. 813.

§ 67-1503.(Expires July 1, 2025) Partnerships

A. The Authority may establish public-private partnerships with entities pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) to increase the number of solar energy generation systems on or located adjacent to public and private facilities in the Commonwealth. Any partnership established pursuant to this section shall stipulate that the Authority and the developers shall share the costs of the installation and operation of solar energy facilities and equipment.

B. The Authority may provide a central hub for appropriate entities, both public and private, to enter into partnerships that result in solar energy generation projects being developed in the Commonwealth. The Authority may act as a good faith broker in these matters to facilitate appropriate partnerships, including public-private partnerships.

2015, cc. 90, 398.

§ 67-1504.(Expires July 1, 2025) Federal loan guarantees

A. The Authority, on behalf of the Commonwealth, may apply to the U.S. Department of Energy for federal loan guarantees authorized or made available pursuant to Title XVII of the Energy Policy Act of 2005, 42 U.S.C. § 16511 et seq., the American Recovery and Reinvestment Act of 2009, P.L. 111-5, or other similar federal legislation, to facilitate the development of solar energy projects.

B. Upon obtaining federal loan guarantees for solar energy projects pursuant to subsection A, the Authority, subject to any restrictions imposed by federal law, may allocate or assign all or portions thereof to qualified third parties, on such terms and conditions as the Authority finds are appropriate. Actions of the Authority relating to the allocation and assignment of such loan guarantees shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 4 of § 2.2-4002. Decisions of the Authority shall be final and not subject to review or appeal.

2015, cc. 90, 398.

§ 67-1505.(Expires July 1, 2025) Powers and duties of the Authority

In addition to such other powers and duties established under this chapter, the Authority shall have the power and duty to:

1. Adopt, use, and alter at will an official seal;

2. Make bylaws for the management and regulation of its affairs;

3. Maintain an office at such place or places within the Commonwealth as it may designate;

4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is created;

5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary and fix their compensation to be payable from funds made available to the Authority;

7. Invest its funds as permitted by applicable law;

8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any state, and from any municipality, county, or other political subdivision thereof and any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;

9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating, and providing for the financing or assisting in the financing of any project;

10. Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied;

11. Identify and take steps to mitigate existing state and regulatory or administrative barriers to the development of the solar energy and energy storage industries, including facilitating any permitting processes;

12. Enter into interstate partnerships to develop the solar energy industry, solar energy projects, and energy storage projects;

13. Collaborate with entities, including institutions of higher education, to increase the training and development of the workforce needed by the solar and energy storage industries in the Commonwealth, including industry-recognized credentials and certifications;

14. Conduct any other activities as may seem appropriate to increase solar energy generation in the Commonwealth and the associated jobs and economic development and competitiveness benefits, including assisting investor-owned utilities in the planned deployment of at least 400 megawatts of solar energy projects in the Commonwealth by 2020 through entering into agreements in its discretion in any manner provided by law for the purpose of planning and providing for the financing or assisting

in the financing of the construction or purchase of such solar energy projects authorized pursuant to § 56-585.1;

15. Promote collaborative efforts among Virginia's public and private institutions of higher education in research, development, and commercialization efforts related to energy storage;

16. Monitor relevant developments in energy storage technology and deployment nationally and globally and disseminate relevant information and research results; and

17. Identify and work with the Commonwealth's industries and nonprofit partners in advancing efforts related to the development and commercialization of energy storage.

2015, cc. 90, 398; 2017, c. 813.

§ 67-1506.(Expires July 1, 2025) Director; staff; counsel to the Authority

A. The Director of the Department of Mines, Minerals and Energy shall serve as Director of the Authority and shall administer the affairs and business of the Authority in accordance with the provisions of this chapter and subject to the policies, control, and direction of the Authority. The Director may obtain non-state-funded support to carry out any duties assigned to the Director. Funding for this support may be provided by any source, public or private, for the purposes for which the Authority is created. The Director shall maintain, and be custodian of, all books, documents, and papers of or filed with the Authority. The Director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Director also shall perform such other duties as prescribed by the Authority in carrying out the purposes of this chapter.

B. The Department of Mines, Minerals and Energy shall serve as staff to the Authority.

C. The Office of the Attorney General shall provide counsel to the Authority.

2015, cc. 90, 398.

§ 67-1507.(Expires July 1, 2025) Annual report

On or before October 15 of each year, beginning in 2016, the Authority shall submit an annual summary of its activities and recommendations to the Governor and the Chairmen of the House Appropriations Committee, the Senate Finance Committee, and the House and Senate Commerce and Labor Committees.

2015, cc. 90, 398.

§ 67-1508.(Expires July 1, 2025) Confidentiality of information

A. The Authority shall hold in confidence the personal and financial information supplied to it, or maintained by it, concerning the siting and development of solar energy projects and energy storage projects.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

C. Information supplied by or maintained on persons or entities applying for or receiving allocations of federal loan guarantees, as well as specific information relating to the amount and identity of recipients of such distributions, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

2015, cc. 90, 398; 2017, c. 813.

§ 67-1509.(Expires July 1, 2025) Declaration of public purpose; exemption from taxation

A. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.

B. The Authority shall be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Authority and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Authority under the provisions of this chapter.

2015, cc. 90, 398.

Southside Regional Airport Authority at Blackstone

Created

1992 Acts of Assembly, c. 371.

§ 1. Short title.

This act shall be known and may be cited as the Southside Regional Airport Authority at Blackstone Act. (1992, c. 371)

§ 2. Creation; public purpose.

If the governing bodies of the Towns of Blackstone, Burlieville, and Crewe and the Counties of Amelia, Brunswick, Charlotte, Dinwiddie, Lunenburg, Nottoway, and Prince Edward by resolution declare that there is a need for a regional airport authority to be created for the purpose of establishing or operating an airport for such participating political subdivisions, and that they should unite in its formation, an airport authority to be known as the Southside Regional Airport Authority at Blackstone shall thereupon exist for such participating towns and counties and shall exercise its powers and

functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivision.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Southside Regional Airport Authority at Blackstone, such Authority shall be conclusively deemed to have been created as a body politic and corporate, a political subdivision of the Commonwealth, and to have been established and authorized to transact business, and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such towns and counties declaring that there is a need for such Authority and that they should unite in its formation. A copy of such resolution duly certified by the clerks of the towns and counties by which it is adopted shall be admissible as evidence in any suit, action or proceedings. Any political subdivision of the Commonwealth, all or part of which is located within sixty miles of an Authority facility, is authorized to join such authority pursuant to the terms and conditions of this Act, with such financial contribution and voting privilege as approved by the majority vote of the Board of Directors.

It is hereby declared that the ownership and operation by the Authority of modern and efficient air transportation and related facilities and the exercise of powers conferred by this Act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. It is also declared that contract obligations of a city or town to provide payments over a period of more than one year to the Authority shall be excluded from existing indebtedness of such city or town for the purposes of calculating debt limit pursuant to Section 10 (a) of Article VII of the Constitution of Virginia. It is further declared that the Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county pursuant to Section 10 (b) of Article VII of the Constitution of Virginia. (1992, c. 371)

§ 3. Definitions.

As used in this Act the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means this Southside Regional Airport Authority at Blackstone Act.

"Authority" means the Southside Regional Airport Authority at Blackstone created by this Act.

"Board of Directors" means the governing body of this Authority.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by this Authority pursuant to this Act.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all airports, terminals, runways, hangars, loading facilities, repair shops, parking areas, facilities for the preparation of in-flight meals, restaurants and accommodations for

temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies and airlines, and industrial and commercial facilities purchased, constructed or otherwise acquired or operated by the Authority pursuant to the provisions of this Act. Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, avigation rights, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

"Participating political subdivision" means any of the Towns of Blackstone, Burkeville, or Crewe or the Counties of Amelia, Brunswick, Charlotte, Dinwiddie, Lunenburg, Not to way, or Prince Edward or any other political subdivision which may join or has joined the Authority pursuant to §§ 4 and 5 of this Act.

"Political subdivision" means a county, municipality, or other public body of this Commonwealth.

"Southside Regional Airport" means the airport facilities located at the Blackstone Army Airfield at Fort Pickett, Virginia, and any other facilities necessary, incidental, or convenient to the operation of the facilities. (1992, c. 371)

§ 4. Participating political subdivision.

Prior to becoming a participating political subdivision, each political subdivision shall enter into a contract with the Authority and other participating political subdivisions to the Authority. No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this Act with respect to contracts and agreements between the Authority and any other political subdivision. (1992, c. 371)

§ 5. Appointment and tenure of a Board of Directors.

The powers of the Authority shall be vested in the directors thereof in office from time to time. The governing body of each participating political subdivision shall appoint the number of directors, who may be members of the appointing governing body, set forth opposite its name below:

Each participating political subdivision - 1.

Commanding Officer, Fort Pickett (Ex officio member: nonvoting).

The initial Board of Directors shall be appointed for the following terms: Town of Blackstone: four years; Town of Burkeville: three years; Town of Crewe: three years; Amelia County: one year; Brunswick County: three years; Charlotte County: two years; Dinwiddie County: four years; Lunenburg County: two years; Nottoway County: four years; Prince Edward County: one year. Thereafter, each

director shall be appointed for a four-year term or until his successor is appointed and qualified. No member of the Board of Directors may be an employee of a participating political subdivision. Directors appointed by additional participating political subdivisions or directors appointed by existing political subdivisions shall also be appointed for four-year terms. The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it, and appoint a successor director to fill the unexpired portion of the removed director's term.

Each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties. (1992, c. 371)

§ 6. Organization.

A majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws. Special meetings of the Authority may be called by any director or the Executive Director upon at least forty-eight hours' written notice to each director served personally or left at his usual place of business or residence.

The Board of Directors shall annually elect a chairman and a vice-chairman from their membership, a secretary and a treasurer or a secretary-treasurer from their membership or not as they deem appropriate, and such other officers as they may deem appropriate. The Board of Directors may appoint an executive director, who shall not be a director, who shall exercise such powers and duties as may be delegated to him by the Board of Directors, including powers and duties involving the exercise of discretion.

The Board of Directors may make and from time to time amend and repeal bylaws, not inconsistent with this Act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The Board of Directors may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees. (1992, c. 371)

§ 7. Powers.

The Authority is hereby granted all lowers necessary or appropriate to carry out the purposes of this Act, including, for purposes of illustration, the following:

1. To sue and be sued in its own name;
2. To have perpetual succession;
3. To adopt a corporate seal and alter the same at its pleasure;
4. To maintain offices at such places as it may designate in the Town of Blackstone or the County of Nottoway;

5. To acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate any airport, air landing fields, structures, air navigation facilities and other property incidental thereto within the territorial limits of the participating political subdivisions subject to the limitation that such power shall be limited to such items as may be necessary for the operation of the Southside Regional Airport;

6. To construct, install, maintain and operate facilities for the servicing and storaging of aircraft and for the accommodation of cargo, freight, mail, express, etc., and for the accommodation and comfort of air travelers, and for lease or sale to industrial or commercial users, and to purchase, lease and sell equipment and supplies incidental to the operation of its airport facilities;

7. To grant to others the privilege to operate, for-profit, concessions, leases, and franchises, including but not limited to the sale of airplanes, fuel, parts and equipment, maintenance of aircraft, the accommodation and comfort of persons using its facilities and the providing of ground transportation and parking facilities for such persons, and such concessions, leases and franchises shall be exclusive or limited when deemed by the Authority necessary to further the public safety, improve the quality of air service, avoid duplication of service or conserve airport property and the airport operation;

8. To determine fees, rates, and charges for the use of its facilities;

9. To apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, this Commonwealth and political subdivisions, agencies and instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the Authority's facilities or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

10. To establish, operate and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce;

11. To appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

12. To contract with a participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 14 hereof, accounting services, including the annual independent audit required by § 24 hereof, procurement of goods and services, and to act as fiscal agent for the Authority. In the event of a contract for a

participating political subdivision to act as fiscal agent, the Authority's employees shall be compensated; shall receive the same benefits, including pensions, and shall be subject to the personnel rules of said subdivision;

13. To establish personnel rules;

14. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal; or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

15. Subject to the provisions of any lease, deed or deeds from the United States government to the Authority and any agreement or agreements among or between the Authority and any participating political subdivision to sell; lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal; or any interest therein, if such disposition is in the public interest and in furtherance of the purposes of this Act or if such property is not necessary for the purpose of this Authority;

16. To make, assume and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

17. a. To borrow money, as hereinafter provided; not to exceed ten percent of the annual operating budget;

b. Notwithstanding any other provision of law, no interest or right in the real property conveyed, in any form, to the Authority by a participating political subdivision, shall be conveyed, pledged, or otherwise transferred by the Authority for any purpose including the purpose of obtaining or securing any indebtedness, nor shall any such property be encumbered by the Authority unless and until such subdivision has approved the nature of, terms of, and amount of such conveyance, pledge, transfer or encumbrance, by resolution of the governing body of said subdivision;

18. To adopt, amend; and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. To pay pensions and establish pension plans, pension trusts, and other compensation plans for any of its employees;

20. To purchase and maintain insurance or to provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such; and

21. To do all things necessary or convenient to the purposes of this Act.

The grant of regulatory authority by this Act, including regulations that displace, eliminate or limit competition by or among persons or entities, is based on the policy of the Commonwealth to provide for the safe, adequate, economical and efficient provision of air transportation and related facilities and services to the public. (1992, c. 371)

§ 8. Name of airport.

The name of the airport operated by the Authority within the boundaries of Fort Pickett is Blackstone Army Airfield. (1992, c. 371)

§ 9. Rules and regulations.

The Board of Directors of the Authority shall have the power to adopt, amend, and repeal rules and regulations for the use, maintenance and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the full Board of Directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

1. Make such rule, regulation, alteration, amendment or modification in convenient form available for public inspection in the office of the Authority for at least ten days;

2. Post in a public place a notice declaring the Board of Directors' intention to consider adopting such rule, regulation, alteration, amendment or modification and informing the public that the Authority will, at a public meeting, consider the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least ten days from the first day of the posting of the notice thereof; and

3. Provide an exact copy of the proposed rule, regulation, alteration, amendment or modification to each director of the Authority and to each participating political subdivision at least ten days prior to adoption.

The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to: (i) traffic, including but not limited to motor vehicle speed limits and the location of and payment of public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) aircraft operation and maintenance shall have the force of law, as shall any other rule or regulation of the Authority which shall contain a determination by the Authority that It is necessary to accord the same force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the traffic engineer or comparable official of the political subdivision in which such rules or regulations are to be enforced. The violation of any rule or

regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

All ordinances, rules and regulations duly adopted unanimously by the Board of Directors composed of the directors from all of the political subdivisions named in § 2 hereof, for the regulation, administration and operation of the Southside Regional Airport, in force at the effective date of this Act shall remain in full force insofar as they or any part thereof are not inconsistent with the provisions of this Act until amended or repealed in accordance with this Act. (1992, c. 371)

§ 10. Police power.

Authority employees meeting the minimum requirements of the Department of Criminal Justice Services shall be given special police power by the circuit court of any participating political subdivision. The authority conferred upon such special policemen shall be exercised only upon Authority facilities located within such participating political subdivision, and shall be in all terms consistent with the requirements of Chapter 3 of Title 15.1 of the Code of Virginia.

Such special policemen shall have all powers vested in police officers under Chapter 3 of Title 15.1 of the Code of Virginia and shall be responsible upon Authority facilities for enforcing Authority rules and regulations and all other applicable statutes, ordinances, rules, and regulations of the United States of America and agencies and instrumentalities thereof and this Commonwealth and political subdivisions, agencies and instrumentalities thereof.

Such special policemen may issue summons to appear, or arrest on view or on information without warrant as permitted by law, and conduct before any court of competent jurisdiction, any person violating any rule or regulation of the Authority or other applicable statute, ordinance, rule or regulation.

For the purpose of enforcing such statutes, ordinances, rules and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the participating political subdivision wherein the offense was committed shall have jurisdiction to try a person charged with the violation of any such statutes, ordinances, rules or regulations. (1992, c. 371)

§ 11. Eminent domain.

The Authority is hereby granted full power to exercise the right of eminent domain within the participating political subdivisions in the acquisition of any land, easements, privileges or other property interests which are necessary for airport purposes, including, where necessary to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport, air navigation easements over lands or water outside the boundaries of its airport, even though such air navigation easement may be either inconsistent with the continued use of such land for the same purposes for

which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition. Proceedings for the acquisition of such land, easements and privileges by condemnation may be instituted and conducted in the name of the Authority in accordance with Title 25 of the Code of Virginia. No property of a political subdivision of the Commonwealth or a public utility shall be subject to condemnation by the Authority. (1992, c. 371)

§ 12. Reports.

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. (1992, c. 371)

§ 13. Procurement.

All contracts that the Authority may let for construction or materials shall be subject to the Virginia Public Procurement Act (§ 11-35 et seq.) of the Code of Virginia. (1992, c. 371)

§ 14. Deposit and investment of funds.

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this Act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act.

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities which are considered lawful investments for fiduciaries. (1992, c. 371)

§ 15. Authority to issue bonds.

The Authority shall have power and is hereby authorized to issue Bonds from time to time in its discretion for any of its purposes, including the payment of all or any part of the cost of any of its facilities and the refunding of any bonds previously issued by it.

Subject to the foregoing, bonds may be issued under this Act notwithstanding any debt or other limitation prescribed in any other statute and without obtaining the consent of any city, town, or county government or any commission, board, bureau, or agency of the Commonwealth or of any of the foregoing, which is not a participating political subdivision of the Authority, and without any other

proceedings or the happening of other conditions or things other than those proceedings, conditions or things which are specifically required by this Act.

The Authority may issue such types of bonds as it may determine, specifically Bonds payable as to principal and interest: (i) from its revenues generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds. Subject to the limitations set forth in § 7 of this Act, any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, as such participating political subdivision, or other entities may be authorized to make under general law or by pledge of any income or revenues of the Authority, or where such mortgage has been approved by the participating political subdivisions, a mortgage of any facilities of the Authority.

Bonds of the Authority shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates as may be determined by the Authority, and may be made redeemable before maturity at the option of the Authority at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Act or any recitals in any bonds issued under the provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the conversion and reconversion into coupon bonds of any bonds registered as to both principal and interest and vice versa. The Authority may sell bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such Bonds shall have been executed and are available for delivery. (1992, c. 371)

§ 16. Resolution or trust indenture to secure bonds.

In connection with the issuance of bonds and in order to secure the payment of such bonds, the Authority shall have power:

1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents, or revenues;

2. To covenant to impose and maintain such schedule of fees, rents and charges as will produce funds sufficient to pay operating costs and debt service;

3. To covenant against pledging all or any part of its fees, rents, and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and powers in the fees, rents and revenues which are subject to a pledge;

5. To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or facilities of the Authority or any part thereof or with respect to limitations on its right to undertake additional projects;

6. To covenant as to the bonds to be issued pursuant to any resolutions, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

7. To covenant as to what other, or additional, debt may be incurred by it;

8. To provide for the terms, forms, registration, exchange, execution and authentication of bonds;

9. To provide for the replacement of lost, destroyed, or mutilated bonds;

10. To covenant as to the use of any or all of its property, real or personal, subject to the continued use of such property for airport purposes;

11. To create or to authorize the creation of special funds in which there may be segregated: (i) the proceeds of any loan or grant; (ii) all of the fees, rents and revenues of any facility or facilities or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the payment of the principal and interest on its bonds or the sum due under its leases or as reserve for such payments; and (v) any moneys held for any other reserve or contingencies; and to covenant as to the use and disposal of the moneys held in such funds;

12. To redeem its bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

15. To covenant as to the maintenance of its facilities, the insurance to be carried thereon and the use and disposition of insurance moneys;

16. To vest in a bondholder the right, in the event of the failure of the Authority to observe or perform any covenant on its part to be kept or performed, to cure any such default, and, subject to the limitation on total indebtedness expressed in this Act, to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the Authority with such interest, security and priority as may be provided in any trust indenture, lease or contract of the Authority with reference thereto;

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

18. To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition or obligation;

19. To covenant to surrender possession of all or any part of any facility or facilities acquired or constructed from bond proceeds, the revenues from which have been pledged upon the happening of any event of default, as defined in the contract, and to vest in a bondholder the right without judicial proceeding to take possession and to use, operate, manage, and control such facility or any part thereof, and to collect and receive all fees, rents, and revenues arising therefrom in the same manner as the Authority itself might do and to dispose of the moneys collected in accordance with the agreement of the Authority with such obligee, subject to the continued use of such facilities for airport purposes;

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and

provisions, in addition to those above specified, as any purchaser of the bonds of the Authority may reasonably require; and

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the Authority which tend to make the bonds more marketable; notwithstanding that such covenant, acts or things may not be enumerated herein, it being the intention hereof to give the Authority power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of the Commonwealth or this Act. (1992, c. 371)

§ 17. Fees, rents and charges.

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and ration and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall, to the extent necessary, be set aside at such regular intervals as may be provided any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment of principal of and the interest on such bonds as same shall become due, and the redemption price or the purchase price of such bonds red by call or purchase as therein provided. Such pledge shall be valid and binding from time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have ice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. (1992, c. 371)

§ 18. Credit of Commonwealth and political subdivisions not pledged.

The bonds of the Authority shall not be a debt of the Commonwealth or any political subdivision thereof, other than the Authority, and neither the Commonwealth nor any political subdivision thereof, other than the Authority, shall be liable thereon, nor shall such bonds be payable out of any funds or

properties other than those of the Authority. All bonds of the Authority shall contain on the face thereof a statement to such effect. The bonds shall not constitute an indebtedness within meaning of any debt limitation or restriction. (1992, c. 371)

§ 19. Directors and persons executing bonds not liable thereon.

Neither the Board of Directors nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof. (1992, c. 371)

§ 20. Remedies of bondholders.

Any holder of bonds issued under the provisions of this or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this Act or under such trust indenture agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this Act or by such trust indenture or agreement or resolution to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collection of fees, rents and other charges. Any resolution authorizing the issuance of the Authority's bonds trust indenture or agreement securing the same may limit or abrogate the individual right actions by the holders of such Bonds or coupons appertaining thereto. (1992, c. 371)

§ 21. Taxation.

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience and prosperity, and as the operation and maintenance of any project which the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessment upon any facilities acquired and constructed by it under the provisions of this Act and the bonds issued under the provisions of this Act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations ld organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to, any leasehold tax on real property and taxes on tangible personal property and machinery and tools, taxes for admission, taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling and taxes upon consumers of gas, electricity, telephone and other public utility services. (1992, c. 371)

§ 22. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital, in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1992, c. 371)

§ 23. Appropriation by political subdivision.

Any participating political subdivision, or other political subdivision of the Commonwealth all or a part of which is located within sixty miles of an Authority facility, is authorized to provide services, to donate real or personal property and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue bonds, including general obligation bonds, in the manner provided in the Public Finance Act or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume, or reimburse a participating political subdivision for, any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority. With the consent of the governing body of the participating political subdivision, any such agreement may be made subordinate to the Authority's indebtedness to others. (1992, c. 371)

§ 24. Authority budget.

A. The Authority shall annually prepare and submit to the participating political subdivisions (i) a proposed operating budget showing its estimated general fund revenues and expenses on an accrual basis for the forthcoming fiscal year and, if such estimated expenses exceed such estimated revenues, the portion of the deficit proposed to be borne by each participating political subdivision and (ii) a proposed capital budget showing its estimated expenditures for such fiscal year for all assets with itemization of assets costing more than $20,000 (or such higher amount as the Authority and the participating political subdivisions may determine) and having an estimated useful life of twenty years or more and the source of funds for such expenditures, including any amount requested from the participating political subdivisions. No depreciation shall be included in the Authority's operating budget with respect to assets purchased by the Authority with funds appropriated to it for such purpose by a participating political subdivision and, for this determination, it shall be assumed that any appropriation so made is for the purchase of assets set forth in the applicable Authority budget to the extent such purchase price is included in the approved budget. Assets purchased by the

Authority with bond proceeds shall be depreciated over the term of the Bond issue in proportion to the maturities, including sinking fund installments, of the bond issue.

B. If the governing body of a participating political subdivision shall approve the Authority's proposed operating budget, it shall appropriate to the Authority such political subdivision's portion of such budget.

C. If the governing body of a participating political subdivision shall approve the Authority's proposed capital budget, it shall appropriate to the Authority such participating political subdivision's portion of the expenditures set forth therein. Any such appropriation may be reduced by the participating political subdivision's proportionate share of any grant funds received by the Authority for the purchase of assets included in the Authority's approved capital budget in excess of the grant funds shown in such capital budget as a source of funds for such expenditure, unless prohibited by the basic provider of the grant funds.

D. The Authority may expend any and all moneys within its control without obtaining the approval of the participating political subdivisions, but, except as otherwise provided in this Act with respect to contracts and agreements between the Authority and any political subdivision, the Authority shall not commit any participating political subdivision in an amount in excess of that appropriated to the Authority by the governing body of such political subdivision.

E. If at any time during any fiscal year it shall appear that the cash disbursements of the Authority will exceed its cash receipts for such fiscal year, including amounts appropriated to it by the participating political subdivisions, the Authority may request supplemental appropriations from the participating political subdivisions and any other political subdivision. (1992, c. 371)

§ 25. Allocation of deficit, denial of voting privileges.

A. Any deficit budgeted by the Authority in any fiscal year, i.e., any excess of its estimated general fund expenses over its estimated general fund revenues, and the cost of any budgeted capital expenditures in excess of the amount shown as available therefor, as shown on the Authority's operating and capital budgets approved by the participating political subdivisions, shall be allocated among the participating political subdivisions in the following manner:

1. In the same proportion that each participating political subdivision's contract obligation to the Authority under § 4 bears to the total contractual obligations to the Authority entered into under § 4 hereof.

2. In the event the appropriation of any participating political subdivision is insufficient to its pay its portion of the deficit included in any fiscal year, the allocation of any deficit for any succeeding year shall take into account the cumulative deficiency attributable to such administrators, trustees, and other fiduciaries participating political subdivision; however, no participating political subdivision

shall be required to pay the Authority in any fiscal year any amount in excess of that appropriated to the Authority by the governing body of such participating political subdivision.

B. Except as allowed by unanimous vote of all of the participating political subdivisions, the initial Board of Directors of the Authority shall not undertake or transact any business nor promulgate any rules or regulations until it has first prepared its first operating and capital budgets, submitted said budgets to the participating political subdivisions for approval, and obtained that approval and billed each participating political subdivision for its portion as provided in its contract with the Authority. Said statements shall be due and payable forty-five days after the date of mailing of said statements. At the end of said forty-five day period, the Board of Directors may properly transact any and all proper and necessary business, but directors from participating political subdivisions which have not paid their portion of the budgets shall not be entitled to vote until the contractual obligations of their participating political subdivisions have been satisfied in full. Said directors shall remain on the Board in the capacity as advisory members.

The Board of Directors of the Authority shall cause the annual budgets called for in § 24 hereof to be prepared ninety days in advance of each fiscal year, in time for submission and approval by each participating political subdivision. If participating political subdivisions representing two-thirds or more of the financial contributions to the Authority refuse to approve the budget, the budget shall be revised and resubmitted in a fashion expected to obtain approval. Once the Authority budget has been approved by participating political subdivisions representing two-thirds or more of the financial contribution to the Authority, all participating political subdivisions shall be billed for their portion of the budgets. Failure of a participating political subdivision to pay its portion of the budgets within forty-five days of mailing of said statement shall operate to deprive the directors representing said subdivision of a vote until the obligations of said subdivision have been satisfied in full. Said directors shall remain on the Board in the capacity as advisory members.

No participating political subdivision shall be required to pay the Authority in any fiscal year any amount in excess of that appropriated to the Authority by the governing body of such participating political subdivision. (1992, c. 371)

§ 26. Contracts with political subdivisions.

The Authority is authorized to enter into contracts with any one or more political subdivisions, which contracts may restrict the powers of the Authority otherwise granted by this Act. Any participating political subdivision, or other political subdivision of the Commonwealth all or part of which is located within sixty miles of an Authority facility, is authorized to enter into contracts with the Authority, pursuant to which the Authority undertakes to provide the facilities and render the services specified therein, Any such contract or agreement may provide that the political subdivision will make payments to the Authority based on the services rendered by the Authority to the residents of such political subdivision, determined in such reasonable manner as the Authority and the political subdivision may

mutually agree. Each political subdivision entering into such a service contract with the Authority is authorized to do everything necessary or proper to carry out and perform such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations. (1992, c. 371)

§ 27. Retirement benefits for certain employees formerly employed by a participating political subdivision.

When a local political subdivision joins the Authority, any employee of such local political subdivision who then becomes an employee of the Authority, if such employee is a member of a local retirement system, may elect to and may continue to be eligible to remain a member of such local retirement system in lieu of becoming a member of any retirement system with which the Authority may affiliate. Such election to remain a member of a local retirement system shall be made in writing within 120 days of such employee's political subdivision becoming a member of the Authority. In such event, service of such employee with the Authority shall be creditable as service with the participating political subdivision and shall be pursuant to all duly adopted ordinances and rules and regulations governing such retirement system. Any employee so electing shall not be entitled to any benefit under the Authority's retirement system, and the Authority shall pay the employer share of benefits provided the Authority's employees by such political subdivision. Nothing herein shall apply to any health and accident insurance plan or to the Federal Old Age and Survivors Insurance System. (1992, c. 371)

§ 28. Dissolution of Authority.

Whenever it shall appear to the Authority or to any participating political subdivision that the need for the Authority no longer exists or in the event funding to extend the NE-SW runway at the Blackstone Army Airfield has not been appropriated within two years of the passage of this act, the Authority or, in the proper case, any such subdivision may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this Act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivision. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceedings and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within sixty days after filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia. (1992, c. 371)

§ 29. Agreement with Commonwealth and participating political subdivisions.

The Commonwealth and, by participating in the Authority, each participating political subdivision pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds. (1992, c. 371)

§ 30. Liberal construction.

Neither this Act nor anything contained herein is or shall be construed as a restriction or limitation upon any powers which the Authority might otherwise have under any laws of this Commonwealth, and this Act is cumulative to any such powers. This Act does and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds, notes or other obligations. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is expressly provided in this Act. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this Act. (1992, c. 371)

§ 31. Application of local ordinances, service charges and taxes upon leasehold.

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom. (1992, c. 371)

§ 32. Existing contracts, leases, franchises, etc., not impaired.

No provisions of this Act shall relieve, impair or affect any right, duty, liability or obligation arising out of any contract, concession, lease or franchise now in existence except to the extent that such contract, concession, lease or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of or otherwise modify at any time any contract, concession, lease or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease or franchise consents to said renegotiation, renewal, extension or modification. (1992, c. 371)

§ 33. Powers limited.

1. However, the powers of the Authority expressed in this Act shall be limited to those powers necessary for the operation of the Southside Regional Airport Authority at Blackstone. To that end, property acquired, owned or conveyed to the Authority, contracts entered into, financial assistance, indebtedness, rules and regulations adopted by the Authority and any other actions thereof may only pertain to said airport and the Authority shall be prohibited from acquiring, establishing, constructing, improving, maintaining, equipping, operating or leasing any water or sewage treatment plants or facilities.

2. The total indebtedness of the Authority at no time shall exceed the amount of $1,000,000 in principal, whether by purchase of encumbered property, direct loan, bonded indebtedness or debt in any other form except as agreed to by each participating political subdivision by resolution of the governing body thereof, in which case the total amount of indebtedness shall be expressed in the resolution of each such governing body.

3. The Authority shall not issue bonds unless and until the maximum amount of such issue and the general purposes thereof have been approved by the governing body of each participating political subdivision. (1992, c. 371)

§ 34. Sunset clause.

In the event funding to extend the NE-SW runway at the Blackstone Army Airfield has not been appropriated within two years of the passage of this Act, thus negating the need for this Act, the Southside Regional Airport Authority at Blackstone will automatically dissolve exactly three years from the date of passage of this Act; provided, however, any actions of the Board of Directors of the Authority taken prior to date of automatic dissolution shall be valid and binding. In the event of such automatic dissolution, any property acquired by the Authority from any participating political subdivision shall be reconveyed to said participating political subdivision free and clear of lien or encumbrance, provided the participating political subdivision agrees to accept it. Notwithstanding the provisions of § 28 hereof, a court, upon decreeing dissolution as provided for in § 28 shall not order real property returned to a participating political subdivision assent the agreement of said participating political subdivisions to accept such real property. (1992, c. 371)

Southside Virginia Tourism Development Authority

§ 15.2-5509.Definitions

As used in this chapter, unless the context requires a different meaning:

"Authority" means any political subdivision, a body politic and corporate, created, organized and operated pursuant to the provisions of this chapter, or if such Authority is abolished, the board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Governing body" means the board or body in which the general legislative powers of the municipality are vested.

"Municipality" means any county or incorporated city or town in the West Piedmont or Southside Planning District Commission with respect to which an Authority may be organized and in which it is contemplated the Authority will function.

2002, c. 791.

§ 15.2-5510.Southside Virginia Tourism Development Authority created

A. There is hereby established a Tourism Development Authority for the West Piedmont and the Southside Planning District Commissions that shall be known as the Southside Virginia Tourism Development Authority. The Authority shall inventory attractions and events and market, promote, expand and develop the tourism industries of these tobacco-producing localities as a whole.

B. On the local level, the governing body of each county and city shall appoint one member to represent the member's locality on the Southside Virginia Tourism Development Authority.

2002, c. 791.

§ 15.2-5511.Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance

The Authority shall be governed by a board of directors in which all powers of the Authority shall be vested. Directors shall be appointed initially for staggered terms of one, two, three and four years. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the Authority, and thereafter, in accordance with the provisions of the preceding sentence. If, at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall

continue to hold such office until their respective successors are elected. Subject to availability of funds, the directors shall receive no salary but the directors may be compensated such amount per regular, special, or committee meeting as may be approved by the appointing authority, not to exceed fifty dollars per meeting, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties. A majority of Authority members shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the Authority. The Authority shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing bodies of the participating localities and shall be open to public inspection.

2002, c. 791.

§ 15.2-5512.Powers of Authority

The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at pleasure;

3. To contract and be contracted with;

4. To employ and pay compensation to such employees and agents, including attorneys, as the board of directors deem necessary in carrying on the business of the Authority;

5. To exercise all powers expressly given the Authority and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

6. To borrow money and to accept contributions, grants and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth;

7. To formulate a tourism development and marketing agenda for each locality in the West Piedmont and Southside Planning District Commissions;

8. To receive and expend moneys on behalf of tourism marketing and development; and

9. To coordinate the individual tourism efforts of the localities who choose to be members of the Authority.

2002, c. 791.

§ 15.2-5513.Executive director; staff

Subject to the availability of funds, the Authority may appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received.

2002, c. 791.

§ 15.2-5514.Application for and acceptance of gifts and grants

The Authority is authorized to apply for, accept and expend gifts, grants or donations from public or private sources to enable it to carry out its objectives. Authority funds assigned to the Authority are approved for use as matching funds to the funds appropriated pursuant to the Cooperative Tourism Advertising Fund as administered by the Virginia Tourism Corporation and such other tourism grants and programs as may be created to assist communities and regional authorities.

2002, c. 791.

§ 15.2-5515.Provisions of chapter controlling over other statutes and charters

Any provision of this chapter that is found to be in conflict with any other statute or charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict.

2002, c. 791; 2015, c. 709.

Southwest Virginia Health Authority

§ 15.2-5368.Southwest Virginia Health Authority established

A. There is hereby established a Health Authority for the LENOWISCO and Cumberland Plateau Planning District Commissions, the Counties of Smyth and Washington, and the City of Bristol.

B. The General Assembly recognizes that rural communities such as those served by the Authority confront unique challenges in the effort to improve health care outcomes and access to quality health care. It is important to facilitate the provision of quality, cost-efficient medical care to rural patients. The provision of care by local providers is important to enhancing, fostering, and creating opportunities that advance health status and provide health-related economic benefits. The Authority shall establish regional health goals directed at improving access to care, advancing health status, targeting regional health issues, promoting technological advancement, ensuring accountability of the cost of care, enhancing academic engagement in regional health, strengthening the workforce for health-related careers, and improving health entity collaboration and regional integration where appropriate.

C. Technological and improved scientific methods have contributed to the improvement of health care in the Commonwealth. The cost of improved technology and improved scientific methods for the provision of hospital care, particularly in rural communities, contributes substantially to the increasing cost of hospital care. Cost increases make it increasingly difficult for hospitals in rural areas of the Commonwealth, including those areas served by the Authority, to offer care. Cooperative agreements among hospitals and between hospitals and others for the provision of health care services may foster improvements in the quality of health care, moderate increases in cost, improve access to needed services in rural areas of the Commonwealth, and enhance the likelihood that smaller hospitals in the Commonwealth will remain open in beneficial service to their communities.

2007, c. 676; 2009, c. 464; 2014, c. 236; 2015, c. 741.

§ 15.2-5369.Definitions

As used in this chapter, unless the context requires a different meaning:

"Authority" means any political subdivision, a body politic and corporate, created, organized, and operated pursuant to the provisions of this chapter or, if such Authority is abolished, the board, body, authority, department, or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Bond" includes any interest bearing obligation, including promissory notes.

"Commissioner" means the State Health Commissioner.

"Cooperative agreement" means an agreement among two or more hospitals for the sharing, allocation, consolidation by merger or other combination of assets, or referral of patients, personnel,

instructional programs, support services, and facilities or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by hospitals.

"Hospital" includes any health center and health provider under common ownership with the hospital and means any and all providers of dental, medical, and mental health services, including all related facilities and approaches thereto and appurtenances thereof. Dental, medical, and mental health facilities includes any and all facilities suitable for providing hospital, dental, medical, and mental health care, including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing, landscaping, approaches, roadways, and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, mental health facilities, wellness and health maintenance centers, medical office facilities, clinics, outpatient surgical centers, alcohol, substance abuse and drug treatment centers, dental care clinics, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients. Dental, medical, and mental health facilities also includes facilities for graduate-level instruction in medicine or dentistry and clinics appurtenant thereto offering free or reduced rate dental, medical, or mental health services to the public.

"Participating locality" means any county or city in the LENOWISCO or Cumberland Plateau Planning District Commissions and the Counties of Smyth and Washington and the City of Bristol with respect to which an authority may be organized and in which it is contemplated that the Authority will function.

2007, c. 676; 2013, c. 660; 2015, c. 741.

§ 15.2-5370.Directors; qualifications; terms; vacancies

The Authority shall be governed by a board of directors in which all powers of the Authority shall be vested. The Authority shall consist of members as follows:

The Executive Director for the Coalfield Economic Development Authority, or his designee;

The Chief Executive Officer of the Norton Community Hospital located in the City of Norton, Virginia, or his designee;

One representative from the Lonesome Pine Hospital;

The Chief Executive Officer of the Virginia Community Healthcare Association, or his designee;

The Chief Executive Officer of the Russell County Medical Center, or his designee;

The Chief Executive Officer of the Clinch Valley Medical Center, or his designee;

The District Health Director for the Cumberland Health District, or his designee;

The District Health Director for the LENOWISCO Health District, or his designee;

The Dean of the University of Virginia School of Medicine, or his designee;

The Dean of the School of Dentistry at the Medical College of Virginia of Virginia Commonwealth University, or his designee;

The Dean of the Lincoln Memorial University-DeBusk College of Osteopathic Medicine, or his designee;

The Chancellor of the University of Virginia's College at Wise, or his designee;

The President of the East Tennessee State University Quillen College of Medicine, or his designee;

The President of Frontier Health, or his designee;

The President of the University of Appalachia College of Pharmacy, or his designee;

The President of the Edward Via Virginia College of Osteopathic Medicine, or his designee;

The Chairman of the Board of the Southwest Virginia Graduate Medical Education Consortium, or his designee;

Two members of the Senate to be appointed by the Senate Committee on Rules;

Two members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; and

One member for each participating locality, provided that each such member shall be appointed initially as follows: the representatives of Buchanan and Dickenson Counties being appointed for one-year terms; the representatives of Lee County and the City of Norton being appointed for two-year terms; the representatives of Russell and Scott Counties being appointed for three-year terms; and the representatives of Tazewell and Wise Counties being appointed for four-year terms. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies shall be for the unexpired terms. In addition, representatives may be selected from the Counties of Smyth and Washington and the City of Bristol and shall serve initial terms as determined by the board of directors. All terms of office shall be deemed to commence upon the date of the initial appointment to the Authority, and thereafter in accordance with the provisions of this paragraph. If, at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term

of office has expired shall continue to hold office until his successor is appointed and qualified. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

The directors shall elect from their membership a chairman and a vice-chairman and from their membership or not, as they desire, a secretary and a treasurer or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected.

2007, c. 676; 2008, c. 803; 2010, c. 575; 2011, c. 514; 2014, c. 236; 2015, c. 741.

§ 15.2-5371.Decisions of Authority

A majority of the Authority shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Actions of the Authority shall receive the affirmative vote of a majority of the quorum to be effective. No vacancy on the Authority shall impair the right of a quorum to exercise all rights and perform all the duties of the Authority. The Authority shall determine the times and places of its regular meetings. Special meetings of the Authority shall be held when requested by two or more members of the Authority. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. A reasonable effort shall be made to provide each member with notice of any special meeting. No matter not specified in the notice shall be considered at such special meeting unless all the members of the Authority are present.

2007, c. 676; 2010, c. 575.

§ 15.2-5372.Payment to members of Authority

The members of the Authority may be paid for their services compensation in either (i) the amount provided in the general appropriation act for members of the General Assembly engaged in legislative business between sessions or (ii) a lesser amount as determined by the Authority. Members may be reimbursed for all reasonable and necessary expenses provided in §§ 2.2-2813 and 2.2-2825, if approved by the Authority. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

2007, c. 676.

§ 15.2-5373.Executive director; staff

The Authority shall appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. No such person shall contemporaneously serve as a member of the Authority. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received or appropriated.

2007, c. 676.

§ 15.2-5374.Powers of Authority

The Authority shall have all powers necessary or convenient to carry out the general purposes of this chapter, including the power to:

1. Sue and be sued; adopt a seal and alter the same at pleasure; have perpetual succession; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

2. Employ such technical experts and such other officers, agents, and employees as it may require, to fix their qualifications, duties, and compensation, and to remove such employees at pleasure.

3. Acquire within the territorial limits of the participating localities embraced by it, by purchase, lease, gift, or otherwise, whatever lands, buildings, and structures as may be reasonably necessary for the purpose of establishing, constructing, enlarging, maintaining, and operating one or more hospitals or health centers.

4. Sell, lease, exchange, transfer, or assign any of its real or personal property or any portion thereof or interest therein to any person, firm, or corporation whenever the Authority finds such action to be in furtherance of the purposes for which the Authority was created.

5. Acquire, establish, construct, enlarge, improve, maintain, equip, and operate any hospital or health center and any other facility and service for the care and treatment of sick persons.

6. Make and enforce rules and regulations for the management and conduct of its business and affairs and for the use, maintenance and operation of its facilities and properties.

7. Accept gifts and grants, including real or personal property, from the Commonwealth or any political subdivision thereof and from the United States and any of its agencies; and accept donations of money, personal property, or real estate and take title thereto from any person.

8. Make rules and regulations governing the admission, care, and treatment of patients in such hospital or health center, classify patients as to charges to be paid by them, if any, and determine the nature and extent of the service to be rendered patients.

9. Comply with the provisions of the laws of the United States and the Commonwealth and any rules and regulations made thereunder for the expenditures of federal or state money in connection with hospitals or health centers and to accept, receive, and receipt for federal and state money granted the Authority or granted any of the participating localities embraced by it for hospital or health center purposes.

10. Borrow money upon its bonds, notes, debentures, or other evidences of indebtedness issued for the purpose only of acquiring, constructing, improving, furnishing, or equipping buildings or structures for use as a hospital or health center, and to secure the same by pledges of its revenues and property as hereafter provided. This power shall include the power to refinance all or any portion of such debt,

to renegotiate the terms of all or any portion of such debt, and to retire all or any portion of such debt prior to its maturity date. This power shall include the power to borrow money upon its bonds, notes, debentures, or other evidences of indebtedness for the purpose of operations of any not-for-profit or nonprofit dental or medical facility for which the Authority or any participating locality has also provided funding pursuant to this chapter in furtherance of any lease, contract, or agreement entered into by the Authority pursuant to subdivision 12 or 13. Such power to borrow money upon its bonds, notes, debentures, or other evidences of indebtedness shall only be considered by the Authority after receipt of a prospectus, operational budget, and five-year business plan for the dental or medical facility together with identification of all revenue and funding resources required to fully meet the five-year operational budget. Upon receipt, the Authority shall make the prospectus, operational budget, and business plan available to the public and enable the public to respond in a public hearing prior to approval being taken up for consideration. In addition, the prospectus, operational budget, and business plan shall be reviewed by the State Council of Higher Education for Virginia prior to approval by the Authority. Thereafter, the Council shall review the operations of the Authority prior to the exercise of bond authority pursuant to this subdivision. The Council shall report its findings to the Chairman of the House Committee on Appropriations and the Chairman of the Senate Committee on Finance.

11. Execute all instruments necessary or convenient in connection with the borrowing of money and issuing bonds as herein authorized.

12. Enter into leases and agreements with persons for the construction or operation or both of a hospital or health center by such persons on land of the Authority.

13. Contract for the management and operation of any hospital or health center subject to the control of the Authority; however, the Authority may charge such rates for service as will enable it to make reasonable compensation for such management and operation.

14. Assist in or provide for the creation of domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations, or other supporting organizations or other entities and to purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of shares of or other interests in or obligations of any domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations, or other supporting organizations, joint ventures, or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any domestic or foreign stock or nonstock corporation, limited liability company, partnership, limited partnership, association, foundation, or other supporting organization, joint venture or other entity organized for any purpose or any individual. The investments of any entity wholly owned or controlled by the Authority that is an "institution," as such term is defined

in § 64.2-1100 shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

15. Participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations, or other supporting organizations or other entities for providing medical care or related services or other activities that the Authority may undertake to the extent that such undertakings assist the Authority in carrying out the purposes and intent of this chapter.

16. Provide domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the Authority with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this chapter.

17. Make loans and provide other assistance to domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures, or other entities.

18. Transact its business, locate its offices and control, directly or through domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures, or other entities, facilities that will assist or aid the Authority in carrying out the purposes and intent of this chapter.

19. Procure such insurance, participate in such insurance plans, or provide such self-insurance, or any combination thereof, as it deems necessary or convenient to carry out the purposes and provisions of this chapter. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its members, officers, directors, employees, or agents are otherwise entitled.

20. Exercise all other powers granted to nonstock corporations pursuant to § 13.1-826.

21. Receive and review applications for approval of proposed cooperative agreements submitted by two or more hospitals pursuant to § 15.2-5384.1, and provide recommendations to the Commissioner regarding the approval of such applications. The Authority may establish a fee structure, and may assess a fee, to support its review of applications for approval of proposed cooperative agreements. The amount of the fee that the Authority is authorized to assess the parties submitting such an application shall not exceed $50,000.

2007, c. 676; 2008, c. 184; 2013, c. 660; 2015, c. 741.

§ 15.2-5375.Appropriations to Authority

Any participating locality is authorized to make appropriations to the Authority from available funds or from funds provided for the purpose by bond issues for the acquisition of land or improvements to land or the construction, improvement, maintenance, and operation of any hospital or health center operated or controlled or proposed to be operated or controlled by the Authority. The participating locality may also transfer to the Authority, with or without consideration, real or personal property for any or all of such purposes.

2007, c. 676.

§ 15.2-5376.Issuance of bonds by participating localities and validation thereof

Any participating locality may issue its general obligation bonds in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) in furtherance of the establishment, construction, or enlargement of a hospital or health center. The industrial development authority of any participating locality may issue its bonds in the manner provided in the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.) in furtherance of the establishment, construction, enlargement, or operation of a nonprofit or not-for-profit hospital or health center with the concurrence of the governing body of the participating locality.

2007, c. 676; 2013, c. 660.

§ 15.2-5377.Issuance and sale of bonds

Any bonds issued by the Authority may be issued in one or more series, shall bear such date or dates, mature at such time or times, bear interest at such rate or rates payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, with or without premium, as the Authority by resolution may prescribe. Such bonds may be sold at public or private sale for such price or prices as the Authority determines.

2007, c. 676.

§ 15.2-5378.Provisions to secure payment of bonds

Any Authority resolution authorizing the issuance of any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds, (i) pledging any or all revenues of the hospital or health center to secure the payment of the interest on such bonds and to create a sinking fund to retire the principal thereof at maturity; (ii) providing for the granting of a lien on or the creation of a security interest in any property, real or personal, of the Authority as security for the payment of the principal of, and interest on, such bonds and the due and punctual performance of any agreements made in connection therewith; (iii) providing for such schedule of fees and charges as will produce funds sufficient to pay operating costs and debt service until such bonds are retired; and (iv) prescribing the

rights, obligations, powers, and duties of the Authority, the trustee under any trust indenture under which the bonds are issued, and the bondholders, in connection with or pertaining to such bonds.

2007, c. 676.

§ 15.2-5379.Bonds made legal investments

Any bonds issued pursuant to the authority of this chapter are hereby made securities in which all public officers and bodies of this Commonwealth and all political subdivisions thereof, all insurance companies and associations, and all savings banks and savings institutions, including savings and loan associations, in the Commonwealth may properly and legally invest funds in their control.

2007, c. 676.

§ 15.2-5380.Bonds payable from revenues of hospital or health centers

Any bonds issued under this chapter shall be payable only from the revenues and receipts of the hospital or health center for the acquisition, establishment, or construction of which the bonds were issued and from any property the Authority has made subject to a lien to secure such bonds. The bonds and other obligations of the Authority shall not be a debt of any locality or of the Commonwealth, and neither the Authority members nor any person executing the bonds or other obligations shall be liable personally thereon by reason of the issuance thereof.

2007, c. 676.

§ 15.2-5381.Property of Authority exempt from foreclosure or execution sale and judgment lien

No interest of the Authority in any property, real or personal, shall be subject to sale by foreclosure of a mortgage, trust indenture, or any other instrument, either through judicial proceedings or the exercise of a power of sale contained in the instrument. All Authority property shall be exempt from levy and sale by virtue of an execution, and no execution or judicial process shall issue against the Authority. No judgment against the Authority shall be a charge or lien upon its property, real or personal.

Nothing contained in this section shall prohibit the owner of a leasehold interest granted by the Authority from granting a lien or other security interest in his leasehold that would be subject to sale or foreclosure as provided in any instrument creating the lien or other security interest. Nothing contained in this section shall prohibit the Authority from granting a lien on or creating a security interest in Authority property, real or personal, to secure any bonds issued under this chapter, any of which property will be subject to sale or foreclosure as provided in the instrument granting such lien or creating such security interest.

2007, c. 676.

§ 15.2-5382.Receiver

The Authority may, by its trust indenture given to secure bond issues or other obligations, provide for the appointment of a receiver of the hospital or health center or that part thereof acquired or constructed from funds received from a sale of bonds secured by the pledge of its revenues. If a receiver is appointed, he may enter, take possession of, operate, and maintain such hospital or health center or part thereof; collect and receive all fees, rents, revenues, or other charges arising therefrom in the same manner as the Authority might do; keep such moneys in a separate account or accounts; and apply the moneys in accordance with the obligations of the Authority as the court directs.

2007, c. 676.

§ 15.2-5383.Eminent domain

The Authority shall have the right to acquire by eminent domain any real property, including fixtures and improvements, that it deems necessary to carry out the purposes of this chapter after it adopts a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The Authority may exercise the power of eminent domain pursuant to the provisions of any applicable statutory provision now in force or hereafter enacted for the exercise of the power of eminent domain by any locality.

Property already devoted to a public use may be acquired; however, no property belonging to any locality, government, religious corporation, unincorporated church, or charitable corporation may be acquired without its consent.

2007, c. 676.

§ 15.2-5384.Records and reports

The Authority shall keep and preserve complete records of its operations and transactions, which records shall be open to inspection by the participating subdivisions at all times. It shall make reports to such subdivisions annually and at such other times as they may require.

2007, c. 676.

§ 15.2-5384.1.Review of cooperative agreements

A. The policy of the Commonwealth related to each participating locality is to encourage cooperative, collaborative, and integrative arrangements, including mergers and acquisitions among hospitals, health centers, or health providers who might otherwise be competitors. To the extent such cooperative agreements, or the planning and negotiations that precede such cooperative agreements, might be anticompetitive within the meaning and intent of state and federal antitrust laws, the intent of the Commonwealth with respect to each participating locality is to supplant competition with a regulatory program to permit cooperative agreements that are beneficial to citizens served by the Authority, and to invest in the Commissioner the authority to approve cooperative agreements recommended by the Authority and the duty of active supervision to ensure compliance with the provisions of the cooperative agreements that have been approved. Such intent is within the public

policy of the Commonwealth to facilitate the provision of quality, cost-efficient medical care to rural patients.

B. A hospital may negotiate and enter into proposed cooperative agreements with other hospitals in the Commonwealth if the likely benefits resulting from the proposed cooperative agreements outweigh any disadvantages attributable to a reduction in competition that may result from the proposed cooperative agreements. Benefits to such a cooperative agreement may include, but are not limited to, improving access to care, advancing health status, targeting regional health issues, promoting technological advancement, ensuring accountability of the cost of care, enhancing academic engagement in regional health, strengthening the workforce for health-related careers, and improving health entity collaboration and regional integration where appropriate.

C. 1. Parties located within any participating locality may submit an application for approval of a proposed cooperative agreement to the Authority. In such an application, the applicants shall state in detail the nature of the proposed arrangement between them, including without limitation the parties' goals for, and methods for achieving, population health improvement, improved access to health care services, improved quality, cost efficiencies, ensuring affordability of care, and, as applicable, supporting the Authority's goals and strategic mission. The Authority shall determine whether the application is complete. If the Authority determines that the application is not complete, the Authority shall notify the applicants in writing of the additional items required to complete the application. A copy of the complete application shall be provided to the Commissioner and the Office of the Attorney General at the same time that it is submitted to the Authority. If the applicants believe the materials submitted contain proprietary information that are required to remain confidential, such information must be clearly identified and the applicants shall submit duplicate applications, one with full information for the Authority's use and one redacted application available for release to the public.

2. The Authority, promptly upon receipt of a complete application, shall publish notification of the application in a newspaper of general circulation in the LENOWISCO and Cumberland Plateau Planning Districts and on the Authority's website. The public may submit written comments regarding the application to the Authority within 20 days after the notice is first published. The Authority shall promptly make any such comments available to the applicants. The applicants may respond in writing to the comments within 10 days after the deadline for submitting comments. Following the close of the written comment period, the Authority shall, in conjunction with the Commissioner, schedule a public hearing on the application. The hearing shall be held no later than 45 days after receipt of the application. Notice of the hearing shall be mailed to the applicants and to all persons who have submitted written comments on the proposed cooperative agreement. The Authority, no later than 15 days prior to the scheduled date of the hearing, also shall publish notice of the hearing in a newspaper of general circulation in the LENOWISCO and Cumberland Plateau Planning Districts and on the Authority's website.

D. In its review of an application submitted pursuant to subsection C, the Authority may consider the proposed cooperative agreement and any supporting documents submitted by the applicants, any written comments submitted by any person, any written response by the applicants, and any written or oral comments submitted at the public hearing. The Authority shall review a proposed cooperative agreement in consideration of the Commonwealth's policy to facilitate improvements in patient health care outcomes and access to quality health care, and population health improvement, in rural communities and in accordance with the standards set forth in subsection E. Any applicants to the proposed cooperative agreement under review, and their affiliates or employees, who are members of the Authority, as well as any members of the Authority that are competitors, or affiliates or employees of competitors, of the applicants proposing such cooperative agreement, shall not participate as a member of the Authority in the Authority's review of, or decision relating to, the proposed cooperative agreement; however, this prohibition on such person's participation shall not prohibit the person from providing comment on a proposed cooperative agreement to the Authority or the Commissioner. The Authority shall determine whether the proposed cooperative agreement should be recommended for approval by the Commissioner within 75 days of the date the completed application for the proposed cooperative agreement is submitted for approval. The Authority may extend the review period for a specified period of time upon 15 days' notice to the parties.

E. 1. The Authority shall recommend for approval by the Commissioner a proposed cooperative agreement if it determines that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement.

2. In evaluating the potential benefits of a proposed cooperative agreement, the Authority shall consider whether one or more of the following benefits may result from the proposed cooperative agreement:

a. Enhancement of the quality of hospital and hospital-related care, including mental health services and treatment of substance abuse, provided to citizens served by the Authority, resulting in improved patient satisfaction;

b. Enhancement of population health status consistent with the regional health goals established by the Authority;

c. Preservation of hospital facilities in geographical proximity to the communities traditionally served by those facilities to ensure access to care;

d. Gains in the cost-efficiency of services provided by the hospitals involved;

e. Improvements in the utilization of hospital resources and equipment;

f. Avoidance of duplication of hospital resources;

g. Participation in the state Medicaid program; and

h. Total cost of care.

3. The Authority's evaluation of any disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement shall include, but need not be limited to, the following factors:

a. The extent of any likely adverse impact of the proposed cooperative agreement on the ability of health maintenance organizations, preferred provider organizations, managed health care organizations, or other health care payors to negotiate reasonable payment and service arrangements with hospitals, physicians, allied health care professionals, or other health care providers;

b. The extent of any reduction in competition among physicians, allied health professionals, other health care providers, or other persons furnishing goods or services to, or in competition with, hospitals that is likely to result directly or indirectly from the proposed cooperative agreement;

c. The extent of any likely adverse impact on patients in the quality, availability, and price of health care services; and

d. The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement.

F. 1. If the Authority deems that the proposed cooperative agreement should be recommended for approval, it shall provide such recommendation to the Commissioner.

2. Upon receipt of the Authority's recommendation, the Commissioner may request from the applicants such supplemental information as the Commissioner deems necessary to the assessment of whether to approve the proposed cooperative agreement. The Commissioner shall consult with the Attorney General regarding his assessment of whether to approve the proposed cooperative agreement. On the basis of his review of the record developed by the Authority, including the Authority's recommendation, as well as any additional information received from the applicants as well as any other data, information, or advice available to the Commissioner, the Commissioner shall approve the proposed cooperative agreement if he finds after considering the factors in subsection E that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement. The Commissioner shall issue his decision in writing within 45 days of receipt of the Authority's recommendation. However, if the Commissioner has requested additional information from the applicants, the Commissioner shall have an additional 15 days, following receipt of the supplemental information, to approve or deny the proposed cooperative agreement. The Commissioner may reasonably condition approval of the proposed cooperative agreement upon the parties' commitments to achieving the

improvements in population health, access to health care services, quality, and cost efficiencies identified by the parties in support of their application for approval of the proposed cooperative agreement. Such conditions shall be fully enforceable by the Commissioner. The Commissioner's decision to approve or deny an application shall constitute a case decision pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq.).

G. If approved, the cooperative agreement is entrusted to the Commissioner for active and continuing supervision to ensure compliance with the provisions of the cooperative agreement. The parties to a cooperative agreement that has been approved by the Commissioner shall report annually to the Commissioner on the extent of the benefits realized and compliance with other terms and conditions of the approval. The report shall describe the activities conducted pursuant to the cooperative agreement, including any actions taken in furtherance of commitments made by the parties or terms imposed by the Commissioner as a condition for approval of the cooperative agreement, and shall include information relating to price, cost, quality, access to care, and population health improvement. The Commissioner may require the parties to a cooperative agreement to supplement such report with additional information to the extent necessary to the Commissioner's active and continuing supervision to ensure compliance with the cooperative agreement. The Commissioner shall have the authority to investigate as needed, including the authority to conduct onsite inspections, to ensure compliance with the cooperative agreement.

H. If the Commissioner has reason to believe that compliance with a cooperative agreement no longer meets the requirements of this chapter, the Commissioner shall initiate a proceeding to determine whether compliance with the cooperative agreement no longer meets the requirements of this chapter. In the course of such proceeding, the Commissioner is authorized to seek reasonable modifications to a cooperative agreement, with the consent of the parties to the agreement, in order to ensure that it continues to meet the requirements of this chapter. The Commissioner is authorized to revoke a cooperative agreement upon a finding that (i) the parties to the agreement are not complying with its terms or the conditions of approval; (ii) the agreement is not in substantial compliance with the terms of the application or the conditions of approval; (iii) the benefits resulting from the approved agreement no longer outweigh the disadvantages attributable to the reduction in competition resulting from the agreement; (iv) the Commissioner's approval was obtained as a result of intentional material misrepresentation to the Commissioner or as the result of coercion, threats, or intimidation toward any party to the cooperative agreement; or (v) the parties to the agreement have failed to pay any required fee. All proceedings initiated by the Commissioner under this chapter and any judicial review thereof shall be held in accordance with and governed by the Virginia Administrative Process Act (§ 2.2-4000 et seq.).

I. The Commissioner shall maintain on file all cooperative agreements that the Commissioner has approved, including any conditions imposed by the Commissioner. Any party to a cooperative

agreement that terminates its participation in such cooperative agreement shall file a notice of termination with the Commissioner within 30 days after termination.

J. The Commissioner may contract with qualified experts and consultants that he deems necessary in his review of an application for approval of a cooperative agreement or supervision of a cooperative agreement.

K. The Commissioner shall be entitled to reimbursement from applicants seeking approval of a cooperative agreement for all reasonable and actual costs incurred by the Commissioner in his review of the application for a cooperative agreement made pursuant to this chapter, including costs of experts and consultants retained by the Commissioner. The Commissioner shall incur only those costs necessary to adequately review the application as determined in his sole discretion. The Commissioner shall maintain detailed records of all costs incurred for which he seeks reimbursement from the applicant.

L. The Commissioner shall determine the activities needed to actively supervise the cooperative agreement and may incur only those expenses necessary for such supervision as determined in his sole discretion. The Commissioner shall be entitled to reimbursement from the parties to a cooperative agreement for all reasonable and actual costs incurred by the Commissioner in the supervision of the cooperative agreement approved pursuant to this chapter, including costs of experts and consultants retained by the Commissioner. Prior to contracting with experts or consultants, the Commissioner shall provide reasonable notice to the parties describing the proposed scope of work and anticipated costs of such experts and consultants. The parties shall be given a reasonable time period to provide to the Commissioner information related to possible alternatives to the use of such experts and consultants. The Commissioner shall consider the information submitted by the parties in determining whether to retain an expert or consultant. The Commissioner shall maintain detailed records of all costs incurred for which he seeks reimbursement from the parties. Within 30 days of the end of each quarter, the Commissioner shall provide to the parties a written quarterly report detailing all costs incurred by the Commissioner related to the supervision of the cooperative agreement for which the Commissioner seeks reimbursement. The parties shall make payment to the Department of Health within 30 days of the receipt of such request for reimbursement.

M. Reimbursement received pursuant to subsections K and L shall be paid into the Department of Health. Nongeneral funds generated by the reimbursements collected in accordance with this chapter on behalf of the Department and accounted for and deposited into a special fund by the Commissioner of the Department shall be held exclusively to cover the expenses of the Department in administrating this chapter and shall not be transferred to any other agency, except to cover expenses directly related to active supervision of the cooperative agreement.

2015, c. 741; 2018, c. 371.

§ 15.2-5385.Chapter supplemental; application of other laws; consent of local governing bodies or other agencies not required

The provisions of this chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized herein and shall be regarded as supplemental and additional to powers conferred by other laws; the issuance of revenue bonds and revenue refunding bonds under the provisions of this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds. Activities conducted pursuant to cooperative agreements approved and supervised by the Commissioner are immunized from challenge or scrutiny under the Commonwealth's antitrust laws. It is the intention of the General Assembly that this chapter shall also immunize cooperative agreements approved and supervised by the Commissioner from challenge or scrutiny under federal antitrust law. Except as otherwise expressly provided in this chapter, none of the powers granted to the Authority under the provisions of this chapter shall be subject to the supervision or regulation or require the approval or consent of any locality or any authority, board, bureau, or agency of any of the foregoing. Nothing in this chapter shall affect the authority of the Attorney General to conduct appropriate reviews under Chapter 20 (§ 32.1-373 et seq.) of Title 32.1.

2007, c. 676; 2015, c. 741.

§ 15.2-5386.Limitations of the Authority

A. No provision related to the establishment, powers, or authorities of the Southwest Virginia Health Authority, its subsidiaries, or successors, shall apply to the facilities, equipment, or appropriations of any state agency including, but not limited to, the Virginia Department of Health and the Department of Behavioral Health and Developmental Services.

B. The Authority, its subsidiaries or successors, shall not be exempt from the Certificate of Public Need law and regulations or licensure standards of the Virginia Department of Health.

C. No provision of this chapter related to the establishment, power or authority of the Authority or participating localities shall apply to or affect any hospital as defined in § 32.1-123.

2007, c. 676; 2009, cc. 464, 813, 840.

Tidewater Airport Commission

Created

1962 Acts of Assembly, c. 606.

Amendments

1964, c. 45 (§§ 1, 2)

§ 1. "Commission" as used herein, shall mean Tidewater Airport Commission established under the provisions of Article 2, Chapter 3, Title 5 of the Code of Virginia, by the joint action of the counties of

Southampton, Isle of Wight and Nansemond, and the cities of Franklin, Suffolk, Virginia Beach, Chesapeake, Norfolk and Portsmouth, and the town of Smithfield. (1962, c. 606; 1964, c. 45)

§ 2. The Commission is hereby created and constituted a political subdivision of the counties of Southampton, Isle of Wight and Nansemond, and the cities of Franklin, Suffolk, Virginia Beach, Chesapeake, Norfolk and Portsmouth, and the town of Smithfield. The exercise of the powers and duties conferred upon the Commission by said counties, cities and town by their respective ordinances with respect to the construction, operation and maintenance of an airport, and the acquisition of land necessary for such airport, shall be deemed and held to be for the public use and in the performance of an essential governmental function.

The Commission shall be composed of one member from each of the participating counties, cities and town; which members shall be elected by the governing body of the respective governmental unit they represent. Nothing herein shall be construed so as to prohibit members of such governing bodies from being elected to membership on the Commission. (1962, c. 606; 1964, c. 45)

§ 3. The Commission, in addition to the powers and duties delegated to it by the participating counties and cities, shall have the following powers:

To acquire by purchase, lease, or otherwise, all the property of any person, partnership, association or corporation deemed necessary for the establishment, use, operation and maintenance of an airport. (1962, c. 606)

§ 4. No airport or other facility shall be acquired or established in any county, city or town pursuant to the provisions hereof by purchase or under the power of eminent domain without the consent of the governing body of any such county, city or town. (1962, c. 606)

Tourism Authority, Virginia

§ 2.2-2201.Short title; definitions

A. This article shall be known and may be cited as the "Virginia Commercial Space Flight Authority Act."

B. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Commercial Space Flight Authority.

"Board" means the board of directors of the Authority.

"Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility or the provision for or funding of any activity that will further the purposes described in § 2.2-2202.

1995, c. 758, §§ 9-266.1, 9-266.2; 2001, c. 844; 2012, cc. 779, 817.

§ 2.2-2202.Declaration of public purpose; Virginia Commercial Space Flight Authority created

The General Assembly has determined that there exists in the Commonwealth a need to promote industrial and economic development and scientific and technological research and development through the development and promotion of the commercial and government aerospace industry.

In order to facilitate and coordinate the advancement of these needs, there is hereby created the Virginia Commercial Space Flight Authority, with the powers and duties set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public functions, and the exercise by the Authority of the powers and duties conferred by this article shall be deemed and held to be the performance of an essential government function of the Commonwealth and a public purpose.

1995, c. 758, § 9-266.3; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2203.Board of directors; members and officers; Executive Director

The Authority shall be governed by a board of directors consisting of nine members, two of whom shall be the Secretary of Transportation and the Director of the Virginia Department of Aviation or their respective designees. The remaining seven members shall be appointed by the Governor and shall have experience in at least one of the following fields: (i) the aerospace industry, (ii) the financial industry, (iii) the marketing industry, (iv) scientific and technological research and development; or (v) higher education. Members of the Board appointed by the Governor shall be appointed for terms of four years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members shall serve at the pleasure of the Governor and shall be confirmed by the General Assembly. Members of the Board shall receive reimbursement for their

expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on Board business.

The Board shall annually elect one of its members as chairman and another as vice-chairman and may also elect from its membership, or appoint from the Authority's staff, a secretary and a treasurer and prescribe their powers and duties. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings. Five members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also serve as the Chief Executive Officer of the Authority and exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. Such compensation shall be established at a level that will enable the Authority to attract and retain a capable Executive Director. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary to carry out the powers and duties of the Authority.

1995, c. 758, § 9-266.4; 1999, cc. 412, 421, 433; 2001, c. 844; 2009, c. 82; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2204.Powers of the Authority

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the power to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts;

2. Adopt, use, and alter at will a common seal;

3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board;

4. Adopt a strategic plan pursuant to § 2.2-2203.2 and plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain and operate projects pursuant to such plan;

5. Adopt an annual budget for the Authority's capital improvements and operations;

6. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the power of the Authority shall be exercised and its duties performed. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary and expedient. Such bylaws, rules, and regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.);

7. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of projects of, the sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority; the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties; the payment of the costs accomplishing its purposes set forth in § 2.2-2202; the payment of the principal of and interest on its obligations; and the creation of reserves for such purposes, for other purposes of the Authority and to pay the cost of maintaining, repairing and operating any project and fulfilling the terms and provisions of any agreements made with the purchasers or holders of any such obligations and any other purposes as set forth in this article;

8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2202 or for refunding bonds previously issued by the Authority, whether such outstanding bonds have matured or are then subject to redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof, by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to provide for the security for said bonds and the rights of holders thereof. However, the total principal amount of bonds, including refunding bonds, outstanding at any time shall not exceed $50 million, excluding from such limit any revenue bonds. The Authority shall not issue any bonds, other than revenue bonds, that are not specifically authorized by a bill or resolution passed by a majority vote of those elected to each house of the General Assembly;

9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including interstate compacts that have been authorized by the General Assembly and where necessary consented to by the United States Congress and agreements with any person or federal agency;

10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as

may be necessary, and to fix their compensation to be payable from funds made available to the Authority;

11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants, donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made;

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; foster the utilization of scientific and technological research, information discoveries and data and obtain patents, copyrights and trademarks thereon; coordinate the scientific and technological research efforts of public institutions and private industry and collect and maintain data on the development and utilization of scientific and technological research capabilities;

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority; and

15. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

1995, c. 758, § 9-266.5; 1996, c. 111; 2001, c. 844; 2012, cc. 779, 817; 2017, c. 633.

§ 2.2-2315.Short title; declaration of public purpose; Authority created

A. This article shall be known and may be cited as the Virginia Tourism Authority Act.

B. The General Assembly finds and declares that:

1. There exists in all geographical regions of the Commonwealth a plethora of tourist attractions, including cultural, historical, commercial, educational, and recreational activities, locations, and sources of entertainment;

2. Such tourist attractions are of potential interest to millions of people who reside both in and outside the Commonwealth;

3. Promotion of tourism in the Commonwealth is necessary to increase the prosperity of the people of the Commonwealth;

4. A state tourism development authority is therefore necessary to stimulate the tourism segment of the economy by promoting, advertising, and marketing the Commonwealth's many tourist attractions and by coordinating other private and public efforts to do the same; and

5. The film industry is a legitimate and important part of economic development in the Commonwealth.

The General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose and will promote the health, safety, welfare, convenience or prosperity of the people of the Commonwealth.

C. The Virginia Tourism Authority is created, with the duties and powers set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the Authority of the duties and powers conferred by this article shall be deemed and held to be the performance of an essential governmental function of the Commonwealth. The exercise of the powers granted by this article shall be in all respects for the benefit of the inhabitants of the Commonwealth and the increase of their commerce and prosperity. The Authority may do business as the "Virginia Tourism Corporation," and any references in the Code of Virginia or in any regulations adopted thereunder that refer to the Virginia Tourism Corporation shall, whenever necessary, be deemed to refer to the Authority.

1999, cc. 852, 881, §§ 2.1-548.53, 2.1-548.54, 2.1-548.56; 2001, c. 844.

§ 2.2-2316.Executive Director; Board of Directors; members and officers

A. Notwithstanding the provisions of § 2.2-2318, all powers, rights and duties conferred by this article or other provisions of law upon the Authority shall be exercised by an Executive Director with the advice and comment of a Board of Directors. The Board of Directors shall be an advisory board within the meaning of § 2.2-2100.

B. The Board of Directors shall consist of the Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Finance, the Secretary of Natural Resources, the Lieutenant Governor, and 12 members appointed by the Governor, subject to confirmation by the General Assembly. The members of the Board appointed by the Governor shall serve terms of six years. Any appointment to fill a vacancy on the Board shall be made for the unexpired term of the member whose death, resignation or removal created the vacancy. All members of the Board shall be residents of the Commonwealth. Members may be appointed to successive terms on the Board of Directors. The Governor shall make appointments in such a manner as to ensure the widest possible geographical representation of all parts of the Commonwealth.

Each member of the Board shall be reimbursed for his reasonable expenses incurred in attendance at meetings or when otherwise engaged in the business of the Authority and shall be compensated at the rate provided in § 2.2-2104 for each day or portion thereof in which the member is engaged in the business of the Authority.

C. The Governor shall designate one member of the Board as chairman. The Board may elect one member as vice-chairman, who shall exercise the powers of chairman in the absence of the chairman or as directed by the chairman. The Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Finance, the Secretary of Natural Resources, and the Lieutenant Governor shall not be eligible to serve as chairman or vice-chairman.

D. Meetings of the Board shall be held at the call of the chairman or of any seven members. Nine members of the Board shall constitute a quorum for the transaction of the business of the Authority. An act of the majority of the members of the Board present at any regular or special meeting at which a quorum is present shall be an act of the Board of Directors.

E. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall have forfeited his office or employment by reason of acceptance of membership on the Board or by providing service to the Authority.

1999, cc. 852, 881, § 2.1-548.57; 2000, c. 899; 2001, c. 844; 2007, c. 779; 2010, c. 101; 2015, c. 280.

§ 2.2-2317.Appointment and duties of Executive Director

The Governor shall appoint an Executive Director of the Authority, who shall serve as President and chief executive officer of the Authority. The Executive Director shall not be a member of the Board. The Governor shall set the salary and other compensation of the Executive Director, and shall approve any changes in the Executive Director's salary or compensation. The Executive Director shall serve as the ex officio secretary of the Board and shall administer, manage and direct the affairs and activities of the Authority. He shall attend meetings of the Board, shall keep a record of the proceedings of the Board and shall maintain and be custodian of all books, documents and papers of the Authority, the minute book of the Authority and its official seal. He may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that the copies are true copies, and all persons dealing with the Authority may rely upon the certificates. He shall also perform other duties as is necessary to carry out the purposes of this article. The Executive Director shall employ or retain such agents or employees subordinate to him as may be necessary to fulfill the duties of the Authority as conferred upon the Executive Director. Employees of the Authority, including the Executive Director, shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law.

1999, cc. 852, 881, § 2.1-548.58; 2001, c. 844; 2007, c. 779.

§ 2.2-2318.Powers of Authority

The Authority, acting through the Executive Director, shall be granted all powers necessary or appropriate to carry out and to effectuate its purposes, including the following to:

1. Have perpetual succession as a public body corporate and as a political subdivision of the Commonwealth;

2. Adopt, amend and repeal bylaws, rules and regulations, not inconsistent with this article for the administration and regulation of its affairs, to carry into effect the powers and purposes of the Authority and the conduct of its business;

3. Sue and be sued in its own name;

4. Have an official seal and alter it at will although the failure to affix this seal shall not affect the validity of any instrument executed on behalf of the Authority;

5. Maintain an office at any place within or without the Commonwealth that it designates;

6. Make and execute contracts and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions under this article;

7. Acquire real or personal property, or any interest therein, by purchase, exchange, gift, assignment, transfer, foreclosure, lease or otherwise, including rights or easements, and hold, manage, operate or improve such property;

8. Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its properties and assets;

9. Employ officers, employees, agents, advisers and consultants, including without limitation, financial advisers and other technical advisers and public accountants and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation without the approval of any other agency or instrumentality;

10. Procure insurance, in amounts and from insurers of its choice, or provide self-insurance, against any loss, cost, or expense in connection with its property, assets or activities, including insurance or self-insurance against liability for its acts or the acts of its directors, employees or agents and for the indemnification of the members of its Board and its employees and agents;

11. Receive and accept from any source aid, grants and contributions of money, property, labor or other things of value to be held, used and applied to carry out the purposes of this article subject to the conditions upon which the aid, grants or contributions are made;

12. Enter into agreements with any department, agency or instrumentality of the United States, the Commonwealth, the District of Columbia or any state for purposes consistent with its mission;

13. Establish and revise, amend and repeal, and charge and collect, fees and charges in connection with any activities or services of the Authority;

14. Make grants to local governments with any funds of the Authority available for this purpose;

15. Develop policies and procedures generally applicable to the procurement of goods, services, and construction based on competitive principles;

16. Issue periodicals and carry and charge for advertising therein;

17. Raise money in the corporate, nonprofit, and nonstate communities to finance the Authority's activities;

18. Support and encourage each locality to foster its own tourism development programs;

19. Enter into agreements with public or private entities that provide participating funding to establish and operate tourism centers, funded jointly by the entity and the Authority, as shall be determined by the Executive Director, and as approved by the Authority;

20. Encourage, stimulate, and support tourism in the Commonwealth by promoting, marketing, and advertising the Commonwealth's many tourist attractions and locations;

21. Encourage, stimulate, and support the film industry in the Commonwealth;

22. Do all things necessary or proper to administer and manage the Cooperative Tourism Advertising Fund and the Governor's Motion Picture Opportunity Fund;

23. Update a travel guide for the disabled in the first year of every biennium beginning in fiscal year 2003;

24. Develop a comprehensive plan to promote destinations of historical and other significance located throughout the Commonwealth in anticipation of the 400th anniversary of the Jamestown settlement; and

25. Do any act necessary or convenient to the exercise of the powers granted or reasonably implied by this article and not otherwise inconsistent with state law.

1999, cc. 852, 881, § 2.1-548.59; 2001, cc. 67, 844; 2005, c. 360; 2007, c. 779.

§ 2.2-2319.Cooperative Marketing Fund

A. There is established the Cooperative Marketing Fund (Marketing Fund) for the purpose of encouraging, stimulating, and supporting the tourism segment of the economy of the Commonwealth and the direct and indirect benefits that flow from the success of such industry. To create the public-private partnership envisioned by such Marketing Fund, the Marketing Fund shall be established out of the sums appropriated by the General Assembly for the purpose of matching eligible funds to be used for the promotion, marketing, and advertising of the Commonwealth's many tourist attractions

and locations. Proposals for new programs as well as existing programs with measurable return on investment shall be eligible for matching grant funds under this section only if they promote, benefit, market and advertise locations or destinations that are (i) solely within the territorial limits of the Commonwealth or (ii) in both the Commonwealth and any adjoining state, in which instance the matching grant funds should be used to promote locations and destinations located within the territorial limits of the Commonwealth. The funds made available in the appropriations act for the Marketing Fund shall be administered and managed by the Authority.

B. In the event more than one person seeks to take advantage of the benefits conferred by this section and the Marketing Fund is insufficient to accommodate all such requests, the matching formula shall be adjusted, to the extent practicable, to afford each request for which there is a valid public purpose an equitable share.

C. All persons seeking to receive or qualify for such matching funds shall apply to the Authority in January of the year preceding the fiscal year for which funds are sought, and to the extent the Governor concurs in such funding request, it shall be reflected in the Governor's Budget Bill filed pursuant to § 2.2-1509. The application shall set forth the applicant's proposals in detail. The Authority shall develop guidelines setting forth the criteria it will weigh in considering such applications; such guidelines may indicate a preference for proposals submitted by nonprofit organizations or state agencies. The guidelines may require that as a condition of receiving any grant or other incentive that is based on employment goals, a recipient company must provide copies of employer quarterly payroll reports provided to the Virginia Employment Commission to verify the employment status of any position included in the employment goal.

1999, cc. 852, 881, § 2.1-548.60; 2001, c. 844; 2002, c. 442; 2013, c. 547; 2017, cc. 69, 267.

§ 2.2-2320.Governor's Motion Picture Opportunity Fund

There is created a Governor's Motion Picture Opportunity Fund (the Fund) to be used, in the sole discretion of the Governor, to support the film and video industries in Virginia by providing the means for attracting production companies and producers who make their projects in the Commonwealth using Virginia employees, goods and services. The Fund shall consist of any moneys appropriated to it in the general appropriation act or revenue from any other source. The Fund shall be established on the books of the Comptroller and any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund.

The Fund shall be used by the Governor to assist production companies or producers that meet the eligibility requirements set forth in the guidelines. The Authority shall assist the Governor in the development of guidelines for the use of the Fund. The guidelines may require that as a condition of receiving any grant or loan incentive that is based on employment goals, a recipient company must

provide copies of employer quarterly payroll reports provided to the Virginia Employment Commission to verify the employment status of any position included in the employment goal. The guidelines should include provisions for geographic diversity and a cap on the amount of money available for a certain project. The types of projects eligible for consideration will be feature films, children's programs, documentaries, television series or other television programs designed to fit a thirty-minute or longer format slot. Projects not eligible are industrial, corporate or commercial projects, education programs not intended for rebroadcast, adult films, music videos and news shows or reports.

1999, cc. 852, 881, § 2.1-548.61; 2001, c. 844; 2013, c. 547.

§ 2.2-2320.1.Governor's New Airline Service Incentive Fund

A. There is hereby created in the state treasury a special nonreverting fund known as the Governor's New Airline Service Incentive Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited 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 interest thereon, at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used, in the sole discretion of the Governor, for grants to airlines serving local, regional, national, and international airports in Virginia as provided in subsection B. Revenues in the Fund shall be used to support the development of additional commercial air services in the Commonwealth, provided that such service advances the goals established in the commercial air service plan most recently adopted pursuant to § 5.1-2.2:2. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director of the Authority.

B. The Fund shall be used by the Governor to provide or assist in the provision of marketing, advertising, or promotional activities by airlines in connection with the launch of new air passenger service at Virginia airports in order to incentivize airlines that have committed to commencing new air passenger service in Virginia. The Secretary of Transportation, in consultation with the Secretary of Commerce and Trade and the Secretary of Finance, shall develop guidelines and criteria to be used in awarding grants from the Fund. The guidelines shall include a provision that a grant from the Fund shall not be awarded if it can be reasonably anticipated to result in the reduction of existing commercial air service at another airport located within the Commonwealth. The guidelines may require that as a condition of receiving any grant from the Fund an airline enter into a performance agreement or memorandum of understanding with the Commonwealth (i) setting a minimum number of nonstop roundtrip flights per week, a minimum number of nonstop roundtrip flights within 12 months of the start date of new air service, or a minimum passenger load factor, or any combination thereof,

and (ii) providing that any grant received by an airline shall be repaid by the airline or reduced proportionately if such conditions are not met.

2020, cc. 1119, 1120.

§ 2.2-2321.Grants from Commonwealth

The Commonwealth may make grants of money or property to the Authority for the purpose of enabling it to carry out its corporate purposes and for the exercise of its powers. This section shall not be construed to limit any other power the Commonwealth may have to make grants to the Authority.

1999, cc. 852, 881, § 2.1-548.62; 2001, c. 844.

§ 2.2-2322.Deposit of money; expenditures; security for deposits

A. All money of the Authority, except as otherwise authorized by law or this article, shall be deposited in accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check signed by the Executive Director or any other officer or employee designated by the Authority. All deposits of money shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies and savings institutions are authorized to give security for the deposits.

B. Funds of the Authority not needed for immediate use or disbursement, including any funds held in reserve, may be invested in (i) obligations or securities that are considered lawful investments for fiduciaries, both individual and corporate, as set forth in § 2.2-4519, (ii) bankers' acceptances, or (iii) repurchase agreements, reverse repurchase agreements, rate guarantee or investment agreements or other similar banking arrangements.

1999, cc. 852, 881, § 2.1-548.65; 2001, c. 844.

§ 2.2-2323.Forms of accounts and records; annual reports; audit

The Authority shall maintain accounts and records showing the receipt and disbursement of funds from whatever source derived in a form as prescribed by the Auditor of Public Accounts. Such accounts and records shall correspond as nearly as possible to accounts and records maintained by corporate enterprises.

The accounts of the Authority shall be audited by the Auditor of Public Accounts, or his legally authorized representatives, as determined necessary by the Auditor of Public Accounts, and the costs of such audits shall be borne by the Authority. The Authority shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor. Each report shall set forth a complete operating and financial statement for the Authority during the fiscal year it covers.

1999, cc. 852, 881, § 2.1-548.66; 2001, c. 844; 2018, cc. 57, 307.

§ 2.2-2324.Exemption from taxation

As set forth in subsection C of § 2.2-2315, the Authority shall be performing an essential governmental function in the exercise of the powers conferred upon it by this article. Accordingly, the Authority shall not be required to pay any taxes or assessments upon any project or any property or upon any operations of the Authority or the income therefrom. Agents, lessees, sublessees, or users of tangible personal property owned by or leased to the Authority also shall not be required to pay any sales or use tax upon such property or the revenue derived therefrom.

1999, cc. 852, 881, § 2.1-548.64; 2001, c. 844.

§ 2.2-2325.Exemptions from personnel and procurement procedures

The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and the Virginia Personnel Act (§ 2.2-2900 et seq.) shall not apply to the Authority.

1999, cc. 852, 881, § 2.1-548.63; 2001, c. 844.

§ 2.2-2326.Sovereign immunity

No provisions of this article nor act of the Authority, including the procurement of insurance or self-insurance, shall be deemed a waiver of any sovereign immunity to which the Authority or its directors, officers, employees, or agents are otherwise entitled.

1999, cc. 852, 881, § 2.1-548.67; 2001, c. 844.

§ 2.2-2327.Liberal construction of article

The provisions of this article shall be liberally construed to the end that its beneficial purposes may be effectuated.

2002, c. 491.

Tourist Train Development Authority

§ 15.2-6550.Tourist Train Development Authority established

The Tourist Train Development Authority, hereinafter referred to as the "Authority," is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter.

2014, c. 608.

§ 15.2-6551.Board of the Authority; qualifications; terms; quorum; records

All powers, rights, and duties conferred by this chapter, or by other provisions of law, upon the Authority shall be exercised by the Board of the Tourist Train Development Authority, hereinafter referred to as "the board." Initial appointments to the board shall begin July 1, 2014. The board shall consist of nine members as follows: seven members appointed by the Governor, of whom three shall be representatives from the governing bodies of Tazewell County, the Town of Bluefield, and the Town of Pocahontas and four shall be nonlegislative citizen members who reside in Tazewell County; one member of the House of Delegates representing Tazewell County, who shall be appointed by the Speaker of the House of Delegates if more than one Delegate represents Tazewell County; and one member of the Senate representing Tazewell County, who shall be appointed by the Senate Committee on Rules if more than one Senator represents Tazewell County. All members shall serve for a term of four years and may be reappointed for one additional term, except legislative members, who shall serve terms coincident with their terms of office and may be reappointed. The term of any member of the board shall immediately terminate if the member no longer meets the eligibility criteria of the initial appointment. Vacancies shall be filled for the unexpired term. For the initial appointments only, three of the members shall be appointed for two-year terms and such initial terms shall not be counted toward the term limitation.

The board shall elect from its membership a chairman and a vice-chairman and from its membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The members of the board shall receive no compensation. All members may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties from such funds as may be available to the Authority.

Four members of the board shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions, and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be

furnished to the governing bodies of Tazewell County and all adjacent counties and the Auditor of Public Accounts and shall be open to public inspection.

2014, c. 608.

§ 15.2-6552.Executive director; staff

The Authority shall appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received or appropriated.

2014, c. 608.

§ 15.2-6553.Powers of Authority

The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at its pleasure;

3. To contract and be contracted with;

4. To employ and pay compensation to such employees and agents, including attorneys, as the board deems necessary in carrying on the business of the Authority;

5. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

6. To borrow money and to accept contributions, grants, and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth;

7. To issue bonds in accordance with applicable law;

8. To receive and expend moneys on behalf of tourist train development; and

9. To cooperate with any private or governmental entity in the state of West Virginia in the development of a tourist train.

2014, c. 608.

§ 15.2-6554.Authority of localities

Localities are hereby authorized to lend or donate money or other property or services to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality.

2014, c. 608.

Transportation District Act of 1964

§ 33.2-1900.Declaration of policy

The development of transportation systems, composed of transit facilities, public highways, and other modes of transport, is necessary for the orderly growth and development of the urban areas of the Commonwealth; for the safety, comfort, and convenience of its citizens; and for the economical utilization of public funds. The provision of the necessary facilities and services cannot be achieved by the unilateral action of the counties and cities, and the attainment thereof requires planning and action on a regional basis, conducted cooperatively and on a continuing basis, between representatives of the affected political subdivisions and the Commonwealth Transportation Board. In those urban areas of the Commonwealth that together form a single metropolitan area, solutions must be jointly sought with the affected political subdivisions and highway departments. Such joint action should be conducted in a manner that preserves, to the extent the necessity for joint action permits, local autonomy over patterns of growth and development of each participating political subdivision or locality. The requisite joint action may best be achieved through the device of a transportation district, having the powers, functions, and duties set forth in this chapter. In the provision of improved or expanded transit facilities, it is the policy of the Commonwealth to make use of private enterprise to the extent reasonably practicable.

1964, c. 631, § 15.1-1343; 1986, c. 438; 1997, c. 587, § 15.1-4501; 2014, c. 805.

§ 33.2-1901.Definitions

As used in this chapter, unless the context requires a different meaning:

"Agency" or "such agency" means an agency authorized by, or arising from action of, the General Assembly to plan for or provide transportation facilities and service for a metropolitan area located wholly or in part in the Commonwealth.

"Commission" or "district commission" means the governing body of a district.

"Component governments" means the counties and cities composing a transportation district and the various departments, bureaus, and divisions of such counties and cities.

"District" means a transportation district authorized to be created by this chapter.

"Governing bodies" means the boards of supervisors of counties and councils of cities composing a transportation district.

"Metropolitan area" means a metropolitan statistical area as defined by the U.S. Census Bureau and the Office of Management and Budget or any contiguous counties or cities within the Commonwealth that together constitute an urban area.

"Person" means an individual, partnership, association, or corporation or any governmental agency or authority.

"State," when applied to a part of the United States, includes any of the 50 states and the District of Columbia.

"Transportation facilities," "transit facilities," or "facilities" means all those matters and things utilized in rendering transportation service by means of rail, bus, water, or air and any other mode of travel, including tracks, rights-of-way, bridges, tunnels, subways, and rolling stock for rail, motor vehicle, marine, and air transportation; stations, terminals, and ports; areas for parking; buildings; structures; and all equipment, fixtures, and business activities reasonably required for the performance of transportation service, but does not include any such facilities owned by any person, company, association, or corporation the major part of whose transportation service extends beyond a transportation district created in this chapter.

1964, c. 631, § 15.1-1344; 1986, c. 438; 1997, c. 587, § 15.1-4502; 2014, c. 805.

§ 33.2-1902.Authorization to issue summons

Conductors of railroad trains, motormen, and station and depot agents of any transportation district created pursuant to this chapter shall have the power to issue a summons for any violation of § 18.2-160.1 with respect to any train operated by or under contract with such transportation district.

1988, c. 762, § 15.1-1344.1; 1997, c. 587, § 15.1-4503; 2014, c. 805.

§ 33.2-1903.Procedure for creation of districts

A. Any two or more counties or cities may, in conformance with the procedure set forth in this section, or as otherwise may be provided by law, constitute a transportation district and shall have and exercise the powers set forth in this section and such additional powers as may be granted by the General Assembly. A transportation district may be created by ordinance adopted by the governing body of each participating county and city, which ordinances shall (i) set forth the name of the proposed transportation district, which shall include the words "transit district" or "transportation district," (ii) fix the boundaries thereof, (iii) name the counties and cities that are in whole or in part to be embraced therein, and (iv) contain a finding that the orderly growth and development of the county or city and the comfort, convenience, and safety of its citizens require an improved transportation system, composed of transit facilities, public highways, and other modes of transport, and that joint action through a transportation district by the counties and cities that are to compose the proposed transportation district will facilitate the planning and development of the needed transportation system. Such ordinances shall be filed with the Secretary of the Commonwealth and, upon certification by that officer to the Tax Commissioner and the governing body of each of the participating counties and cities that the ordinances required by this chapter have been filed and, upon the basis of the facts set forth therein, satisfy such requirements, the territory defined in such ordinances, upon the entry of such

certification in the minutes of the proceedings of the governing body of each of the counties and cities, shall be and constitute a transportation district for all of the purposes of this chapter, known and designated by the name stated in the ordinances.

B. Notwithstanding the provisions of subsection A, any county or city may, subject to the applicable provisions of this chapter, constitute itself a transportation district in the event that no governing body of any contiguous county or city wishes to combine for such purpose, provided that the governing body of such single locality transportation district shall comply with the provisions of subsection A by adopting an ordinance that (i) sets forth the name of the proposed transportation district, which shall include the words "transit district" or "transportation district"; (ii) fixes, in such county or city, the boundaries thereof; (iii) names the county or city that is in whole or in part to be embraced therein; and (iv) contains a finding that the orderly growth and development of the county or city and the comfort, convenience, and safety of its citizens require an improved transportation district, composed of transit facilities, public highways, and other modes of transport, and that joint action with contiguous counties and cities has not been agreed to at this time, but that the formation of a transportation district will facilitate the planning and development of the needed transportation system, and shall file such ordinance in the manner and mode required by subsection A. At such time as the governing body of any contiguous county or city desires to combine with the original locality for the formation of an enlarged transportation district, it shall enter into an agreement with the commission of the original transportation district on such terms and conditions, consistent with the provisions of this chapter, as may be agreed upon by such commission and such additional county or city, and in conformance with the following procedures. The governing body of the county or city having jurisdiction over the territory to be added to the original transportation district shall adopt an ordinance specifying the area to be enlarged, containing the finding specified in clause (iv) of subsection A, and a statement that a contract or agreement between the county or city and the commission specifying the terms and conditions of admittance to the transportation district has been executed. The ordinance, to which shall be attached a certified copy of such contract, shall be filed with the Secretary of the Commonwealth and, upon certification by that officer to the Tax Commissioner, the commission, and the governing body of each of the component counties and cities that the ordinance required by this section has been filed, and that the terms thereof conform to the requirements of this section, such additional county, or part thereof, or city, upon the entry of such certification in the minutes of the proceedings of the governing body of such county or city, shall become a component government of the transportation district and the county, or portion thereof specified, or city shall be embraced by the transportation district.

1964, c. 631, § 15.1-1345; 1966, c. 419; 1972, c. 832; 1973, c. 324; 1997, c. 587, § 15.1-4504; 2006, c. 354; 2014, c. 805.

§ 33.2-1904.Northern Virginia Transportation District and Commission

A. There is hereby created the Northern Virginia Transportation District (the District), comprising the Counties of Arlington, Fairfax, and Loudoun; the Cities of Alexandria, Falls Church, and Fairfax; and such other county or city contiguous to the District that agrees to join the District.

B. There is hereby established the Northern Virginia Transportation Commission (the Commission) as a transportation commission pursuant to this chapter. The Commission shall consist of five nonlegislative citizen members from Fairfax County, three nonlegislative citizen members from Arlington County, two nonlegislative citizen members from Loudoun County, two nonlegislative citizen members from the City of Alexandria, one nonlegislative member from the City of Falls Church, one nonlegislative citizen member from the City of Fairfax, and the Chairman of the Commonwealth Transportation Board or his designee to serve ex officio with voting privileges. If a county or city contiguous to the District agrees to join the District, such locality shall appoint one nonlegislative citizen member to the Commission. Members from the counties and cities shall be appointed from their respective governing bodies. The Commission shall also include four members appointed by the Speaker of the House of Delegates who may be members of the House of Delegates and two members of the Senate appointed by the Senate Committee on Rules. All legislative members shall serve terms coincident with their terms of office. Members may be reappointed for successive terms. All members shall be citizens of the Commonwealth. Except for the Chairman of the Commonwealth Transportation Board or his designee, all members of the Commission shall be residents of the localities composing the District. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

2004, c. 1000, § 15.1-4503.1; 2014, c. 805; 2016, cc. 117, 374.

§ 33.2-1905.District a body corporate

Each transportation district created pursuant to this chapter, or pursuant to an act of the General Assembly, is hereby created as a body corporate and politic under the name of, and to be known by, the name of the district with the word "commission" appended.

1964, c. 631, § 15.1-1346; 1997, c. 587, § 15.1-4505; 2014, c. 805.

§ 33.2-1906.Creation of commission to control corporation

In and for each transportation district a commission is hereby created to manage and control the functions, affairs, and property of the corporation and to exercise all of the rights, powers, and authority and perform all of the duties conferred or imposed upon the corporation.

1964, c. 631, § 15.1-1347; 1997, c. 587, § 15.1-4506; 2014, c. 805.

§ 33.2-1907.Members of transportation commissions

A. Any transportation district commission created pursuant to this chapter shall consist of the number of members the component governments shall agree upon, or as may otherwise be provided by law. The governing body of each participating county and city shall appoint from among its members the

number of commissioners to which the county or city is entitled; however, for those commissions with powers as set forth in subsection A of § 33.2-1915, the governing body of each participating county or city is not limited to appointing commissioners from among its members. In addition, the governing body may appoint, from its number or otherwise, designated alternate members for those appointed to the commission who shall be able to exercise all of the powers and duties of a commission member when the regular member is absent from commission meetings. Each such appointee shall serve at the pleasure of the appointing body; however, no appointee to a commission with powers as set forth in subsection B of § 33.2-1915 may continue to serve when he is no longer a member of the appointing body. Each governing body shall inform the commission of its appointments to and removals from the commission by delivering to the commission a certified copy of the resolution making the appointment or causing the removal.

The Chairman of the Commonwealth Transportation Board, or his designee, shall be a member of each commission, ex officio with voting privileges. The Chairman of the Commonwealth Transportation Board may appoint an alternate member who may exercise all the powers and duties of the Chairman of the Commonwealth Transportation Board when neither the Chairman of the Commonwealth Transportation Board nor his designee is present at a commission meeting.

The Potomac and Rappahannock Transportation Commission shall also include two members who reside within the boundaries of the transportation district appointed by the Speaker of the House who may be members of the House of Delegates and one member of the Senate appointed by the Senate Committee on Rules. Each legislative member shall be from a legislative district located wholly or in part within the boundaries of the transportation district and shall serve a term coincident with his term of office. The members of the General Assembly shall be eligible for reappointment for successive terms. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

The Transportation District Commission of Hampton Roads shall consist of one nonlegislative citizen member appointed by the Governor from each county and city embraced by the transportation district. However, for the gubernatorial appointments that will become effective July 1, 2016, three of the appointments shall be for initial terms of two years and three appointments shall be for terms of four years. Thereafter, all gubernatorial appointments shall be for terms of four years so as to stagger the terms of the gubernatorial appointees. The governing body of each such county or city may appoint either a member of its governing body or its county or city manager to serve as an ex officio member with voting privileges. Every such ex officio member shall be allowed to attend all meetings of the commission that other members may be required to attend. Vacancies shall be filled in the same manner as the original appointments.

B. The Secretary or his designee and any appointed member of the Northern Virginia Transportation Commission are authorized to serve as members of the board of directors of the Washington

Metropolitan Area Transit Authority (§ 33.2-3100 et seq.) and while so serving the provisions of § 2.2-2800 shall not apply to such member. In appointing Virginia members of the board of directors of the Washington Metropolitan Area Transit Authority (WMATA), the Northern Virginia Transportation Commission shall include the Secretary or his designee as a principal member on the board of directors of WMATA. Any designee serving as the principal member must reside in a locality served by WMATA.

In selecting from its membership those members to serve on the board of directors of WMATA, the Northern Virginia Transportation Commission shall comply with the following requirements:

1. A board member shall not have been an employee of WMATA within one year of appointment to serve on the board of directors.

2. A board member shall have (i) experience in at least one of the fields of transit planning, transportation planning, or land use planning; transit or transportation management or other public sector management; engineering; finance; public safety; homeland security; human resources; or the law or (ii) knowledge of the region's transportation issues derived from working on regional transportation issue resolution.

3. A board member shall be a regular patron of the services provided by WMATA.

4. Board members shall serve a term of four years with a maximum of two consecutive terms. A board member's term or terms must coincide with his term on the body that appointed him to the Northern Virginia Transportation Commission. Any vacancy created if a board member cannot fulfill his term because his term on the appointing body has ended shall be filled for the unexpired term in the same manner as the member being replaced was appointed within 60 days of the vacancy. The initial appointments to a four-year term will be as follows: the Secretary, or his designee, for a term of four years; the second principal member for a term of three years; one alternate for a term of two years; and the remaining alternate for a term of one year. Thereafter, board members shall be appointed for terms of four years. Service on the WMATA board of directors prior to July 1, 2012, shall not be considered in determining length of service. Any person appointed to an initial one-year or two-year term, or appointed to an unexpired term in which two years or less is remaining, shall be eligible to serve two consecutive four-year terms after serving the initial or unexpired term.

5. Members may be removed from the board of directors of WMATA if they attend fewer than three-fourths of the meetings in a calendar year; if they are conflicted due to employment at WMATA; or if they are found to be in violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). If a board member is removed during a term, the vacancy shall be filled pursuant to the provisions of subdivision 4.

6. Each member of the Northern Virginia Transportation Commission appointed to the board of directors of WMATA shall file semiannual reports with the Secretary's office beginning July 1, 2012.

The reports shall include (i) the dates of attendance at WMATA board meetings, (ii) any reasons for not attending a specific meeting, and (iii) dates and attendance at other WMATA-related public events.

7. Each nonelected member of the Northern Virginia Transportation Commission appointed to the board of directors of WMATA shall be eligible to receive reasonable and necessary expenses and compensation pursuant to §§ 2.2-2813 and 2.2-2825 from the Northern Virginia Transportation Commission for attending meetings and for the performance of his official duties as a board member on that day.

Any entity that provides compensation to a WMATA board member for his service on the WMATA board shall be required to submit on July 1 of each year to the Secretary the amount of that compensation. Such letter will remain on file with the Secretary's office and be available for public review.

C. When the Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission enter into an agreement to operate a commuter railway, the agreement governing the creation of the railway shall provide that the Chairman of the Commonwealth Transportation Board or his designee shall have one vote on the oversight board for the railway. For each year in which the state contribution to the railway is greater than or equal to the highest contribution from an individual locality, the total annual subsidy as provided by the member localities used to determine vote weights shall be recalculated to include the Commonwealth contributing an amount equal to the highest contributing locality. The vote weights shall be recalculated to provide the Chairman of the Commonwealth Transportation Board or his designee the same weight as the highest contributing locality. The revised vote weights shall be used in determining the passage of motions before the oversight board.

1964, c. 631, § 15.1-1348; 1966, c. 419; 1973, c. 231; 1975, c. 179; 1977, c. 137; 1986, c. 438; 1987, c. 441; 1993, c. 867; 1997, c. 587, § 15.1-4507; 2000, cc. 439, 443; 2004, c. 1000; 2011, c. 515; 2012, c. 377; 2013, c. 589; 2014, cc. 655, 721, 805; 2016, c. 130.

§ 33.2-1908.Officers of commission

Within 30 days after the appointment of the original commission members, the commission shall meet on the call of any member and shall elect one of its members as chairman and another as vice-chairman, each to serve for a term of one year or until his successor is elected and qualified. The commission shall employ a secretary and treasurer, who may or may not be a member of the commission, and, if not a commission member, fix his compensation and duties. All officers shall be eligible for reelection. Each commission member, before entering on the performance of his public duties, shall take and subscribe the oath or affirmation specified in Article II, Section 7 of the

Constitution of Virginia. Such oath may be administered by any person authorized to administer oaths under § 49-4.

1964, c. 631, § 15.1-1349; 1971, Ex. Sess., c. 1; 1987, c. 153; 1997, c. 587, § 15.1-4508; 2014, c. 805.

§ 33.2-1909.Bonds of members

Each commission member shall, before entering upon the discharge of his duties under this chapter, give bond payable to the Commonwealth in a form approved by the Attorney General, in such penalty as fixed by the Governor, with some surety or guaranty company authorized to do business in the Commonwealth and approved by the Governor, as security, conditioned upon the faithful discharge of his duties. The premium of such bonds shall be paid by the commission and the bonds shall be filed with and preserved by the Department of the Treasury's Division of Risk Management.

1964, c. 631, § 15.1-1350; 1997, c. 587, § 15.1-4509; 2002, c. 32; 2014, c. 805.

§ 33.2-1910.Compensation and expenses of members

The commission members shall receive no salary but shall be entitled to reimbursement of all reasonable and necessary expenses and compensation allowed members of the Commonwealth Transportation Board for the performance of their official duties as provided in §§ 2.2-2813 and 2.2-2825.

1964, c. 631, § 15.1-1351; 1997, c. 587, § 15.1-4510; 2004, c. 1000; 2014, c. 805.

§ 33.2-1911.Meetings of commission

Regular meetings of the commission shall be held at least once every month at such time and place as the commission shall prescribe. Special meetings of the commission shall be held upon mailed notice, or actual notice otherwise given, to each commission member upon call of the chairman or any two commission members, at such time and in such place within the district as such notice may specify, or at such other time and place with or without notice as all commission members may expressly approve. All regular and special meetings of the commission shall be open to the public, but the public shall not be entitled to any notice other than provided in this section. Unless a meeting is called for the purpose of a public hearing, members of the public shall have no right to be heard or otherwise participate in the proceedings of the meeting, except to the extent the chairman may in specific instances grant. All commission records shall be public records.

1964, c. 631, § 15.1-1352; 1997, c. 587, § 15.1-4511; 2014, c. 805.

§ 33.2-1912.Quorum and action by commission

A majority of the commission, which majority shall include at least one commissioner from a majority of the component governments, shall constitute a quorum. Members of the commission who are members of the General Assembly shall not be counted in determining a quorum while the General Assembly is in session. The Chairman of the Commonwealth Transportation Board or his designee

shall be included for the purposes of constituting a quorum. The presence of a quorum and a vote of the majority of the members necessary to constitute a quorum of all the members appointed to the commission, including an affirmative vote from a majority of the members, shall be necessary to take any action. The Chairman of the Commonwealth Transportation Board or his designee shall have voting rights equal to appointees of component governments on all matters brought before the commission. Notwithstanding the provisions of § 2.2-3708.2, members of the General Assembly may participate in the meetings of the commission through electronic communication means while the General Assembly is in session.

1964, c. 631, § 15.1-1353; 1966, c. 419; 1975, c. 7; 1997, c. 587, § 15.1-4512; 2004, c. 1000; 2013, c. 589; 2014, c. 805; 2018, c. 55.

§ 33.2-1913.Funds of commission

A. All moneys of a commission, whether derived from any contract of the commission or from any other source, shall be collected, received, held, secured, and disbursed in accordance with any relevant contract of the commission. This section shall apply to such moneys only if and to the extent they are consistent with such commission contracts.

B. Such moneys shall not be required to be paid into the state treasury or into the treasury or to any officer of any county or city.

C. All such moneys shall be deposited by the commission in a separate bank account, appropriately designated, in banks or trust companies designated by the commission.

1964, c. 631, § 15.1-1355; 1997, c. 587, § 15.1-4513; 2014, c. 805.

§ 33.2-1914.Accounts and records

Every commission shall keep and preserve complete and accurate accounts and records of all moneys received and disbursed; business and operations; and all property and funds it owns, manages, or controls. Each commission shall prepare and transmit to the Governor and to the governing body of each county and city within the district, annually and at such other times as the Governor requires, complete and accurate reports of the state and content of such accounts and records, together with other relevant information as the Governor may require.

1964, c. 631, § 15.1-1356; 1997, c. 587, § 15.1-4514; 2014, c. 805.

§ 33.2-1915.Powers and functions generally

A. Notwithstanding any other contrary provision of law, a commission shall, except as provided in subsection B, have the following powers and functions:

1. The commission shall prepare the transportation plan for the transportation district and shall revise and amend the plan in accordance with the planning process and procedures specified in Article 7 (§ 33.2-1928 et seq.).

2. The commission may, when a transportation plan is adopted according to Article 7 (§ 33.2-1928 et seq.), construct or acquire, by purchase or lease, the transportation facilities specified in such transportation plan.

3. The commission may enter into agreements or leases with private companies for the operation of its facilities or may operate such facilities itself.

4. The commission may enter into contracts or agreements with the counties and cities within the transportation district, with counties and cities that adjoin the transportation district and are within the same planning district, or with other commissions of adjoining transportation districts to provide, or cause to be provided, transit facilities and service to such counties and cities or to provide transit facilities and other modes of transportation between adjoining transportation districts. Such contracts or agreements, together with any agreements or leases for the operation of such facilities, may be utilized by the transportation district to finance the construction and operation of transportation facilities, and such contracts, agreements, or leases shall inure to the benefit of any creditor of the transportation district.

However, except in any transportation district containing any or all of the Counties of Chesterfield, Hanover, and Henrico or the City of Richmond, being so delegated by the respective local governments, the commission shall not have the power to regulate services provided by taxicabs, either within municipalities or across municipal boundaries, which regulation is expressly reserved to the municipalities within which taxicabs operate. In any transportation district containing any or all of the Counties of Chesterfield, Hanover, and Henrico or the City of Richmond, the commission may, upon proper authority granted by the respective component governments, regulate services provided by taxicabs, either within localities or across county or city boundaries.

B. The Northern Virginia Transportation Commission:

1. Shall not prepare a transportation plan or construct or operate transit facilities, but shall collaborate and cooperate in the manner specified in Article 7 (§ 33.2-1928 et seq.) with an agency in preparing, revising, and amending a transportation plan for such metropolitan area.

2. Shall, according to Article 7 (§ 33.2-1928 et seq.) and in cooperation with the governing bodies of the component governments embraced by the transportation district, formulate the tentative policy and decisions of the transportation district with respect to the planning, design, location, construction, operation, and financing of transportation facilities.

3. May, when a transportation plan applicable to such a transportation district is adopted, enter into contracts or agreements with an agency to contribute to the capital required for the construction or acquisition of transportation facilities and for meeting expenses and obligations in the operations of such facilities.

4. May, when a transportation plan applicable to such transportation district is adopted, enter into contracts or agreements with the counties and cities within the transportation district to provide or cause to be provided transportation facilities and service to such counties and cities.

5. Notwithstanding any other provision in this section to the contrary:

a. May acquire land or any interest therein by purchase, lease, gift, condemnation, or otherwise and provide transportation facilities thereon for use in connection with any transportation service;

b. May acquire land or any interest therein by purchase, lease, gift, condemnation, or otherwise in advance of need for sale or contribution to an agency, for use by that agency in connection with an adopted mass transit plan;

c. May, in accordance with the terms of any grant from or loan by the United States of America or the Commonwealth, or any agency or instrumentality thereof, or when necessary to preserve essential transportation service, acquire transit facilities or any carrier that is subject to the jurisdiction of the Washington Metropolitan Area Transit Commission by acquisition of the capital stock or transit facilities and other assets of any such carrier and shall provide for the performance of transportation by any such carrier or with such transit facilities by contract or lease. However, the contract or lease shall be for a term of no more than one year, renewable for additional terms of similar duration, and, in order to assure acceptable fare levels, may provide for financial assistance by purchase of service, operating subsidies, or otherwise. No such service shall be rendered that will adversely affect transit service rendered by the transit facilities owned or controlled by the agency or any existing private transit or transportation company. When notified by the agency that it is authorized to perform or cause to be performed transportation services with motor vehicle facilities, the commission, upon request by the agency, shall transfer such capital stock or transit facilities to the agency at a price to be agreed upon; and

d. May prepare a plan for mass transportation services with cities, counties, agencies, authorities, or commissions and may further contract with transportation companies, cities, counties, commissions, authorities, agencies, and departments of the Commonwealth and appropriate agencies of the federal government or governments contiguous to the Commonwealth to provide necessary facilities, equipment, operations and maintenance, access, and insurance pursuant to such plan.

C. The provisions of subdivisions B 1 through 4 and subdivisions B 5 b and c shall not apply (i) to any transportation district that may be established on or after July 1, 1986, and that includes any one or more localities that are located within a metropolitan area, but that were not, on January 1, 1986, members of any other transportation district or (ii) to any locality that, after July 1, 1989, joins a transportation district that was established on or before January 1, 1986. The provisions of this subsection shall apply only to any transportation district or locality that is contiguous to the Northern Virginia Transportation District. Any such district or locality shall be subject to the provisions of

subsection A and further may exercise the powers granted by subdivision B 5 a to acquire land or any interest therein by purchase, lease, gift, condemnation, or otherwise and provide transportation facilities thereon for use in connection with any transportation service.

D. Until such time as a commission enters into contracts or agreements with its component governments under the provisions of subdivisions A 4 and B 4 and is receiving revenues thereunder adequate to meet the administrative expenses of the commission after paying or providing for the payment of the obligations arising under said subdivisions, the administrative expenses of the commission shall be borne by the component governments in the manner set forth in this section. The commission annually shall submit to the governing bodies of the component counties and cities a budget of its administrative requirements for the next year.

E. The administrative expenses of the Northern Virginia Transportation Commission, to the extent funds for such expenses are not provided from other sources, shall be allocated among the component governments on the basis of population as reflected by the latest population statistics of the U.S. Census Bureau; however, upon the request of any component government, the commission shall make the allocation upon estimates of population prepared in a manner approved by the commission and by the governing body of the component government making such request. The administrative expenses of the Northern Virginia Transportation Commission, to the extent funds for such expenses are not provided from other sources, shall be allocated among the component governments on the basis of the relative shares of state and federal transit aids allocated by the Commission among its component governments. Such budget shall be limited solely to the administrative expenses of the Commission and shall not include any funds for construction or acquisition of transportation facilities or the performing of transportation service. In addition, the Northern Virginia Transportation Commission annually shall submit to the governing bodies of the component counties and cities a budget of its other expenses and obligations for the ensuing year. Such expenses and obligations shall be borne by the component counties and cities in accordance with prior arrangements made therefor.

F. When a transportation plan has been adopted under subdivision 4 of § 33.2-1929, the commission shall determine the equitable allocation among the component governments of the costs incurred by the district in providing the transportation facilities proposed in the transportation plan and any expenses and obligations from the operation thereof to be borne by each county and city. In making such determinations, the commission shall consider the cost of the facilities located within each county and city, the population of each county and city, the benefits to be derived by each county and city from the proposed transportation service, and all other factors that the commission determines to be relevant. Such determination, however, shall not create a commitment by the counties and cities, and such commitments shall be created only under the contracts or agreements specified in subdivisions A 4 and B 4.

1964, c. 631, § 15.1-1357; 1970, c. 449; 1972, c. 791; 1974, cc. 161, 566; 1975, c. 6; 1976, c. 566; 1981, c. 444; 1985, c. 257; 1986, c. 438; 1987, c. 158; 1989, c. 150; 1991, c. 231; 1997, c. 587, § 15.1-4515; 2014, c. 805; 2015, c. 256.

§ 33.2-1916.Commission control of transportation district

The commission may exercise exclusive control, notwithstanding any provision of law to the contrary, of matters of regulation of fares, schedules, franchising agreements, and routing of transit facilities within the boundaries of its transportation district; however, the provisions of § 5.1-7 shall be applicable to airport commissions.

1972, c. 832, § 15.1-1357.1; 1973, c. 392; 1997, c. 587, § 15.1-4516; 2014, c. 805.

§ 33.2-1917.Protection of employees of public transportation systems

In any county or city, the commission referred to in § 33.2-1915, in addition to other prohibitions, shall not operate any such transit facility, or otherwise provide or cause to be provided any transportation services, unless fair and equitable arrangements have been made for the protection of employees of existing public transportation systems in the transportation district or in the metropolitan area in which the transportation district is located. Such protections shall include (i) assurances of employment to employees of such transportation systems to the fullest extent possible consistent with sound management, and priority of employment or, if terminated or laid off, reemployment; (ii) preservation of rights, privileges, and benefits, including continuation of pension rights and benefits, under existing collective bargaining agreements or otherwise; (iii) continuation of collective bargaining rights; (iv) protection of individual employees against a worsening of their positions with respect to their employment, to the extent provided by 49 U.S.C. § 5333 (b), also known as § 13(c) of the Federal Transit Act; and (v) paid training and retraining programs. Such protections shall be specified by the commission in any contract or lease for the acquisition or operation of any such transit facilities or services. The employees of any transit facility operated by the commission shall have the right, in the case of any labor dispute relating to the terms and conditions of their employment for the purpose of resolving such dispute, to submit the dispute to final and binding arbitration by an impartial umpire or board of arbitration acceptable to the parties.

1974, c. 53, § 15.1-1357.2; 1997, c. 587, § 15.1-4517; 2014, c. 805.

§ 33.2-1918.Background checks of applicants and employees

A. Any commission created pursuant to this chapter may require any individual who is offered a position of employment with the commission, or with any contractor of the commission when such individual is to be assigned to directly provide transit services to the public under a contract with the commission, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the individual's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information

regarding such individual. The commission shall bear all costs of obtaining criminal history record information regarding such individual, including expenses incurred by the State Police in connection with such fingerprinting or criminal records check. The commission may require such individual or contractor to reimburse the commission for the cost of the fingerprinting or a criminal records check or both.

B. The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall make a report to the commission's chief administrative officer, who must belong to a governmental entity. The information shall not be disseminated except as provided for in this section.

2010, cc. 189, 563, § 15.1-4517.1; 2014, c. 805.

§ 33.2-1919.Additional powers

Without limiting or restricting the general powers created by this chapter, the commission may:

1. Adopt and have a common seal and alter the seal at pleasure;

2. Sue and be sued;

3. Make regulations for the conduct of its business;

4. Make and enter into all contracts or agreements, as the commission may determine, that are necessary or incidental to the performance of its duties and to the execution of the powers granted under this chapter;

5. Apply for and accept loans and grants of money or materials or property at any time from the United States of America or the Commonwealth or any agency or instrumentality thereof, for itself or as an agent on behalf of the component governments or any one or more of them, and in connection therewith purchase or lease as lessor or lessee any transit facilities required under the terms of any such grant made to enable the commission to exercise its powers under subdivision B 5 of § 33.2-1915;

6. In the name of the commission, and on its behalf, acquire, hold, and dispose of its contract or other revenues;

7. Exercise any power usually possessed by private corporations, including the right to expend, solely from funds provided under this chapter, such funds as may be considered by the commission to be advisable or necessary in the performance of its duties and functions;

8. Employ engineers, attorneys, other professional experts and consultants, and general and clerical employees deemed necessary and prescribe their powers and duties and fix their compensation;

9. Do anything authorized by this chapter under, through, or by its own officers, agents, and employees, or by contracts with any persons;

10. Execute instruments and do anything necessary, convenient, or desirable for the purposes of the commission or to carry out the powers expressly given in this chapter;

11. Institute and prosecute any eminent domain proceedings to acquire any property authorized to be acquired under this title in accordance with the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 and subject to the approval of the State Corporation Commission pursuant to § 25.1-102;

12. Invest in if required as a condition to obtaining insurance, participate in, or purchase insurance provided by foreign insurance companies that insure railroad operations, provided this power is available only to those commissions that provide rail services;

13. Notwithstanding the provisions of § 8.01-195.3, contract to indemnify, and to obtain liability insurance to cover such indemnity, any person who is liable, or who may be subjected to liability, regardless of the character of the liability, as a result of the exercise by a commission of any of the powers conferred by this chapter. No obligation of a commission to indemnify any such person shall exceed the combined maximum limits of all liability policies, as defined in subsection C of § 33.2-1927, maintained by the commission; and

14. Notwithstanding any other contrary provision of law, regulate traffic signals and other traffic control devices within the district, through the use of computers and other electronic communication and control devices, so as to effect the orderly flow of traffic and to improve transportation services within the district; however, an agreement concerning the operation of traffic control devices acceptable to all parties shall be entered into between the commission and the Department and all the counties and cities within the transportation district prior to the commencement of such regulation.

1964, c. 631, § 15.1-1358; 1966, c. 419; 1970, c. 449; 1974, c. 529, § 15.1-1357.3; 1988, c. 834; 1997, c. 587, § 15.1-4518; 2003, c. 940; 2014, c. 805.

§ 33.2-1920.Authority to issue bonds and other obligations

A. 1. A transportation district may issue bonds or other interest-bearing obligations, as provided in this chapter, for any of its purposes and pay the principal and interest thereon from any of its funds, including any moneys paid to or otherwise received by the district pursuant to any law enacted or any contract or agreement or any grant, loan, or contribution authorized by this chapter. For the purposes of this chapter, bonds include bonds, notes, and other interest-bearing obligations, including notes issued in anticipation of the sale and issuance of bonds.

2. Neither the members of a transportation district nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of a district (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof, and only the district shall be liable thereon. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction except as provided under this section.

B. 1. Bonds of a transportation district shall be authorized by resolution, may be issued in one or more series, shall be dated, shall mature at such times not exceeding 40 years from their dates, shall bear interest at rates determined by the commission, and may be made redeemable before maturity, at the option of the commission at such price or prices and under such terms as the commission fixes prior to issuing the bonds. The commission shall determine the form of the bonds, including any interest coupons to be attached and the manner of execution of the bonds, and shall fix the denominations of the bonds and the places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. If any officer whose signature or facsimile signature appears on any bonds or coupons ceases to be such officer before delivery of such bond, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provisions of this article or any recitals in any bonds issued under the provisions of this article, all such bonds shall be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The transportation district may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be for the best interests of the district. A transportation district is authorized to enter into indentures or agreements with respect to all such matters, and such indentures or agreements may contain such other provisions as the commission may deem reasonable and proper for the security of the bondholders. The resolution may provide that the bonds shall be payable from and secured by all or any part of the revenues, moneys, or funds of the district as specified therein. Such pledge shall be valid and binding from the time the pledge is made, and such revenues, moneys, and funds so pledged and thereafter received by the district shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the district, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the district. All expenses incurred in carrying out the provisions of such indentures or agreements may be treated as a purpose of the transportation district. A transportation district may issue refunding bonds for the purpose of redeeming or retiring any bonds before or at maturity, including the payment of any premium, accrued interest, and costs or expenses thereof.

2. Prior to the preparation of definitive bonds a transportation district may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. A transportation district may also provide for the replacement of any bonds that have been mutilated, destroyed, or lost.

3. Bonds may be issued pursuant to this article without obtaining the consent of any commission, board, bureau, or agency of the Commonwealth or of any governmental subdivision, and without any referendum, other proceedings, or the happening of other conditions except for those proceedings or conditions that are specifically required by this article.

C. Any holder of bonds, notes, certificates, or other evidence of borrowing issued under this article or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, except to the extent of the rights given in this article may be restricted by such trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this article or under such trust indenture or agreement or the resolution authorizing the issuance of such bonds, notes, or certificates, and may enforce and compel the performance of all duties required by this article or by such trust indenture or agreement or resolution to be performed by the transportation district or by any officer or agent thereof.

D. The exercise of the powers granted by this article shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the promotion of their safety, health, welfare, convenience, and prosperity, and any facility or service that a transportation district is authorized to provide will constitute the performance of an essential governmental function. The bonds of a district are declared to be issued for an essential public and governmental purpose and their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any governmental subdivision thereof.

E. Bonds issued by a transportation district under this article are securities in which all public officers and public bodies of the Commonwealth and its governmental subdivisions and all insurance companies, trust companies, banks, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are securities that may properly and legally be deposited with and received by any state or local officer or any agency or governmental subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

1968, c. 551, § 15.1-1358.2; 1972, c. 791; 1997, c. 587, § 15.1-4519; 2014, c. 805.

§ 33.2-1921.Judicial determination of validity of bonds

The provisions of Article 6 (§ 15.2-2650 et seq.) of Chapter 26 of Title 15.2 apply to all suits, actions, and proceedings of whatever nature involving the validity of bonds issued by a transportation district under the provisions of this article.

1968, c. 551, § 15.1-1358.3; 1997, c. 587, § 15.1-4520; 2014, c. 805.

§ 33.2-1922.Contracts and payment thereof

A. Any county or city embraced by a transportation district is authorized to enter into contracts or agreements with the commission for such transportation district, or with an agency, pursuant to which such transportation district, subject to the limitations contained in this section, or such agency undertakes to provide the transportation facilities specified in a duly adopted transportation plan or to render transportation service. Any obligations arising from such contracts are deemed to be for a public purpose and may be paid for, in the discretion of each county or city, in whole or in part, by appropriations from general revenues or from the proceeds of a bond issue or issues; however, any such contract must specify the annual maximum obligation of any county or city for payments to meet the expenses and obligations of the transportation district or such agency or provide a formula to determine the payment of any such county or city for such expenses and obligations. Each county or city desiring to contract with a transportation district or an agency is authorized to do so, provided it complies with the appropriate provisions of law, and thereafter is authorized to do everything necessary or proper to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations.

B. Except as otherwise provided by law:

1. No bonded debt shall be contracted by any county to finance the payment of any obligations arising from its contracts hereunder unless the voters of such county shall approve by a majority vote of the voters voting in an election the contracting of any such debt, the borrowing of money, and issuance of bonds. Such debt shall be contracted and bonds issued and such election shall be held in the manner provided in and subject to the provisions of the Public Finance Act (§ 15.2-2600 et seq.) relating to counties; and

2. The contracting of debt, borrowing of money, and issuance of bonds by any city to finance the payment of any obligations arising from its contracts hereunder shall be effected in the manner provided in and subject to the provisions of the Public Finance Act (§ 15.2-2600 et seq.) relating to cities.

1964, c. 631, § 15.1-1359; 1968, c. 363; 1997, c. 587, § 15.1-4521; 2014, c. 805.

§ 33.2-1923. Venue

Every such contract shall be enforceable by the transportation district with which the contract is made, as provided under the laws of the Commonwealth, and, if any such contract is entered into with an agency or is relied upon in a contract between a commission and any such agency, the agency also shall have the right to enforce the contract. The venue for actions on any contract between a transportation district and a component government shall be as specified in subdivision 10 of § 8.01-261. Venue in all other matters arising hereunder shall be as provided by law.

1964, c. 631, § 15.1-1360; 1977, c. 624; 1997, c. 587, § 15.1-4522; 2014, c. 805.

§ 33.2-1924.Acquisition of median strips for transit facilities in interstate highways

When the district commission, the Commonwealth Transportation Board, and the governing bodies of the component governments determine that the time schedule for construction of any interstate highway, as defined in § 33.2-100, within the district makes it necessary to acquire median strips for transit facilities in such highway prior to the adoption of a transportation plan, each county and city within the district is authorized to pay to the Commonwealth Transportation Board such sums as may be agreed upon among the district commission and such counties and cities to provide the Commonwealth Transportation Board with the necessary matching funds to acquire the median strips. Any such acquisition shall be made by and in the name of the Commonwealth Transportation Board.

1964, c. 631, § 15.1-1361; 1997, c. 587, § 15.1-4523; 2014, c. 805.

§ 33.2-1925.Appropriations

The governing bodies of counties and cities participating in a transportation district are authorized to appropriate funds for the administrative and other expenses and obligations (i) of the commission of the transportation district, as provided in subsection D of § 33.2-1915, (ii) of an agency, and (iii) for such other purposes as may be specified in a law creating a transportation district.

1964, c. 631, § 15.1-1362; 1970, c. 449; 1997, c. 587, § 15.1-4524; 2014, c. 805.

§ 33.2-1926.Powers granted are in addition to all other powers

The powers conferred by this chapter on counties and cities are in addition and supplemental to the powers conferred by any other law, and may be exercised by resolution or ordinance of the governing bodies thereof, as required by law, without regard to the terms, conditions, requirements, restrictions, or other provisions contained in any other law, general or special, or in any charter.

1964, c. 631, § 15.1-1363; 1997, c. 587, § 15.1-4525; 2014, c. 805.

§ 33.2-1927.Liabilities of Commonwealth, counties, and cities

A. Except for claims cognizable under the Virginia Tort Claims Act, Article 18.1 (§ 8.01-195.1 et seq.) of Chapter 3 of Title 8.01, no pecuniary liability of any kind shall be imposed on the Commonwealth or upon any county or city constituting any part of any transportation district because of any act, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the commission of such transportation district, or any commission member, or its agents, servants, and employees, except as otherwise provided in this chapter with reference to contracts and agreements between the commission or interstate agency and any county or city.

B. Except for claims cognizable under the Virginia Tort Claims Act, Article 18.1 (§ 8.01-195.1 et seq.) of Chapter 3 of Title 8.01, the obligations and any indebtedness of a commission shall not be in any way a debt or liability of the Commonwealth, or of any county or city in whole or in part embraced by the transportation district, and shall not create or constitute any indebtedness, liability, or obligation of the Commonwealth or of any such county or city, legal, moral, or otherwise, and nothing in this

chapter contained shall be construed to authorize a commission or district to incur any indebtedness on behalf of or in any way to obligate the Commonwealth or any county or city in whole or in part embraced by the transportation district; however, any contracts or agreements between the commission and any county or city provided for in subdivisions A 4 and B 4 of § 33.2-1915 shall inure to the benefit of any creditor of the transportation district or, when applicable, to an agency as therein provided.

C. For purposes of this section, "liability policy," as it is used in the Virginia Tort Claims Act, specifically includes any program of self-insurance maintained by a district and administered by the Department of the Treasury's Division of Risk Management.

1964, c. 631, § 15.1-1364; 1986, c. 584; 1987, c. 383; 1997, c. 587, § 15.1-4526; 2014, c. 805.

§ 33.2-1928.Planning process

A. In performing the duties imposed under subsections A and B of § 33.2-1915, the commission shall cooperate with the governing bodies of the counties and cities embraced by the transportation district and agencies thereof, with the Commonwealth Transportation Board, and with an agency of which members of the district commission are also members, to the end that the plans, decisions, and policies for transportation shall be consistent with and shall foster the development and implementation of the general plans and policies of the counties and cities for their orderly growth and development.

B. Each commission member shall serve as the liaison between the commission and the body by which he was appointed, and those commission members who are also members of an agency shall provide liaison between the district commission and such agency, to the end that the district commission, its component governments, the Commonwealth Transportation Board, and any such agency shall be continuously, comprehensively, and mutually advised of plans, policies, and actions requiring consideration in the planning for transportation and in the development of planned transportation facilities.

C. To assure that planning, policy, and decision-making are consistent with the development plans for the orderly growth of the counties and cities and coordinated with the plans and programs of the Commonwealth Transportation Board and are based on comprehensive data with respect to current and prospective local conditions, including land use, economic and population factors, the objectives for future urban development, and future travel demands generated by such considerations, the commission may:

1. Create, subject to their appointment, technical committees from the personnel of the agencies of the counties and cities and from the Commonwealth Transportation Board concerned with planning, collection, and analysis of data relevant to decision-making in the transportation planning process.

Appointments to such technical committees, however, are to be made by the governing bodies of the counties and cities and by the Commonwealth Transportation Board; or

2. If the transportation district is located within an area that has an organized planning process created in conformance with the provisions of 23 U.S.C. § 134, utilize the technical committees created for such planning process.

D. The commission, on behalf of the counties and cities within the transportation district, but only upon their direction, is authorized to enter into the written agreements specified in 23 U.S.C. § 134 to assure conformance with the requirements of that law for continuous, comprehensive transportation planning.

1964, c. 631, § 15.1-1365; 1997, c. 587, § 15.1-4527; 2014, c. 805.

§ 33.2-1929.Procedures

To ensure that the planning process specified in § 33.2-1928 is effectively and efficiently utilized, the commission shall conform to the following procedures and may prescribe such additional procedures as it deems advisable:

1. Commission meetings shall be held at least monthly and more often in the discretion of the commission, as the proper performance of its duties requires.

2. At such meetings the commission shall receive and consider reports from:

a. Its members who are also members of an agency, as to the status and progress of the work of such agency, and if the commission deems that such reports are of concern to them, shall fully inform its component governments, committees, and the Commonwealth Transportation Board with respect thereto, as a means of developing the informed views requisite for sound policy-making; and

b. Its members, technical and other committees, members of the governing bodies of the component governments, and consultants, presenting and analyzing studies and data on matters affecting the making of policies and decisions on a transportation plan and the implementation thereof.

3. The objective of the procedures specified in this section is to develop agreement, based on the best available information, among the district commission, the governing bodies of the component governments, the Commonwealth Transportation Board, and an interstate agency with respect to the various factors that affect the making of policies and decisions relating to a transportation plan and the implementation thereof. If any material disagreements occur in the planning process with respect to objectives and goals, the evaluation of basic data, or the selection of criteria and standards to be applied in the planning process, the commission shall exert its best efforts to bring about agreement and understanding on such matters. The commission may hold hearings in an effort to resolve any such basic controversies.

4. Before a transportation plan is adopted, altered, revised, or amended by the commission or by an agency on which it is represented, the commission shall transmit such proposed plan, alteration,

revision, or amendment to the governing bodies of the component governments, to the Commonwealth Transportation Board, and to its technical committees and shall release to the public information with respect thereto. A copy of the proposed transportation plan, amendment, or revision shall be kept at the commission office and shall be available for public inspection. Upon 30 days' notice, published once a week for two successive weeks in one or more newspapers of general circulation within the transportation district, a public hearing shall be held on the proposed plan, alteration, revision, or amendment. The 30 days' notice period shall begin to run on the first day the notice appears in any such newspaper. The commission shall consider the evidence submitted and statements and comments made at such hearings and, if objections in writing to the whole or any part of the plan are made by the governing body of any component government, or by the Commonwealth Transportation Board, or if the commission considers any written objection made by any other person, group, or organization to be sufficiently significant, the commission shall reconsider the plan, alteration, revision, or amendment. If, upon reconsideration, the commission agrees with the objection, then the commission shall make appropriate changes to the proposed plan, alteration, revision, or amendment and may adopt them without further hearing. If, upon reconsideration, the commission disagrees with the objection, the commission may adopt the plan, alteration, revision, or amendment. No facilities shall be located in and no service rendered, however, within any county or city that does not execute an appropriate agreement with the commission or with an interstate agency as provided in § 33.2-1922; but in such case, the commission shall determine whether the absence of such an agreement so materially and adversely affects the feasibility of the transportation plan as to require its modification or abandonment.

1964, c. 631, § 15.1-1366; 1997, c. 587, § 15.1-4528; 2014, c. 805; 2015, c. 256.

§ 33.2-1930. Procedure for enlargement

A transportation district may be enlarged to include any additional county or part thereof, or city or part thereof, contiguous thereto, upon such terms and conditions, consistent with the provisions of this chapter, as may be agreed upon by the commission and such additional county or city and in conformance with the following procedures. The governing body of the county or city shall adopt an ordinance specifying the area to be enlarged, containing the finding specified in § 33.2-1903 and a statement that a contract or agreement between the county or city and the commission specifying the terms and conditions of admittance to the transportation district has been executed. The ordinance, to which shall be attached a certified copy of the contract, shall be filed with the Secretary of the Commonwealth. Upon certification by the Secretary of the Commonwealth to the Tax Commissioner, the commissioner, and the governing bodies of each of the component counties and cities that the ordinance required by this section has been filed and that its terms conform to the requirements of this section, the additional county or part thereof, or city or part thereof, upon the entry of such certification

in the minutes of the proceedings of the governing body of such county or city, shall become a component government of the transportation district and part of the transportation district.

1964, c. 631, § 15.1-1367; 1974, c. 566; 1975, c. 405; 1997, c. 587, § 15.1-4529; 2006, c. 354; 2014, c. 805.

§ 33.2-1931.Resolution or ordinance

A county or city may withdraw from the transportation district by resolution or ordinance, as may be appropriate, adopted by a majority vote of its governing body. The withdrawal of any county or city shall not be effective until the resolution or ordinance of withdrawal is filed with the transportation district commission and with the Secretary of the Commonwealth.

1964, c. 631, § 15.1-1368; 1997, c. 587, § 15.1-4530; 2014, c. 805.

§ 33.2-1932.Financial obligations

The withdrawal from the transportation district of any county or city shall not relieve the county or city from any obligation or commitment made or incurred while a district member.

1964, c. 631, § 15.1-1369; 1997, c. 587, § 15.1-4531; 2014, c. 805.

§ 33.2-1933.Public purpose; exemption from taxation

It is hereby found, determined, and declared that the creation of any transportation district pursuant to this chapter and the carrying out of the corporate purposes of any such transportation district is in all respects for the benefit of the people of the Commonwealth and is a public purpose and that the transportation district and the commission will be performing an essential governmental function in the exercise of the powers conferred by this chapter. Accordingly, the transportation district shall not be required to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession, or supervision or upon its activities in the operation and maintenance of any transportation facilities or upon any revenues therefrom, and the property and the income derived therefrom shall be exempt from all state, municipal, and local taxation. This exemption shall include all motor vehicle license fees, motor vehicle sales and use taxes, retail sales and use taxes, and motor fuel taxes. The governing body of any political subdivision within a transportation district may refund in whole or in part any payments for taxes or license fees or abate in whole or in part any assessments for taxes or license fees on any property exempt from taxation or license fees under this section that were assessed and levied prior to the acquisition of any transportation facilities by a transportation district.

1964, c. 631, § 15.1-1370; 1975, c. 486; 1997, c. 587, § 15.1-4532; 2014, c. 805.

§ 33.2-1934.Liability for torts

Every district shall be liable for its torts and those of its officers, employees, and agents committed in the conduct of any proprietary function but shall not be liable for any torts occurring in the performance

of a governmental function. However, this section shall not apply to a transportation district subject to the provisions of the Virginia Tort Claims Act (§ 8.01-195.1 et seq.).

1964, c. 631, § 15.1-1371; 1986, c. 584; 1991, c. 23; 1997, c. 587, § 15.1-4533; 2014, c. 805.

§ 33.2-1935.Liberal construction

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

1964, c. 631, § 15.1-1372; 1997, c. 587, § 15.1-4534; 2014, c. 805.

§ 33.2-1936.Transportation districts with unique needs

The General Assembly finds that transportation districts that (i) have a population of 1.7 million or more, as shown by the most recent United States Census, (ii) have not less than 1.5 million motor vehicles registered therein, and (iii) have a total transit ridership of not less than 75 million riders per year across all transit systems within the transportation district and in which a rapid heavy rail commuter mass transportation system operating on an exclusive right-of-way and a bus commuter mass transportation system are owned, operated, or controlled by an agency or commission as defined in § 33.2-1901 have unique transportation needs.

2018, cc. 854, 856.

Twin County Airport Commission

Created

1964 Acts of Assembly, c. 379.

Amendments

2009, c. 232 (§ 1)

§ 1. There is hereby created a Commission to be known as the Twin County Airport Commission. The Commission shall be composed of six members, two of whom shall be selected by each of the governing bodies of the counties of Carroll and Grayson and two of whom shall be selected by the council of the city of Galax. Each of the members shall serve at the pleasure of the governing body appointing him and shall receive such compensation, if any, as shall be determined by the appointing authority. (1964, c. 379; 2009, c. 232)

§ 2. The Commission may, on behalf of the respective counties, towns and city, exercise any of the powers and perform any of the duties set forth in article 1 of chapter 3 of Title 5 of the Code of Virginia, including, but not limited to, acceptance and expenditures of funds from any source, public or private, for the purposes set forth in such article. (1964, c. 379)

Vienna Parking Authority

Created
1991 Acts of Assembly, c. 446.

§ 1. Short title.
This act shall be known and may be cited as the "Vienna Parking Authority Act." (1991, c. 446)

§ 2. Declaration of public necessity.
It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the Town of Vienna in the Commonwealth is necessary to the health, safety and general welfare of the public, whether residing in the municipality or traveling to, through, or from such municipality in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of the municipality; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the present time a public nuisance; that such parking prevents the free circulation of traffic in, through, and from the municipality, and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions for sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided; and that the enactment of the provisions of this act is hereby declared to be a public necessity. (1991, c. 446)

§ 3. Definitions.
As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

"Authority" means the Authority created under the provisions of this act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the Authority shall be given by law.

"Bonds" or "revenue bonds" means revenue bonds, revenue refunding bonds or notes of the Authority issued under the provisions of this act.

"Cost," as applied to parking facilities or to extensions or additions thereto, includes the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and interests acquired by the Authority for such construction or reconstruction or the operations thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during construction, and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal services, cost of plans and specifications, surveys and estimates of cost and of revenues, administrative expense and such other expenses as may be necessary or incident to such construction or reconstruction, the

financing thereof and the placing of the parking facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

"Governing body" means the council or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.

"Municipality" means the Town of Vienna in the Commonwealth of Virginia.

"Parking facilities" means and includes lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to public use either free or for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and busses, waiting rooms, lockers, and offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the construction or operation thereof; however, the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles. (1991, c. 446)

§ 4. Creation of the Authority.

A. The governing body of the municipality may by resolution signify its determination to organize an Authority under the provisions of this act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than ten days prior to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereon. Such municipality shall not be required to make any other publication of such resolution under the provisions of any other law.

B. Such resolution shall include articles of incorporation which shall set forth:

1. The name of the Authority;

2. A statement that such Authority is organized under this act;

3. The name of the organizing municipality; and

4. The names and addresses of the first members of the Authority appointed by the organizing municipality.

C. Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the Commonwealth of Virginia. (1991, c. 446)

§ 5. Membership of the Authority.

The Authority organized under the provisions of this act shall consist of five members selected by the governing body of the organizing municipality who shall serve for terms expiring one, two, three, four, and five years, respectively, from the date of appointment, the term of each such member to be designated by the governing body. The successor of each member of the Authority shall be appointed for a term of five years; any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Board before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Board.

The Board shall select one of its members as Chairman and another as Vice Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice Chairman, Secretary and Treasurer shall be as provided in the bylaws of the Authority.

A majority of the members of the Board shall constitute a quorum and the affirmative vote of a majority of all of the members of the Board shall be necessary for any action taken by the Authority. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all of the duties of the Authority. The members of the Board shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties.

The Town Manager of the organizing municipality or his designee shall serve as an ex officio, nonvoting member of the Authority. (1991, c. 446)

§ 6. General grant of powers.

The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and such Authority is hereby authorized and empowered to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;
2. Adopt an official seal and alter the same at pleasure;
3. Maintain an office at such place or places as it may designate;
4. Sue and be sued in its own name, plead and be impleaded;
5. Construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of the organizing municipality;

6. Issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;

7. Issue revenue refunding bonds of the Authority as hereinafter provided;

8. Fix and revise from time to time and charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time regulation in respect of the use, operation and occupancy of such parking facilities or part thereof;

9. Acquire in the name of the Authority by gift, or purchase, any lands or rights in lands and interest herein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facility;

10. Lease all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this act; however, no enterprise involving the sale or dispensing of any product or commodity used in or for the servicing of motor vehicles shall be conducted on any space thereon;

11. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; however, all such expenses shall be payable solely from funds made available under the provisions of this act;

12. Do all acts and things necessary or convenient to carry out the powers granted by this act;

13. Make and enter into all contracts with competition with respect to any item of cost of parking facilities, including parking structures; and

14. Sell, exchange, donate, and convey any or all of its facilities or properties whenever its members shall find any such action to be in furtherance of the purposes for which the Authority was organized. (1991, c. 446)

§ 7. Revenue bonds.

The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving, extending, enlarging, maintaining, repairing or operating any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates not exceeding the maximum rate allowed by

law, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In any case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interest of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than the maximum rate allowed by law to be paid by public bodies, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision,

and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth or of any municipality or other political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any municipality or other political subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds. (1991, c. 446)

§ 8. Revenues.

The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by any parking facilities or parts thereof owned or operated by the Authority. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all times to (i) pay the cost of maintaining, repairing and operating the parking facilities or parts thereof owned or operated by the Authority, including reserves for such purposes, and (ii) pay the principal of and the interest on all bonds issued by the Authority under the provisions of this act as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the Authority may enter into contracts relating to use of the services and facilities of the parking facilities on such terms as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms. (1991, c. 446)

§ 9. Trust agreement.

In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received. In connection with the issuance of such bonds or in order to secure the payment thereof, the Authority shall have power under such agreement to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, to vest in the trustee thereunder the right to foreclose such mortgage and to provide the terms and conditions upon which such trustee or the holders of bonds or any proportion thereof may exercise the right of foreclosure. Such trust agreement or resolution providing for the issuance for such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody,

safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this act otherwise provided, the Authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any parking facilities or part thereof to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this act shall be valid and binding from the time when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledges without any physical delivery thereof, or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. (1991, c. 446)

§ 10. Trust funds.

All moneys received pursuant to the authority of this act shall be deemed to be trust funds, to be held and applied solely as provided in this act. Any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purpose hereof, subject to such regulations as this act and the resolution authorizing the issuance of bonds or trust agreement securing such bonds may provide. (1991, c. 446)

§ 11. Remedies.

Any holder of revenue bonds issued under the provisions of this act and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of rates, rentals, fees and charges for the use of or for the services and facilities furnished by any parking facilities. (1991, c. 446)

§ 12. Exemption from taxation.

As adequate off-street parking facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this act to effect such purposes constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the Commonwealth. (1991, c. 446)

§ 13. Revenue refunding bonds.

The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (i) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (ii) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions or enlargements of any parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the foregoing provisions of this act insofar as the same may be applicable. (1991, c. 446)

§ 14. Competing parking facilities.

So long as any bonds issued under the provisions of this act are outstanding, the municipality shall not construct, operate or maintain any parking facilities competing with parking facilities of the Authority. (1991, c. 446)

§ 15. Contributions.

The municipality is hereby authorized to make contributions or advances to an Authority which it organizes under the provisions of this act from any available moneys for any purpose of the Authority, including payment of principal and interest on its bonds. The municipality is hereby further authorized to enter into agreements with the Authority obligating the municipality to pay the Authority any part or all of the receipts from the operation of on-street parking meters and making such covenants as may be deemed necessary or desirable to ensure the successful and profitable operation of the on-street parking meters for so long as any bonds of the Authority remain outstanding. (1991, c. 446)

§ 16. Actions taken by Authority.

Any action taken by the Authority under the provisions of this act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately and need not be published or posted. (1991, c. 446)

§ 17. Additional method.

This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; however, the issuance of revenue bonds or revenue refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds. (1991, c. 446)

§ 18. Severability.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (1991, c. 446)

§ 19. Construction.

This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof. (1991, c. 446)

Virginia Commonwealth University Health System Authority

§ 23.1-2400.Definitions

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Commonwealth University Health System Authority.

"Board" means the board of directors of the Authority.

"Bonds" means bonds, notes, revenue certificates, lease participation certificates, or other evidences of indebtedness or deferred purchase financing arrangements.

"Chief executive officer" means the chief executive officer of the Virginia Commonwealth University Health System Authority.

"Costs" means (i) costs of (a) construction, reconstruction, renovation, site work, and acquisition of lands, structures, rights-of-way, franchises, easements, and other property rights and interests; (b) demolition, removal, or relocation of buildings or structures; (c) labor, materials, machinery, and all other kinds of equipment; (d) engineering and inspections; (e) financial, legal, and accounting services; (f) plans, specifications, studies, and surveys; (g) estimates of costs and of revenues; (h) feasibility studies; and (i) issuance of bonds, including printing, engraving, advertising, legal, and other similar expenses; (ii) financing charges; (iii) administrative expenses, including administrative expenses during the start-up of any project; (iv) credit enhancement and liquidity facility fees; (v) fees for interest rate caps, collars, swaps, or other financial derivative products; (vi) interest on bonds in connection with a project prior to and during construction or acquisition thereof and for a period not exceeding one year thereafter; (vii) provisions for working capital to be used in connection with any project; (viii) redemption premiums, obligations purchased to provide for the payment of bonds being refunded, and other costs necessary or incident to refunding of bonds; (ix) operating and maintenance reserve funds, debt reserve funds, and other reserves for the payment of principal and interest on bonds; (x) all other expenses necessary, desirable, or incidental to the operation of the Authority's facilities or the construction, reconstruction, renovation, acquisition, or financing of projects, other facilities, or equipment appropriate for carrying out the purposes of this chapter and the placing of the same in operation; or (xi) the refunding of bonds.

"Hospital facilities" means all property or rights in property, real and personal, tangible and intangible, including all facilities suitable for providing hospital and health care services and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities owned, leased, operated, or used, in whole or in part, by Virginia Commonwealth University as part of, or in connection with, MCV Hospitals in the normal course of its operations as a teaching, research, and medical treatment facility.

"Hospital obligations" means all debts or other obligations, contingent or certain, owing to any person or other entity on the transfer date, arising out of the operation of MCV Hospitals as a medical treatment facility or the financing or refinancing of hospital facilities and including all bonds and other debts for the purchase of goods and services, whether or not delivered, and obligations for the delivery of services, whether or not performed.

"Project" means any health care, research, or educational facility or equipment necessary or convenient to or consistent with the purposes of the Authority, whether owned by the Authority, including hospitals; nursing homes; continuing care facilities; self-care facilities; wellness and health maintenance centers; medical office facilities; clinics; outpatient clinics; surgical centers; alcohol, substance abuse, and drug treatment centers; laboratories; sanitariums; hospices; facilities for the residence or care of the elderly, the handicapped, or the chronically ill; residential facilities for nurses, interns, and physicians; other kinds of facilities for the treatment of sick, disturbed, or infirm individuals, the prevention of disease, or maintenance of health; colleges, schools, or divisions offering undergraduate or graduate programs for the health professions and sciences and such other courses of study as may be appropriate, together with research, training, and teaching facilities; all necessary or desirable related and supporting facilities and equipment or equipment alone, including (i) parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational facilities; (ii) power plants and equipment; (iii) storage space; (iv) mobile medical facilities; (v) vehicles; (vi) air transport equipment; and (vii) other equipment necessary or desirable for the transportation of medical equipment, medical personnel, or patients; and all lands, buildings, improvements, approaches, and appurtenances necessary or desirable in connection with or incidental to any project.

"Transfer date" means a date or dates agreed to by the board of visitors of Virginia Commonwealth University and the Authority for the transfer of employees to the Authority and for the transfer of hospital facilities, or any parts thereof, to and the assumption, directly or indirectly, of hospital obligations by the Authority, which dates for the various transfers and the various assumptions may be different, but in no event shall any date be later than June 30, 1997.

"University" means Virginia Commonwealth University.

1996, cc. 905, 1046, § 23-50.16:4; 2000, c. 720; 2016, c. 588.

§ 23.1-2401.Authority established; powers, purposes, and duties

A. The Virginia Commonwealth University Health System Authority is established as a public body corporate, public instrumentality, and political subdivision of the Commonwealth with such public and corporate powers as are set forth in this chapter.

B. The purpose of the Authority is to exercise public and essential governmental functions to provide for the health, welfare, convenience, knowledge, benefit, and prosperity of the residents of the

Commonwealth and such other individuals who might be served by the Authority by delivering and supporting the delivery of medical care and related services to such residents and individuals, providing educational opportunities in the medical field and related disciplines, conducting and facilitating research in the medical field and related disciplines, and enhancing the delivery of health care and related services to the Commonwealth's indigent population. The Authority may perform such public and essential government functions with the power and purpose to:

1. Provide health care, including indigent care, to protect and promote the health and welfare of the citizens of the Commonwealth;

2. Serve as a high-quality teaching hospital to provide and promote health care by educating medical and health sciences professionals, providing medical services not widely available in the Commonwealth, and treating patients of the type and on the scale necessary to facilitate medical research and attract physicians, faculty members, researchers, and other individuals necessary to maintain quality medical and health sciences education;

3. Facilitate and support the health education, research, and public service activities of the Health Sciences Schools of the University;

4. Serve as the principal teaching and training hospital for undergraduate and graduate students of the Health Sciences Schools of the University;

5. Provide a site for faculty members of the Health Sciences Schools of the University to conduct medical and biomedical research; and

6. Operate and manage general hospital and other health care facilities, engaging in specialized management and operational practices to remain economically viable, earning revenues necessary for operations, and participating in arrangements with public and private entities and other activities, taking into account changes that have occurred or may occur in the future in the provision of health care and related services.

C. The Authority shall operate, maintain, and expand, as appropriate, teaching hospitals and related facilities for the benefit of the Commonwealth and its citizens and such other individuals who might be served by the Authority.

1996, cc. 905, 1046, §§ 23-50.16:2, 23-50.16:3; 2000, c. 720; 2016, c. 588.

§ 23.1-2402.Board of directors; membership; meetings; officers; employees

A. The Authority shall be governed by a board of directors with a total of 21 members that consists of 19 appointed members and two ex officio members. The 19 appointed members shall consist of six nonlegislative citizen members to be appointed by the Governor, of whom two shall be physician-faculty members; five members to be appointed by the Speaker of the House of Delegates, of whom two shall be physician-faculty members; three members to be appointed by the Senate Committee on

Rules, of whom one shall be a physician-faculty member; and five nonlegislative citizen members of the board of visitors of the University to be appointed by the rector of the board of visitors of the University, all of whom shall be members of the board of visitors of the University at all times while serving on the board. The President of the University and the Vice-President for Health Sciences of the University, or the individual who holds such other title as subsequently may be established by the board of visitors of the University for the chief academic and administrative officer for the Health Sciences Schools of the University, shall serve ex officio with voting privileges.

All appointed members except those who are members of the board of visitors of the University shall have demonstrated experience or expertise in business, health care management, or legal affairs.

B. The five appointed physician-faculty members shall be faculty members of the University with hospital privileges at MCV Hospitals at all times while serving on the board.

C. The Governor, the Speaker of the House of Delegates, and the Senate Committee on Rules shall appoint physician-faculty members after consideration of names from lists submitted by the faculty physicians of the School of Medicine of the University through the Vice-President for Health Sciences of the University. The list shall contain at least two names for each vacancy.

D. Members shall serve for terms of three years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member shall serve for more than two consecutive three-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive three-year terms. Members who serve two consecutive three-year terms are eligible for reappointment one year after the expiration of their second term. All appointments are subject to confirmation by the General Assembly. Members shall continue to hold office until their successors have been appointed and confirmed. Ex officio members shall serve a term coincident with their term of office.

E. Neither the board members appointed from the board of visitors of the University nor the ex officio members shall vote on matters that require them to breach their fiduciary duties to the University or to the Authority.

F. Any member may be removed for malfeasance, misfeasance, incompetence, or gross neglect of duty by the individual or entity that appointed him or, if such appointing individual no longer holds the office creating the right of appointment, by the current holder of that office.

G. The president of the University shall serve as the chairman of the board. The board shall elect annually a vice-chairman from among its membership. The board shall also elect a secretary and treasurer and such assistant secretaries and assistant treasurers as the board may authorize for terms determined by the board, each of whom may or may not be a member of the board. The same individual may serve as both secretary and treasurer.

H. The board may appoint an executive committee and other standing or special committees and prescribe their duties and powers, and any executive committee may exercise all such powers and duties of the board under this chapter as the board may delegate.

I. The board may provide for the appointment, employment, term, compensation, and removal of officers, employees, and agents of the Authority, including engineers, consultants, lawyers, and accountants, as the board deems appropriate.

J. The board shall meet at least four times each year and may hold such special meetings as it deems appropriate.

K. The board may adopt, amend, and repeal such policies, regulations, procedures, and bylaws not contrary to law or inconsistent with this chapter as it deems expedient for its own governance and for the governance and management of the Authority.

L. A majority of the board shall constitute a quorum for meetings, and the board may act by a majority of those present at any meeting.

M. Legislative board members are entitled to such compensation as provided in § 30-19.12 and nonlegislative citizen board members are entitled to such compensation for the performance of their duties as provided in § 2.2-2813. All members are entitled to reimbursement for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

N. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the board and the employees of the Authority.

1996, cc. 905, 1046, § 23-50.16:5; 1998, c. 449; 2000, c. 720; 2004, c. 1000; 2014, cc. 3, 456; 2016, c. 588.

§ 23.1-2403.Chief executive officer of the Authority

A. The Authority shall be under the immediate supervision and direction of a chief executive officer, subject to the policies and direction established by the board. The chief executive officer shall be the individual who holds the title of Vice-President for Health Sciences of Virginia Commonwealth University, or such other title as subsequently may be established by the board of visitors of the University for the chief academic and administrative officer for the Health Sciences Schools of the University. Notwithstanding any other provision of law to the contrary, the selection and removal of the chief executive officer, and the conditions of appointment, including salary, shall be made jointly by the board and the board of visitors of the University at a joint meeting of the board and the board of visitors of the University upon a vote of a majority of the members of each board present and voting at the aforementioned joint meeting, acting separately in accordance with applicable provisions of law.

B. In the event that a majority of the members of each board do not agree upon the selection, removal, or conditions of appointment, including salary, of the chief executive officer as provided in subsection A, then each board shall appoint a committee of three members of its respective board to consider the matter upon which the boards disagree. The selection, removal, or conditions of appointment shall be made jointly by the two committees at a joint meeting of the committees upon a vote by a majority of the members of each committee present and voting at the joint meeting. In the event that a majority of the members of each committee agree upon the selection, removal, or conditions of appointment of the chief executive officer, then the decision shall be reported to the board and the board of visitors of the University, each of which shall be bound by the decision of the committees. In the event that a majority of the members of each committee do not agree on the selection, removal, or conditions of appointment of the chief executive officer within 30 days of the appointment of the committees by each board, then the president of the University shall decide upon the matter upon which the committees disagree. The president of the University shall report his decision to both boards, each of which shall be bound by the decision of the president.

C. The chief executive officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

D. The chief executive officer shall supervise and administer the operation of the Authority in accordance with the provisions of this chapter.

1996, cc. 905, 1046, § 23-50.16:7; 2000, c. 720; 2014, cc. 3, 456; 2016, c. 588.

§ 23.1-2404.Powers of the Authority

A. The Authority has all the powers necessary or convenient to carry out the purposes and provisions of this chapter, including the power to:

1. Sue and be sued in its own name;

2. Have and alter an official seal;

3. Have perpetual duration and succession in its name;

4. Locate and maintain offices at such places as it may designate;

5. Make and execute contracts, guarantees, or any other instruments and agreements necessary or convenient for the exercise of its powers and functions, including contracts with hospitals or health care businesses to operate and manage any or all of the hospital facilities or operations, and incur liabilities and secure the obligations of any entity or individual;

6. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

7. Exercise, in addition to its other powers, all powers that are (i) granted to corporations by the provisions of Title 13.1 or similar provisions of any successor law, except in those cases in which the power is confined to corporations created under such title, and (ii) not inconsistent with the purposes and intent of this chapter or the limitations included in this chapter;

8. Accept, hold, and enjoy any gift, devise, or bequest to the Authority or its predecessors to be held for the uses and purposes designated by the donor, if any, or if not so designated, for the general purposes of the Authority, whether given directly or indirectly, and accept, execute, and administer any trust or endowment fund in which it has or may have an interest under the terms of the instrument creating the trust or endowment fund;

9. Borrow money and issue bonds as provided in this chapter and purchase such bonds;

10. Seek financing from, incur or assume indebtedness to, and enter into contractual commitments with the Virginia Public Building Authority and the Virginia College Building Authority, which authorities may borrow money and make and issue negotiable notes, bonds, and other evidences of indebtedness to provide such financing relating to the hospital facilities or any project;

11. Seek financing from, incur or assume indebtedness to, and enter into contractual commitments with the Commonwealth as otherwise provided by law relating to the hospital facilities or any project;

12. Procure such insurance, participate in such insurance plans, or provide such self-insurance as it deems necessary or convenient to carry out the purposes and provisions of this chapter. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority is not a waiver or relinquishment of any sovereign immunity to which the Authority or its officers, directors, employees, or agents are otherwise entitled;

13. Develop policies and procedures generally applicable to the procurement of goods, services, and construction based upon competitive principles;

14. Except as to those hospital facilities or any part of such facilities that are leased to the Authority by the University, the control and disposition of which shall be determined by such lease instruments:

a. Own, hold, improve, use, and otherwise deal with real or personal property, tangible or intangible, or any right, easement, estate, or interest in such property, acquired by purchase, exchange, gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of law, or other means on such terms and conditions and in such manner as it may deem proper;

b. Sell, assign, lease, encumber, mortgage, or otherwise dispose of any project, any other real or personal property, tangible or intangible, any right, easement, estate, or interest in such property, or any deed of trust or mortgage lien interest that it owns, that is under its control or custody or in its possession;

c. Release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in property foreclosed by it; and

d. Take any action pursuant to subdivision 14 by public or private sale or with or without public bidding, notwithstanding the provisions of any other law;

15. Accept loans, grants, contributions, or other assistance from the federal government, the Commonwealth, any political subdivision of the Commonwealth, or any other public or private source to carry out any of the purposes of this chapter and enter into any agreement or contract regarding the acceptance, use, or repayment of any such loan, grant, contribution, or assistance in furtherance of the purposes of this chapter;

16. Exercise the power of eminent domain pursuant to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 to acquire by condemnation any real property, including fixtures and improvements, that it may deem necessary to carry out the purposes of this chapter, upon (i) its adoption of a resolution declaring that the acquisition of such property is in the public interest and necessary for public use and (ii) the approval of the Governor. The Authority may acquire property already devoted to a public use, provided that no property belonging to any locality, religious corporation, unincorporated church, or charitable corporation may be acquired without its consent;

17. Fix, revise, charge, and collect rates, rentals, fees, and other charges for the services or facilities furnished by or on behalf of the Authority and establish policies, procedures, and regulations regarding any such service rendered or the use, occupancy or operation of any such facility. Such charges and policies, procedures, and regulations are not subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth except as otherwise provided by law for the providers of health care;

18. Consistent with § 23.1-2407, create, assist in the creation of, own in whole or in part, control, participate in or with any public or private entity, purchase, receive, subscribe for, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise acquire or dispose of any (i) shares or obligations of, or other interests in, any entities organized for any purpose within or outside the Commonwealth and (ii) obligations of any person or corporation;

19. Participate in joint ventures with individuals, corporations, governmental bodies or agencies, partnerships, associations, insurers, or other entities to facilitate any activities or programs consistent with the public purposes and intent of this chapter;

20. Create a nonprofit entity for the purpose of soliciting, accepting, and administering grants, outright gifts and bequests, endowment gifts and bequests, and gifts and bequests in trust. Such entity shall not engage in trust business or duplicate such activities by the University or its related foundations;

21. Provide appropriate assistance, including making loans and providing time of employees, to corporations, partnerships, associations, joint ventures, or other entities whether such entities are owned or controlled in whole or in part or directly or indirectly by the Authority;

22. Provide, promote, support, and sponsor education and scientific research in medicine, public health, and related fields and promote public knowledge in medicine, public health, and related fields;

23. Administer programs to assist in the delivery of medical and related services to the citizens of the Commonwealth and others;

24. Participate in and administer federal, state, and local programs affecting, supporting, or carrying out any of its purposes; and

25. Exercise independently the powers conferred by this chapter in furtherance of its corporate and public purposes.

B. The exercise of the powers permitted by this chapter shall be deemed the performance of essential governmental functions and matters of public necessity for the entire Commonwealth in the provision of health care, medical and health sciences education, and research for which public moneys may be borrowed, loaned, spent, or otherwise utilized and private property may be utilized or acquired.

1996, cc. 905, 1046, §§ 23-50.16:2, 23-50.16:6, 23-50.16:11, 23-50.16:12, 23-50.16:13, 23-50.16:14; 2003, c. 940; 2006, c. 673; 2016, c. 588; 2017, c. 314.

§ 23.1-2405.Additional powers of the Authority; operation of projects

A. The Authority may acquire, plan, design, construct, own, rent as landlord or tenant, operate, control, remove, renovate, enlarge, equip, and maintain, directly or through stock or nonstock corporations or other entities, any project as defined in this chapter. Such projects may be owned or operated by the Authority or other parties or jointly by the Authority and other parties and may be operated within or outside the Commonwealth, so long as (i) their operations are necessary or desirable to assist the Authority in carrying out its public purposes within the Commonwealth and (ii) any private benefit resulting to any such other private parties from any such project is merely incidental to the public benefit of the project.

B. In the operation of hospitals and other health care and related facilities, the Authority may make and enforce all policies, procedures, and regulations necessary or desirable for such operation, including those relating to the conditions under which the privilege of practicing may be available in such facilities, the admission and treatment of patients, the procedures for determining the qualification of patients for indigent care or other programs, and the protection of patients and employees, provided that such policies, procedures, and regulations do not discriminate on the basis of race, religion, color, sex, sexual orientation, gender identity, or national origin.

1996, cc. 905, 1046, § 23-50.16:9; 2016, c. 588; 2020, c. 1137.

§ 23.1-2406.Additional powers of the Authority; police

A. The Authority may adopt and enforce reasonable policies, procedures, and regulations governing (i) access to, conduct in or on, and use of its property and facilities and the surrounding streets, sidewalks, and other public areas and (ii) other matters affecting the safety and security of Authority property and individuals using or occupying Authority property. Such policies, procedures, and regulations have the force and effect of law (a) after publication one time in full in a newspaper of general circulation in the locality where the affected property is located and (b) when posted where the individuals using such property may conveniently see them.

B. The campus police department of the University, established in accordance with the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8, may enforce on Authority property the laws of the Commonwealth and policies and regulations adopted pursuant to subsection A. To the extent that such police services are not provided by the University, the Authority may establish a police department in accordance with the provisions of Chapter 8, except that the employment of such personnel by the Authority is not subject to the Virginia Personnel Act (§ 2.2-2900 et seq.).

1996, cc. 905, 1046, § 23-50.16:10; 2016, c. 588.

§ 23.1-2407.Public purpose

The exercise of the powers granted by this chapter is in all respects for the benefit of the inhabitants of the Commonwealth and the promotion of their safety, health, welfare, knowledge, convenience, and prosperity. No part of the assets or net earnings of the Authority shall inure to the benefit of or be distributable to any private individual, except that reasonable compensation may be paid for services rendered to or for the Authority affecting one or more of its purposes, and benefits may be conferred that are in conformity with its purposes. No private individual is entitled to share in the distribution of any of the corporate assets upon dissolution of the Authority.

1996, cc. 905, 1046, § 23-50.16:15; 2016, c. 588.

§ 23.1-2408.Moneys of the Authority

A. All moneys of the Authority derived from any source shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies may give security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other orders of the treasurer of the Authority or such other person as the Authority may authorize to execute such warrants or orders.

B. Notwithstanding any provision of law to the contrary, the Authority may invest its operating funds in any obligations or securities that are considered legal investments for public funds in accordance with the Investment of Public Funds Act (§ 2.2-4500 et seq.). The board shall adopt written investment guidelines and retain an independent investment advisory firm or consultant to review at least every

five years the suitability of the Authority's investments and the consistency of such investments with the investment guidelines.

1996, cc. 905, 1046, § 23-50.16:14; 2016, c. 588; 2017, c. 314.

§ 23.1-2409.Grants and loans from localities

Localities may lend or donate money or other property to the Authority for any of the Authority's purposes. The local governing body making the grant or loan may restrict the use of such grants or loans to a specific project within or outside that locality.

1996, cc. 905, 1046, § 23-50.16:11; 2016, c. 588; 2017, c. 314.

§ 23.1-2410.Audit

A. The Authority shall select through a process of competitive negotiation either (i) the Auditor of Public Accounts or his legally authorized representatives or (ii) a certified public accounting firm to annually audit the Authority's accounts.

B. The Authority shall distribute copies of the annual audit to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

C. The Auditor of Public Accounts and his legally authorized representatives may examine the accounts and books of the Authority; however, the Authority is not a state or governmental agency, advisory agency, public body or agency, or instrumentality for purposes of Chapter 14 (§ 30-130 et seq.) of Title 30.

D. The Authority is subject to periodic external review under the provisions of the Legislative Program Review and Evaluation Act (§ 30-65 et seq.).

1996, cc. 905, 1046, § 23-50.16:8; 2016, c. 588.

§ 23.1-2411.Exemption from taxation

A. The Authority is not required to pay any taxes or assessments upon any (i) project, property, or operations of the Authority or the income from such projects, property, or operations or (ii) project, property, or local obligation acquired or used by the Authority under the provisions of this chapter or the income from such projects, property, or local obligations. Such exemptions shall not extend to persons conducting businesses on the Authority's property for which payment of state or local taxes would otherwise be required.

B. Any bonds issued by the Authority under the provisions of this chapter, the transfer of such bonds, and the income from such bonds and all rents, fees, charges, gifts, grants, revenues, receipts, and other moneys received or pledged to pay or secure the payment of such bonds are exempt from taxation and assessment of every kind by the Commonwealth and by the local governing bodies and other political subdivisions of the Commonwealth.

1996, cc. 905, 1046, § 23-50.16:16; 2016, c. 588.

§ 23.1-2412.Transfer of existing hospital facilities

A. The University may lease, convey, or otherwise transfer to the Authority any or all assets and liabilities appearing on the balance sheet of MCV Hospitals and any or all of the hospital facilities, except real estate that may be leased to the Authority for a term not to exceed 99 years, upon such terms as may be approved by the University.

B. Any transfer of hospital facilities pursuant to subsection A is conditioned upon the existence of a binding agreement between the University and the Authority:

1. That requires the Authority to assume, directly or indirectly, hospital obligations that are directly relating to the hospital facilities or any part of the hospital facilities that are transferred, including rentals as provided in subsection C or a combination of rentals and other obligations in the case of a lease of hospital facilities;

2. That provides that, effective on the transfer date, the Authority shall assume responsibility for, defend, indemnify, and hold harmless the University and its officers and directors with respect to:

a. All liabilities and duties of the University pursuant to contracts, agreements, and leases for commodities, services, and supplies used by MCV Hospitals, including property leases;

b. All claims relating to the employment relationship between employees of the Authority and the University on and after the transfer date;

c. All claims for breach of contract resulting from the Authority's action or failure to act on and after the transfer date;

d. All claims relating to the Authority's errors and omissions, including medical malpractice, directors' and officers' liability, workers' compensation, automobile liability, premises liability, completed operations liability, and products liability resulting from the Authority's action or failure to act on and after the transfer date; and

3. By which the Authority shall accept and agree to abide by provisions that ensure the continued support of the education, research, patient care, and public service missions of MCV Hospitals, including:

a. A requirement that the Authority continue to provide emergency and inpatient indigent care services on the MCV campus of the University in locations including downtown Richmond; and

b. A requirement that the Authority continue to act as the primary teaching facility for the Virginia Commonwealth University School of Medicine and the Health Sciences Schools of the University.

C. Any lease of hospital facilities from the University to the Authority may include a provision that requires the Authority to pay the University a rental payment for the hospital facilities that are leased. For those hospital facilities for which rent is paid, the rent shall be at least equal to the greater of:

1. The debt service accruing during the term of the lease on all outstanding bonds issued for the purpose of financing the acquisition, construction, or improvement of the hospital facilities on which rent is paid; or

2. A nominal amount determined by the parties to be necessary to prevent the lease from being unenforceable because of a lack of consideration.

D. Any lease of hospital facilities shall include a provision that requires the Authority to continue to support the education, research, patient care, and public service missions of MCV Hospitals, including:

1. A requirement that the Authority continue to provide emergency and inpatient indigent care services on the MCV campus of the University in locations including downtown Richmond; and

2. A requirement that the Authority continue to act as the primary teaching facility for the Health Sciences Schools of the University.

E. All other agencies and officers of the Commonwealth shall take such actions as may be necessary or desirable in the judgment of the University to permit such conveyance and the full use and enjoyment of the hospital facilities, including the transfer of property of any type held in the name of the Commonwealth or an instrumentality or agency of the Commonwealth but used by the University in the operation of the hospital facilities.

F. The Authority may pay to or on behalf of the University some or all of the costs of the hospital facilities. The University may apply some or all of such proceeds to the payment or defeasance of its obligations issued to finance the hospital facilities, and the Authority may issue its bonds to finance or refinance such payment.

G. Funds held by or for the University or any of its predecessors or divisions, including funds held by the University Foundation or the MCV Foundation for the benefit of MCV Hospitals or any of its predecessors for use in operating, maintaining, or constructing hospital facilities, providing medical and health sciences education, or conducting medical or related research may be transferred, in whole or in part, to the Authority if the University or any foundation determines that the transfer is consistent with the intended use of the funds. The University may direct in writing that all or part of the money or property representing its beneficial interest under a will, trust agreement, or other donative instrument be distributed to the Authority if the University determines that such direction furthers any of the original purposes of the will, trust agreement, or other instrument. Such a direction shall not be considered a waiver, disclaimer, renunciation, assignment, or disposition of the beneficial interest by the University. A fiduciary's distribution to the Authority pursuant to such a written direction from the University is a distribution to the University for all purposes relating to the donative instrument, and the fiduciary has no liability for distributing any money or property to the Authority pursuant to such a

direction. Nothing in this section shall deprive any court of its jurisdiction to determine whether such a distribution is appropriate under its cy pres powers or otherwise.

H. The Authority shall not operate any hospital pursuant to this section prior to execution of the lease and agreement required by this section and such other agreements as may be necessary or convenient in the University's judgment to provide for the transfer of the operations of the hospital facilities to the Authority, unless and to the extent that the University approves otherwise.

I. The University may assign and the Authority may accept the rights and assume the obligations under any contract or other agreement of any type relating to financing or operating the hospital facilities. Upon evidence that such assignment and acceptance has been made, all agencies and instrumentalities of the Commonwealth shall consent to such assignment and accept the substitution of the Authority for the University as a party to such agreement to the extent that the University's obligations under such agreement relate to the ownership, operation, or financing of the hospital facilities. Indebtedness previously incurred by the Commonwealth, the Virginia Public Building Authority, the Virginia College Building Authority, and any other agency or instrumentality of the Commonwealth to finance the hospital facilities may continue to remain outstanding after the transfer and assignment of such agreement by the University to the Authority.

J. The transfer of the hospital facilities from the University to the Authority does not require a certificate of public need pursuant to Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1. All licenses, permits, certificates of public need, or other authorizations of the Commonwealth, any agency of the Commonwealth, or any locality held by the University in connection with the ownership or operation of the hospital facilities are transferred without further action to the Authority to the extent that the Authority undertakes the activity permitted by such authorizations. All agencies and officers of the Commonwealth and all localities shall confirm such transfer by the issuance of new or amended licenses, permits, certificates of public need, or other authorizations upon the request of the University and the Authority.

K. If for any reason the Authority cannot replace the University as a party to any agreement in connection with the financing, ownership, or operation of the hospital facilities, the Authority and the University may require the Authority to act as agent for the University in carrying out its obligations under such agreement or receiving the benefits under such agreement, or both.

1996, cc. 905, 1046, §§ 23-50.16:17, 23-50.16:20, 23-50.16:21, 23-50.16:22, 23-50.16:23; 2016, c. 588.

§ 23.1-2413.Capital projects

A. All capital projects of the Authority shall be approved by the board. Within 30 days after approval of any capital project in excess of $5 million, the board shall notify the House Appropriations and Senate Finance Committees of the scope, cost, and construction schedule of the proposed capital project.

The board may undertake the project unless either Committee raises objections within 30 days of the notification, in which case the Authority shall not undertake the project until such objections are resolved.

B. Before the Authority materially increases the size or materially changes the scope of any capital project for which construction has commenced, such project shall be approved again by the board in accordance with subsection A and, in the case of any capital project in excess of $5 million, presented again to the House Appropriations and Senate Finance Committees in accordance with subsection A.

C. Notwithstanding any provision of law to the contrary, the Authority is not subject to any further process or procedure that requires the submission, review, or approval of any capital project; however, the Authority shall ensure that Building Officials and Code Administrators (BOCA) Code or any successor code and fire safety inspections are conducted for any capital project and that such projects are inspected by the State Fire Marshal or his designee prior to certification for building occupancy.

1996, cc. 905, 1046, § 23-50.16:18; 2016, c. 588; 2017, c. 314.

§ 23.1-2414.Leases of property

Leases of real property that the Authority enters into are exempt from the provisions of § 2.2-1149 and from any policies, regulations, and guidelines of the Division of Engineering and Buildings.

1996, cc. 905, 1046, § 23-50.16:19; 2016, c. 588.

§ 23.1-2415.Employees of the Authority

A. Employees of the Authority shall be employed on such terms and conditions as established by the Authority. The board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions are based upon the merit and fitness of applicants, and prohibit discrimination on the basis of race, religion, color, sex, sexual orientation, gender identity, or national origin.

B. The Authority shall issue a written notice to all individuals whose employment is transferred to the Authority. The date upon which such written notice is issued is referred to in this section as the "Option Date." Each individual whose employment is transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of MCV Hospitals who (i) elects not to become employed by the Authority; (ii) is not reemployed by any department, institution, board, commission, or agency of the Commonwealth; (iii) is not offered alternative employment by the Authority; (iv) is not offered a position with the Authority for which the employee is qualified; or (v) is offered a position by the Authority that requires relocation or a reduction in salary is eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the

Authority has voluntarily separated from state employment and is not eligible for the severance benefits conferred by the provisions of the Workforce Transition Act.

C. Without limiting its power generally with respect to employees, the Authority may employ any University employee utilized in the operation of the hospital facilities and assume obligations under any employment agreement for such employee, and the University may assign any such contract to the Authority.

D. The Authority and the University may enter into agreements providing for the purchase of services of University employees utilized in the operation of the hospital facilities by paying agreed-upon amounts to cover all or part of the salaries and other costs of such employees.

E. Notwithstanding any other provision of law to the contrary, any employee whose employment is transferred to the Authority as a result of this chapter and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 shall continue to be a member of such health insurance plan under the same terms and conditions of such plan.

F. Notwithstanding subsection A of § 2.2-2818, the costs of providing health insurance coverage to employees who elect to continue to be members of the state employees' health insurance plan shall be paid by the Authority.

G. Any employee of the Authority may elect to become a member of any health insurance plan established by the Authority. The Authority may (i) establish a health insurance plan for the benefit of its employees, residents, and interns and (ii) enter into an agreement with the Department of Human Resource Management providing for the coverage of its employees, interns, and residents under the state employees' health insurance plan, provided that such agreement requires the Authority to pay the costs of providing health insurance coverage under such plan.

H. Notwithstanding any other provision of law to the contrary, any employee whose employment is transferred to the Authority as a result of this chapter and who is a member of the Virginia Retirement System or another retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 shall continue to be a member of the Virginia Retirement System or such other authorized retirement plan under the same terms and conditions of such plan. Any such employee and any employee employed by the Authority between July 1, 1997, and June 30, 1998, who elected to be covered by the Virginia Retirement System may elect, during an open enrollment period from April 1, 2001, through April 30, 2001, to become a member of the retirement plan established by the Authority for the benefit of its employees pursuant to § 23.1-2416 by transferring assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. The Authority shall reimburse the Virginia Retirement System for the actual cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who elect to transfer to the Authority's retirement plan. The following rules shall apply to such transfers:

1. With respect to any transferred employee who elects to remain a member of the Virginia Retirement System or another authorized retirement plan, the Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or such other authorized retirement plan for retirement in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for such transferred employees.

2. Transferred employees who elect to become members of the retirement plan established by the Authority for the benefit of its employees shall be given full credit for their creditable service as defined in § 51.1-124.3, vesting and benefit accrual under the retirement plan established by the Authority. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1.

3. For transferred employees who elect to become members of the retirement plan established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Authority assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. For the purposes of such calculation, the basic benefit is the benefit accrued under the Virginia Retirement System or another authorized retirement plan based on creditable service and average final compensation as defined in § 51.1-124.3 and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or such other authorized retirement plan so that the transfer of assets to the retirement plan established by the Authority has no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

1996, cc. 905, 1046, § 23-50.16:24; 1998, c. 449; 2000, cc. 66, 657; 2012, cc. 803, 835; 2016, c. 588; 2017, c. 314; 2020, c. 1137.

§ 23.1-2416.Retirement benefits for employees of the Authority

A. The Authority may establish and determine the effective date of one or more retirement plans covering in whole or in part its employees, including employees who, prior to the effective date of any plan established pursuant to this section, participated in any plan established pursuant to § 51.1-126 or 51.1-126.1 or former § 51.1-126.2. The Authority may make contributions for the benefit of its employees who elect to participate in such plan or arrangement rather than in any other retirement system established by Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1.

B. Except in the case of an employee of the Authority hired prior to July 1, 1998, who made an irrevocable election to participate in the retirement plan established by Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 or any plan previously established by the Authority in accordance with guidelines

established by the Authority, each eligible employee of the Authority shall participate in a plan established by the Authority pursuant to subsection A.

C. No employee of the Authority who is an active member of a plan established pursuant to subsection A shall also be an active member of the retirement system established pursuant to Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 or a beneficiary of such retirement system other than as a contingent annuitant.

D. Notwithstanding any other provision of law to the contrary, the contribution by the Authority to any other retirement plan established pursuant to subsection A on behalf of employees of the Authority hired before July 1, 1998, shall be equal to the lesser of (i) the contribution the Commonwealth would be required to make if the employee were a member of the retirement system established by Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 or (ii) eight percent of creditable compensation. The contribution by the Authority to any retirement plan established pursuant to subsection A on behalf of employees of the Authority hired on or after July 1, 1998, shall be determined by the board.

E. If the University has adopted a retirement plan under § 51.1-126 for its employees who are engaged in the performance of teaching, administrative, or research duties, the plan established by the Authority pursuant to subsection A shall offer similar investment opportunities as are available to the participants of the plan established pursuant to § 51.1-126.

F. The Authority shall develop policies and procedures for the administration of any retirement plan established by the Authority pursuant to subsection A. A copy of such policies and procedures shall be filed with the Board of Trustees of the Virginia Retirement System.

1998, c. 449, § 23-50.16:24.1; 2016, c. 588.

§ 23.1-2417.Insurance for employees of the Authority

The Authority shall purchase group life, accidental death and dismemberment, and disability insurance policies covering in whole or in part its employees. Authority employees are not required to present at their own expense evidence of insurability satisfactory to an insurance company for basic group life insurance coverage. Any employee hired prior to July 1, 1998, shall be provided basic group life insurance at the same level of coverage as provided by the Virginia Retirement System. Any employee hired on or after July 1, 1998, shall be provided basic group life insurance at a level of coverage determined by the board that is not less than the equivalent of the employee's annual salary. The Authority may require employees hired on or after July 1, 1998, to pay all or a portion of the required basic group life insurance coverage. Such payment may be collected through a payroll deduction program. The Authority may increase the insurance coverage under such policies to make available to active insured employees optional life, accidental death and dismemberment, and disability insurance. Authority employees are not covered by the Virginia Retirement System's group insurance program under § 51.1-501.

1998, c. 449, § 23-50.16:24.2; 2016, c. 588.

§ 23.1-2418.Power to issue bonds

A. The Authority may issue bonds for any of its purposes, including (i) financing or refinancing all or any part of its programs or general operations; (ii) costs of any project, including the hospital facilities, whether or not owned by the Authority; or (iii) to refund bonds or other obligations issued by or on behalf of the Authority, the University, or otherwise, including bonds or obligations not then subject to redemption. The Authority may guarantee, assume, or otherwise agree to pay, in whole or in part, indebtedness issued by the University or any other party resulting in the acquisition or construction of facilities for the benefit of the Authority or the refinancing of such indebtedness.

B. Notwithstanding Article 1 (§ 2.2-1800 et seq.) of Chapter 18 of Title 2.2, bonds may be issued under the provisions of this chapter without (i) obtaining the consent of any commission, board, bureau, political subdivision, or agency of the Commonwealth or (ii) any proceedings, conditions, or things other than those proceedings, conditions, or things that are specifically required by this chapter; however, each debt offering shall be submitted to the State Treasurer sufficiently prior to the sale of such offering to allow the State Treasurer to undertake a review for the sole purposes of determining (a) whether the offering may constitute tax-supported debt of the Commonwealth and (b) the potential impact of the offering on the debt capacity of the Commonwealth. After such review, the State Treasurer shall determine if the offering constitutes tax-supported debt of the Commonwealth and the potential impact of the offering on the debt capacity of the Commonwealth. If the State Treasurer determines that the debt offering may constitute tax-supported debt of the Commonwealth or may have an adverse impact on the debt capacity of the Commonwealth, then the debt offering shall be submitted to the Treasury Board for review and approval of the terms and structure of the offering in a manner consistent with § 2.2-2416.

C. The Authority may issue bonds payable as to principal and interest from any of the following sources: (i) its revenues generally; (ii) income and revenues derived from the operation, sale, or lease of a particular project or projects, whether or not they are financed or refinanced from the proceeds of such bonds; (iii) funds realized from the enforcement of security interests or other liens or obligations securing such bonds; (iv) proceeds from the sale of bonds; (v) payments under letters of credit, policies of municipal bond insurance, guarantees, or other credit enhancements; (vi) any reserve or sinking funds created to secure such payment; (vii) accounts receivable of the Authority; or (viii) other available funds of the Authority.

D. Any bonds may be guaranteed by or secured by a pledge of any grant, contribution, or appropriation from a participating political subdivision, the University, the Commonwealth or any political subdivision, agency, or instrumentality of the Commonwealth or from any federal agency or any unit, private corporation, partnership, association, or individual.

1996, cc. 905, 1046, § 23-50.16:25; 2016, c. 588.

§ 23.1-2419.Liability on bonds

No member of the board; officer, employee, or agent of the Authority; or person executing bonds of the Authority is liable personally on the bonds by reason of issuing or executing such bonds. Bonds of the Authority are not a debt of the Commonwealth or any political subdivision of the Commonwealth other than the Authority and shall so state on their face. Neither the Commonwealth nor any political subdivision of the Commonwealth other than the Authority is liable for payment of bonds of the Authority, nor shall such bonds be payable out of any funds or properties of the Commonwealth or any political subdivision of the Commonwealth other than those of the Authority, except as permitted by § 23.1-2418. Bonds of the Authority are issued for an essential public and governmental purpose.

1996, cc. 905, 1046, § 23-50.16:26; 2016, c. 588.

§ 23.1-2420.Form of bonds

A. Bonds of the Authority shall (i) be authorized by resolution setting forth the maximum principal amount issuable, (ii) be dated, and (iii) mature not more than 40 years from their date and may be (a) issued in one or more series and (b) made redeemable or subject to tender before maturity, at the option of the Authority, at such price or under such terms and conditions as may be fixed by the Authority or its agents prior to issuance.

B. Bonds of the Authority shall bear interest payable at such times and rates and in such manner as the Authority or its agents may determine, including rates approved by officers of the Authority under authorization of the board, rates tied to indices, rates of other securities, or other standards and determinations by agents designated by the Authority under guidelines established by the Authority.

C. The Authority shall determine the form, manner of execution, and denominations of its bonds and the place of payment of principal and interest, which may be at any bank or trust company or securities depository within or outside the Commonwealth. The bonds may be issued in coupon or registered form, or both, and provision may be made for their registration in whole or in part. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds.

D. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to hold such office before delivery of such bond, such signature or facsimile is nevertheless valid and sufficient for all purposes.

E. The Authority may contract for the services of one or more banks, trust companies, financial institutions, or other entities or persons within or outside the Commonwealth for the authentication, registration, transfer, exchange, and payment of bonds or provide such services itself. The Authority may sell such bonds at public or private sale and for such price as it determines.

F. Notwithstanding any other provision of this chapter or any recitals in any bonds issued under the provisions of this chapter, all such bonds are negotiable instruments under the laws of the Commonwealth.

G. Prior to the preparation of definitive bonds, the Authority may issue interim receipts or temporary bonds that are exchangeable for definitive bonds when such bonds are executed and available for delivery.

H. The Authority may provide for the replacement of any mutilated, destroyed, stolen, or lost bonds.

1996, cc. 905, 1046, § 23-50.16:27; 2016, c. 588.

§ 23.1-2421.Trust indentures and mortgages; security for the bonds

A. Any bond issued under this chapter may be issued pursuant to or secured by (i) a trust indenture, deed of trust, or mortgage of any project or other property of the Authority, whether or not financed in whole or in part from the proceeds of such bonds; (ii) a trust or other agreement with a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth or another agent for bondholders; or (iii) any combination of issuance or security set forth in clause (i) or (ii). Any such trust indenture or other agreement, or the resolution providing for the issuance of bonds, may pledge or assign fees, rents, and other charges to be received and contain reasonable, proper, and lawful provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants (a) providing for the collection and application of revenues and the repossession and sale of any project or other property by the Authority or any trustees under any trust indenture or agreement upon default; (b) setting forth duties of the Authority in relation to the acquisition, construction, maintenance, operation, and insurance of any project or other property of the Authority and the amount of fees, rents, and other charges to be charged; (c) providing for the collection of such fees, rents, and other charges and the custody, safeguarding, and application of all moneys of the Authority; (d) providing for the creation of sinking funds and the creation and maintenance of reserves; and (e) setting forth conditions or limitations with respect to incurring indebtedness or granting mortgages or other liens. Such trust indenture, trust, or other agreement or resolution may set forth the rights and remedies of the bondholders, trustee, or other agent for bondholders and restrict the individual right of action by bondholders.

B. The Authority may grant mortgages, deeds of trust, security interests, and other liens on its real and personal property, including its accounts receivable, to secure bonds. All pledges of revenues of the Authority for payment of bonds are valid and binding from the time the pledge is made. The revenues pledged and received by the Authority are subject immediately to the lien of such pledge without any physical delivery of such pledge or further act. The lien of any such pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the Authority whether or not such parties have notice of the lien. The Authority may provide for the recording or

filing of any mortgage, deed of trust, security interest, other lien, financing statement, or other instrument necessary or desirable to create, perfect, or evidence any lien created pursuant to this chapter.

C. It is lawful for any bank or trust company within or outside the Commonwealth to (i) serve as depository of the proceeds of bonds or other revenues of the Authority, (ii) furnish indemnifying bonds, or (iii) pledge such securities as may be required by the Authority.

D. All expenses incurred in carrying out the provisions of such trust indenture, agreement, resolution, or other agreements relating to any project, including those to which the Authority may not be a party, may be treated as a part of the costs of a project.

1996, cc. 905, 1046, § 23-50.16:28; 2016, c. 588.

§ 23.1-2422.Remedies of obligees of Authority

Except to the extent that the rights granted by this chapter may be restricted by such trust indenture or trust or other agreement, any (i) holder of bonds or coupons issued under the provisions of this chapter and (ii) trustee or other agent for bondholders under any trust indenture or trust or other agreement may, either at law or in equity, by suit, action, injunction, mandamus, or other proceedings, (a) protect and enforce any and all rights granted by this chapter or under the laws of the Commonwealth, such trust indenture, trust, or other agreement, or the resolution authorizing the issuance of such bonds and (b) enforce and compel the Authority or any agent or officer of the Authority to perform all duties required by this chapter or such trust indenture, trust, or other agreement or resolution, including the fixing, charging, and collecting of fees, rents, and other charges.

1996, cc. 905, 1046, § 23-50.16:29; 2016, c. 588.

§ 23.1-2423.Bonds to be legal investments

Bonds issued by the Authority under the provisions of this chapter are securities (i) in which all public officers and public bodies of the Commonwealth and its political subdivisions, insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them and (ii) that may properly and legally be deposited with and received by any state officer or officer of a locality or agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is authorized by law.

1996, cc. 905, 1046, § 23-50.16:30; 2016, c. 588.

§ 23.1-2424.Existing bonds

The Authority may assume or agree to make payments in amounts sufficient for the University to pay some or all of the hospital obligations incurred under resolutions previously adopted by the University with respect to the hospital facilities and may issue bonds to refund bonds issued under such

resolutions or refinance such payment obligations. If the Authority assumes all hospital obligations under any such bond resolution and operates substantially all of the hospital facilities financed or refinanced by such bond resolution, the University, State Treasurer, Virginia Public Building Authority, and Virginia College Building Authority shall take such steps as are appropriate to provide for the substitution of the Authority for the University under such resolution and transfer to the Authority any funds payable to the University under the terms of such resolution.

1996, cc. 905, 1046, § 23-50.16:31; 2016, c. 588.

§ 23.1-2425.Confidential and public information

A. The Authority is subject to the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.), including the exclusions set forth in subdivision 14 of § 2.2-3705.7 and subdivision A 23 of § 2.2-3711.

B. For purposes of the Freedom of Information Act (§ 2.2-3700 et seq.), meetings of the board are not considered meetings of the board of visitors of the University. Meetings of the board may be conducted through electronic communication means as provided in § 2.2-3708.2.

1996, cc. 905, 1046, § 23-50.16:32; 1998, c. 449; 1999, cc. 703, 726; 2004, c. 690; 2007, c. 945; 2016, c. 588; 2017, c. 778; 2018, c. 55.

§ 23.1-2426.Chapter liberally construed

This chapter shall constitute full and complete authority, without regard to the provisions of any other law, for the performance of acts authorized in the chapter and shall be liberally construed to effect the purposes of the chapter. Insofar as the provisions of this chapter are inconsistent with the provisions of any other general, specific, or local law, the provisions of this chapter control.

1996, cc. 905, 1046, § 23-50.16:33; 2016, c. 588.

§ 23.1-2427.Exemptions

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.), the Workforce Transition Act (§ 2.2-3200 et seq.), the Administrative Process Act (§ 2.2-4000 et seq.), and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) do not apply to the Authority in its exercise of any power conferred to it under this chapter.

1996, cc. 905, 1046, § 23-50.16:34; 2016, c. 588.

§ 23.1-2428.Assets of Authority; reversion to University

Upon dissolution of the Authority, all assets of the Authority, after satisfaction of creditors, shall revert to the University.

1996, cc. 905, 1046, § 23-50.16:35; 2016, c. 588.

Virginia's Region 2000 Airport Authority

Created
2007 Acts of Assembly, c. 812.

§ 1. Short title.
This Act shall be known and may be cited as the Virginia's Region 2000 Airport Authority Act. (2007, c. 812)

§ 2. Creation; public purpose.
If the governing body of the City of Lynchburg and the governing bodies of one or more of the Counties of Amherst, Appomattox, Bedford, and Campbell by resolution declare that there is a need for an airport authority to be created for the purpose of establishing or operating an airport for such participating political subdivisions, and that they should unite in its formation, an airport authority to be known as Virginia's Region 2000 Airport Authority (the Authority) shall thereupon exist for such participating city and counties and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Virginia's Region 2000 Airport Authority, such Authority shall be conclusively deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such counties and city declaring that there is a need for such Authority and that they should unite in its formation. A copy of such resolution duly certified by the clerks of the counties and city by which it is adopted shall be admissible as evidence in any suit, action, or proceedings. Any political subdivision of the Commonwealth, all or part of which is located within 60 miles of an Authority facility, is authorized to join such Authority pursuant to the terms and conditions of this Act.

It is hereby declared that the ownership and operation by the Authority of modern and efficient air transportation and related facilities and the exercise of powers conferred by this Act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. It is also declared that the promotion and stimulation of industry and trade to induce the location, retention, and expansion of manufacturing, industrial, governmental, and commercial enterprises and institutions in the Authority's participating political subdivisions, and to vest the Authority with all powers that may be necessary to enable it to accomplish these purposes, are essential governmental functions and public purposes and are for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce or through the promotion of their safety, health, welfare, convenience, or prosperity. It is further declared that contract obligations of a city or town to provide payments over a period of more than one year to the Authority shall be excluded from existing indebtedness of such city or town for purposes of calculating debt limit

pursuant to Article VII, Section 10 (a) of the Constitution of Virginia. It is further declared that the Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county pursuant to Article VII, Section 10 (b) of the Constitution of Virginia. (2007, c. 812)

§ 3. Definitions.

As used in this Act, the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means this Virginia's Region 2000 Airport Authority Act.

"Authority" means Virginia's Region 2000 Airport Authority created by this Act.

"Board of Directors" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by this Authority pursuant to this Act.

"Commonwealth" means the Commonwealth of Virginia.

"Cost" means the cost of construction; the cost of acquisition of all lands, structures, rights-of-way, franchises, easements, and other property rights and interests; the cost of demolishing, removing, or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated; the cost of all labor, materials, machinery, and equipment; financing charges and interest on all bonds prior to and during construction and, if deemed advisable by the Authority, for a period not exceeding one year after completion of such construction; cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, and other expenses necessary or incident to determining the feasibility or practicability of constructing facilities; administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions, and improvements; and such other expenses as may be necessary or incident to the construction of the facilities, the financing of such construction and the placing of the facilities in operation. Any obligation or expense incurred by the Commonwealth or any agency thereof, with the approval of the Authority, for studies, surveys, borings, preparation of plans and specifications, or other work or materials in connection with the construction of the facilities may be regarded as a part of the cost of the facilities and may be reimbursed to the Commonwealth or any agency thereof out of the proceeds of the bonds issued for such facilities as hereinafter authorized.

"Facility" or "Facilities" means any and all airports, terminals, runways, hangars, loading facilities, repair shops, parking areas, facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies and airlines, and any and all industrial and commercial facilities, purchased, constructed, or otherwise acquired or operated

by the Authority pursuant to the provisions of this Act. Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, avigation rights, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

"Loans" means any loans made by the Authority in furtherance of the purposes of this Act from the proceeds of the issuance and sale of the Authority's bonds and from any of its revenues or other moneys available to it as provided herein.

"Lynchburg Regional Airport" means the airport facilities located south of the intersection of U.S. Route 460 and U.S. Route 29 in Campbell County, and any other facilities necessary, incidental, or convenient to the operation of such airport facilities.

"Participating political subdivision" or "Participating political subdivisions" means the City of Lynchburg and any of the Counties of Amherst, Appomattox, Bedford and Campbell that have adopted a resolution consistent with § 2 of this Act, and any other political subdivision that may join or has joined the Authority pursuant to §§ 4 and 5 of this Act.

"Political subdivision" means a county, municipality, or other public body of the Commonwealth. (2007, c. 812)

§ 4. Participating political subdivision.

Prior to becoming a participating political subdivision, each political subdivision shall enter into a contract with the Authority and other participating political subdivisions setting forth the participation arrangements to be made by such political subdivision to the Authority.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this Act with respect to contracts and agreements between the Authority and any other political subdivision. (2007, c. 812)

§ 5. Appointment and tenure of a Board of Directors.

The powers of the Authority shall be vested in the directors thereof in office from time to time. The governing body of each participating political subdivision shall appoint the number of directors, as agreed by the participating political subdivisions. The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term. Each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties. (2007, c. 812)

§ 6. Organization.

A majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws. Special meetings of the Authority may be called by any director or the executive director upon at least 48-hours' written notice to each director served personally or left at his usual place of business or residence.

The Board of Directors shall annually elect a chairman and a vice-chairman from among its membership, a secretary and a treasurer or a secretary-treasurer from its membership, or not as they deem appropriate, and such other officers as they may deem appropriate. The Board of Directors may appoint an executive director, who shall not be a director, who shall exercise such powers and duties as may be delegated by the Board of Directors, including powers and duties involving the exercise of discretion.

The Board of Directors may make and from time to time amend and repeal bylaws, not inconsistent with this Act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The Board of Directors may appoint such committees as the board may deem advisable and fix the duties and responsibilities of such committees. (2007, c. 812)

§ 7. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this Act, including, for purposes of illustration, the following:

1. To sue and be sued in its own name;

2. To have perpetual succession;

3. To adopt a corporate seal and alter the same at its pleasure;

4. To maintain offices at such places as it may designate in the City of Lynchburg or the County of Campbell;

5. To acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate any airport, air landing fields, structures, navigation facilities, and other property incidental thereto within the territorial limits of the participating political subdivisions subject to the limitation that such power shall be limited to such items as may be necessary for the operation of the Lynchburg Regional Airport;

6. To construct, install, maintain, and operate facilities for the servicing and storage of aircraft and for the accommodation of cargo, freight, mail, express, etc., and for the accommodation and comfort of air travelers, and for lease or sale to industrial or commercial users, and to purchase and sell equipment and supplies incidental to the operation of its airport facilities;

7. To grant to others the privilege to operate for profit concessions, leases, and franchises, including but not limited to the sale of airplanes, fuel, parts and equipment; maintenance of aircraft; the accommodation and comfort of persons using its facilities and the providing of ground transportation and parking facilities for such persons; and such concessions, leases, and franchises shall be exclusive or limited when deemed by the Authority necessary to further the public safety, improve the quality of air service, avoid duplication of service or conserve airport property and the airport operation;

8. To determine fees, rates, and charges for the use of its facilities;

9. To apply for and accept gifts, or grants of money or gifts, grants or loans of other property, or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth and political subdivisions, agencies, and instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the Authority's facilities or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, or in order to make loans in furtherance of the purposes of this Act of such money, contributions, grants, and other financial assistance, and to this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient, or desirable or imposed as a condition to such financial aid;

10. To establish, operate, and maintain a business/industrial park;

11. To establish, operate, and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce;

12. To appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

13. To contract with a participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 14, accounting services, including the annual independent audit required by § 12, procurement of goods and services, and to act as fiscal agent for the Authority. In the event of a contract for a participating political subdivision to act as fiscal agent, the Authority's employees shall be compensated, shall receive the same benefits, including pensions, and shall be subject to the personnel rules of said subdivision;

14. To establish personnel rules;

15. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest, or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

16. Subject to the provisions of any deed or deeds from the City of Lynchburg or the County of Campbell to the Authority and any agreement or agreements among or between the Authority and any participating political subdivision, to sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein, if such disposition is in the public interest and in furtherance of the purposes of this Act or if such property is not necessary for the purposes of the Authority;

17. To make, assume and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities, and to charge and collect rent and other fees and charges under any such lease, contract, and other arrangement with respect to such facilities;

18. a. To borrow money, including the issuance of bonds, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

b. The total indebtedness of the Authority at no time shall exceed the amount of $5,000,000, in principal, whether by purchase of encumbered property, direct loan, bonded indebtedness, or debt in any other form except as agreed to by each participating political subdivision by resolution of the governing body thereof, in which case the total amount of indebtedness shall be expressed in the resolution of each such governing body.

19. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

20. To pay pensions and establish pension plans, pension trusts, and other compensation plans for any of its employees;

21. To purchase and maintain insurance or to provide indemnification on behalf of any person who is or was a director, officer, employee, or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

22. To make loans or grants to any person, partnership, association, corporation, business, or governmental entity in furtherance of the purposes of this Act, including for the purposes of promoting economic development, provided that such loans or grants shall be made only from revenues of the Authority that have not been pledged or assigned for the payment of any of the Authority's bonds, and to enter into such contracts, instruments, and agreements as may be

expedient to provide for such loans and any security therefor. The Authority may forgive loans or other obligations if it is deemed to further economic development. The word "revenues" as used in this subdivision includes contributions, grants, and other financial assistance, as set out in subdivision 9; and

23. To do all things necessary or convenient to the purposes of this Act. However, the powers of the Authority expressed in this Act shall be limited to those powers necessary for the operation of the Lynchburg Regional Airport and a business/industrial park. To that end, property acquired, owned, or conveyed to the Authority, contracts entered into, financial assistance, indebtedness, rules and regulations adopted by the Authority, and any other actions thereof may only pertain to said airport or business/industrial park.

The grant of regulatory authority by this Act, including regulations that displace, eliminate, or limit competition by or among persons or entities, is based on the policy of the Commonwealth to provide for the safe, adequate, economical, and efficient provision of air transportation and related facilities and services to the public. (2007, c. 812)

§ 8. Name of airport.

The name of the airport operated by the Authority within the boundaries of Campbell County shall be Lynchburg Regional Airport. The name of the airport may be changed upon approval of the majority of the governing bodies of the participating political subdivisions. (2007, c. 812)

§ 9. Rules and regulations.

The Authority shall have the power to adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the Board of Directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule, regulation, or alteration or amendment or modification thereof:

1. Make such rule, regulation, alteration, amendment, or modification in convenient form available for public inspection in the office of the Authority for at least 10 days; and

2. Post in a public place a notice declaring the Board of Directors' intention to consider adopting such rule, regulation, alteration, amendment, or modification and informing the public that the Authority will at a public meeting consider the adoption of such rule or regulation or such alteration, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least 10 days from the first day of the posting of the notice thereof. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to (i) traffic, including but not limited to motor vehicle moving violations and the location of and payment of public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) aircraft operation and maintenance shall have the force of law, as shall any other rule or regulation of the Authority which shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the interest of the public safety. All ordinances, rules, and regulations duly adopted for the regulation, administration, and operation of Lynchburg Regional Airport, in force at the effective date of this Act, shall remain in full force insofar as they or any part thereof are not inconsistent with the provisions of this Act until amended or repealed in accordance with this Act. (2007, c. 812)

§ 10. Police powers.

Authority employees meeting the minimum requirements of the Department of Criminal Justice Services shall be given police power by the circuit court of the political subdivision where the employee will normally be exercising enforcement authority. The authority conferred upon such police officers shall be exercised only upon Authority facilities located within such participating political subdivision, and shall be in all terms consistent with the requirements of Chapter 17 (§ 15.2-1700 et seq.) of Title 15.2 of the Code of Virginia.

Such police officers shall have all powers vested in police officers under Chapter 17 (§ 15.2-1700 et seq.) of Title 15.2 of the Code of Virginia and shall be responsible upon Authority facilities for enforcing Authority rules and regulations and all other applicable statutes, ordinances, rules, and regulations of the United States of America and agencies, and instrumentalities thereof and the Commonwealth and political subdivisions, agencies, and instrumentalities thereof.

Such police officers may issue summonses to appear, or arrest on view or on information without warrant as permitted by law, and conduct before any court of competent jurisdiction any person violating any rule or regulation of the Authority or other applicable statute, ordinance, rule, or regulation.

For the purpose of enforcing such statutes, ordinances, rules, and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the participating political subdivision wherein the offense was committed shall have jurisdiction to try a person charged with the violation of any such statutes, ordinances, rules, or regulations. (2007, c. 812)

§ 11. Eminent domain.

The Authority is hereby granted full power to exercise the right of eminent domain in the acquisition of any lands, easements, privileges, or other property interests which are necessary for purposes related to the operations of Lynchburg Regional Airport, including, where necessary to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport, avigation easements over lands or water outside the boundaries of its airport, even though such avigation easement may be either

inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation, and renewal of any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition. Proceedings for the acquisition of such land, easements, and privileges by condemnation may be instituted and conducted in the name of the Authority in accordance with Title 25.1 of the Code of Virginia.

In the exercise of its eminent domain powers, the Authority shall have the right to inspect property as provided in § 25.1-203 of the Code of Virginia. (2007, c. 812)

§ 12. Reports.

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. (2007, c. 812)

§ 13. Procurement.

All contracts that the Authority may let for construction or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). This section shall not apply to contracts relating to the construction of facilities by tenants on land leased from the Authority or to the construction of facilities not owned by the Authority but for which the Authority is providing financial assistance through the issuance of its bonds to finance all or a portion of such construction. (2007, c. 812)

§ 14. Deposit and investment of funds.

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this Act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq. of the Code of Virginia).

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities which are considered lawful investments for fiduciaries. (2007, c. 812)

§ 15. Authority to issue bonds.

The Authority shall have power and is hereby authorized to issue bonds from time to time in its discretion for any of its purposes, including the payment of all or any part of the cost of any of its facilities and the refunding of any bonds previously issued by it.

The Authority shall not issue bonds unless and until the maximum amount of such issue and the general purposes thereof have been approved by the governing body of each participating political subdivision, with the exception of those allowed in subdivision 18 of § 7. Subject to the foregoing, bonds may be issued under this Act notwithstanding any debt or other limitation prescribed in any other statute and without obtaining the consent of any city, town, or county government or any authority, board, bureau, or agency of the Commonwealth or of any of the foregoing, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions, or things which are specifically required by this Act.

The Authority may issue such types of bonds as it may determine, specifically bonds payable as to principal and interest: (i) from its revenues generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds. Subject to the limitations set forth in § 7, any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, as such participating political subdivision or other entities may be authorized to make under general law or by pledge of any income or revenues of the Authority, or a mortgage of any facilities of the Authority.

Bonds of the Authority shall be authorized by resolution and may be issued in one or more series, may be dated, may mature at such time or times not exceeding 40 years from their date or dates, may be subject to redemption or repurchase at such price or prices and under such terms and conditions, and may contain such other provisions, all as determined by the Authority before their issuance or in such manner as the Authority may provide. The bonds may bear interest at such rate or rates as may be determined by the Authority or in such manner as the Authority may provide, including the determination by reference to indices or formulas or by agents designated by the Authority under guidelines established by it. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Act or any recitals in any bonds issued under the

provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the conversion and reconversion into coupon bonds of any bonds registered as to both principal and interest and vice versa. The Authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be for the best interests of the Authority.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. (2007, c. 812)

§ 16. Resolution or trust indenture to secure bonds.

In connection with the issuance of bonds and in order to secure the payment of such bonds, the Authority shall have power:

1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents, or revenues;

2. To covenant to impose and maintain such schedule of fees, rents, and charges as will produce funds sufficient to pay operating costs and debt service;

3. To covenant against pledging all or any part of its fees, rents, and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and powers in the fees, rents, and revenues which are subject to a pledge;

5. To covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any facility or facilities of the Authority or any part thereof or with respect to limitations on its right to undertake additional projects;

6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

7. To covenant as to what other, or additional, debt may be incurred by it;

8. To provide for the terms, forms, registration, exchange, execution, and authentication of bonds;

9. To provide for the replacement of lost, destroyed, or mutilated bonds;

10. To covenant as to the use of any or all of its property, real or personal, subject to the continued use of such property for airport or business/industrial park purposes;

11. To create or to authorize the creation of special funds in which there may be segregated: (i) the proceeds of any loan or grant; (ii) all of the fees, rents, and revenues of any facility or facilities or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as reserve for such payments; and (v) any moneys held for any other reserve or contingencies; and to covenant as to the use and disposal of the moneys held in such funds;

12. To redeem its bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

15. To covenant as to the maintenance of its facilities, the insurance to be carried thereon, and the use and disposition of insurance moneys;

16. To vest in a bondholder the right, in the event of the failure of the Authority to observe or perform any covenant on its part to be kept or performed, to cure any such default, and, subject to the limitation on total indebtedness expressed in this Act, to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the Authority with such interest, security, and priority as may be provided in any trust indenture, lease, or contract of the Authority with reference thereto;

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

18. To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation;

19. To covenant to surrender possession of all or any part of any facility or facilities acquired or constructed from bond proceeds, the revenues from which have been pledged upon the happening of any event of default, as defined in the contract, and to vest in a bondholder the right without judicial proceeding to take possession and to use, operate, manage, and control such facility or any part thereof, and to collect and receive all fees, rents, and revenues arising therefrom in the same manner as the Authority itself might do and to dispose of the moneys collected in accordance with

the agreement of the Authority with such obligee, subject to the continued use of such facilities for airport purposes;

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as any purchaser of the bonds of the Authority may reasonably require;

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the Authority which tend to make the bonds more marketable; notwithstanding that such covenant, acts, or things may not be enumerated herein, it being the intention hereof to give the Authority power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of the Commonwealth or this Act; and

24. In connection with, or incidental to, the issuance or carrying of notes or bonds or the acquisition or carrying of any investments, to enter into swap agreements or other contracts or arrangements that the Authority determines to be necessary or appropriate to place obligations or investments of the Authority, as represented by notes, bonds, or investments of the Authority, in whole or in part, on the interest rate, currency, cash flow, or other basis desired by the Authority or to hedge payment, currency, rate, spread, or other exposure. Such contracts or arrangements may be entered into by the Authority in connection with, or incidental to, entering into or maintaining (i) any agreement that secures notes or bonds of the Authority and is authorized or permitted by law or (ii) any investment, or contract providing for any investment, otherwise authorized or permitted by law.

Such contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Authority, after giving due consideration, to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate.

In connection with or incidental to any of these contracts or arrangements, the Authority may enter into credit enhancement or liquidity agreements with such terms and conditions as it shall determine. (2007, c. 812)

§ 17. Fees, rents, and charges.

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents, and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be subject to supervision or regulation by any authority, board, bureau, or agency of the Commonwealth or any participating political subdivision.

The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary, be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. (2007, c. 812)

§ 18. Credit of Commonwealth and political subdivisions not pledged.

The bonds of the Authority shall not be a debt of the Commonwealth or any political subdivision thereof, other than the Authority, and neither the Commonwealth nor any political subdivision thereof, other than the Authority, shall be liable thereon, nor shall such bonds be payable out of any funds or properties other than those of the Authority. All bonds of the Authority shall contain on the face thereof a statement to such effect. The bonds shall not constitute indebtedness within the meaning of any debt limitation or restriction. (2007, c. 812)

§ 19. Directors and persons executing bonds not liable thereon.

Neither the Board of Directors nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof. (2007, c. 812)

§ 20. Remedies of bondholder.

Any holder of bonds issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this Act or under such trust indenture agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this Act or by such trust indenture or agreement or resolution to be performed by the Authority or by any officer or agent thereof, including the fixing, charging, and collection of fees, rents, and other charges.

Any resolution authorizing the issuance of the Authority's bonds or trust indenture or agreement securing the same may limit or abrogate the individual right of action by the holders of such bonds or coupons appertaining thereto. (2007, c. 812)

§ 21. Taxation.

The exercise of the powers granted by this Act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience, and prosperity, and as the operation and maintenance of any project which the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this Act, and the bonds issued under the provisions of this Act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations, and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to, any leasehold tax on real property and taxes on tangible personal property and machinery and tools, taxes for admission, taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation, or calling, and taxes upon consumers of gas, electricity, telephone, and other public utility services. (2007, c. 812)

§ 22. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of

the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (2007, c. 812)

§ 23. Appropriation by political subdivision.

Any participating political subdivision, or other political subdivision of the Commonwealth all or a part of which is located within 60 miles of an Authority facility, is authorized to provide services, to donate real or personal property, and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in the Public Finance Act (§ 15.2-2600 et seq. of the Code of Virginia) or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivision may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume, or reimburse a participating political subdivision for, any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority. With the consent of the governing body of the participating political subdivision, any such agreement may be made subordinate to the Authority's indebtedness to others. (2007, c. 812)

§ 24. Fiscal year; Authority budget.

A. The fiscal year of the Authority budget shall begin on July 1 and end on June 30.

B. The Authority shall annually prepare its budget as agreed to by the participating jurisdictions. (2007, c. 812)

§ 25. Contracts with political subdivisions.

The Authority is authorized to enter into contracts with any one or more political subdivisions, which contracts may restrict the powers of the Authority otherwise granted by this Act. Any participating political subdivision, or other political subdivision of the Commonwealth all or part of which is located within 60 miles of an Authority facility, is authorized to enter into contracts with the Authority, pursuant to which the Authority undertakes to provide the facilities and render the services specified therein. Any such contract or agreement may provide that the political subdivision will make payments to the Authority based on the services rendered by the Authority to the residents of such political subdivision, determined in such reasonable manner as the Authority and the political subdivision may mutually agree. Each political subdivision entering into such a service contract with the Authority is authorized to do everything necessary or proper to carry out and perform such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations. (2007, c. 812)

§ 26. Withdrawal of participating jurisdiction.

Whenever it shall appear beneficial to the Authority a participating jurisdiction may request to withdraw from the Authority subject to approval of the remaining political jurisdictions by resolution of

the governing bodies. In the event a jurisdiction withdraws from the Authority, that jurisdiction shall be responsible for any outstanding obligations previously agreed to and shall not be entitled to any benefit of the assets of the Authority. (2007, c. 812)

§ 27. Dissolution of Authority.

Whenever it shall appear to the Authority, or a majority of participating political subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the Circuit Court of Campbell County for the dissolution of the Authority and provide a plan for distribution of assets to the participating jurisdictions. If the court shall determine that the need for the Authority as set forth in this Act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivision as set forth in the dissolution plan or as determined by the court if no plan exists. In the event no plan exists the remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia. (2007, c. 812)

§ 28. Agreement with Commonwealth and participating political subdivisions.

The Commonwealth and, by participating in the Authority, each participating political subdivision pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds. (2007, c. 812)

§ 29. Liberal construction.

Neither this Act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the Authority might otherwise have under any laws of the Commonwealth, and this Act is cumulative to any such powers. This Act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds, notes, or other obligations. No proceedings, notice, or approval

shall be required for the issuance of any bonds or any instrument as security therefor, except as is expressly provided in this Act. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this Act. (2007, c. 812)

§ 30. Application of local ordinances, service charges, and taxes upon leaseholds.
Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom. (2007, c. 812)

§ 31. Existing contracts, leases, franchises, etc., not impaired.
No provisions of this Act shall relieve, impair or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession, lease, or franchise now in existence in such manner and on such terms and conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification. (2007, c. 812)

Washington Metropolitan Area Transit Authority

Created
1958 Acts of Assembly, c. 627, Washington Area Transit Regulation Compact.

Amendments
1962, c. 67 (§ 2)
1964, c. 626 (§ 2)
1966, c. 2 (§ 3 [added])
1969, Extra Session, c. 21 (§ 3)
1970, c. 590 (§ 3)
1971, c. 114 (§ 2)
1972, c. 571 (§ 3; name changed to Washington Metropolitan Area Transit Authority)
1973, c. 508 (§ 3)
1974, c. 576 (§ 3)
1977, c. 592 (§3)
1981, c. 378 (§ 3)

1984, c. 610 (§ 3)
1987, c. 112 (§ 3)
1988, c. 890 (§§ 2 [repealed], 2.1 [added])
1995, c. 150 (§ 3)
1997, c. 736 (§ 3)
2007, c. 378 (§ 2.1)
2009, c. 540 (§ 2.1)
2009, cc. 771, 828 (§ 3)

§ 1. The Governor is hereby authorized and directed to execute, on behalf of the Commonwealth of Virginia, a compact with the District of Columbia and the State of Maryland, which compact shall be in form substantially as follows: (1958, c. 627)

§ 2. (1958, c. 627; repealed 1988, c. 890)

§ 2.1. Washington Metropolitan Area Transit Regulation Compact.
Whereas, the Commonwealth of Virginia (Chapter 627, 1958 Acts of Assembly), the State of Maryland (Chapter 613, Acts of General Assembly, 1959), and the Commissioners of the District of Columbia (resolution of the Board of Commissioners, December 22, 1960) entered into and executed the Washington Metropolitan Area Transit Regulation Compact on December 22, 1960; and

Whereas, the Congress of the United States has, by joint resolution approved October 9, 1962 (Public Law 87-767,. 76 Stat. 764), given its consent to the State of Maryland, and the Commonwealth of Virginia to effectuate certain clarifying amendments to the Compact, and has authorized and directed the Commissioners of the District of Columbia to effectuate the amendments on behalf of the United States for the District of Columbia; and

Whereas, the Commonwealth of Virginia (Chapter 67, 1962 Acts of Assembly), the State of Maryland (Chapter 114, Acts of General Assembly, 1962), and the Commissioners of the District of Columbia (resolution of the Board of Commissioners adopted on March 19, 1.963) have adopted those clarifying amendments to the Compact;

Now, therefore, the State of Maryland, the Commonwealth of Virginia and the District of Columbia, hereafter referred to as the signatories, covenant and agree as follows:

Title I. General Compact Provisions.

Article I.

There is created the Washington Metropolitan Area Transit District, referred to as the Metropolitan District, which shall include: the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's

County of the State of Maryland, and the political subdivisions located within those counties; and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of those counties, cities, and airports.

Article II.

1. The signatories hereby create the "Washington Metropolitan Area Transit Commission," hereafter called the "Commission," which shall be an instrumentality of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, and shall have the powers and duties set forth in the Compact and those additional powers and additional powers and duties conferred upon it by subsequent action of the signatories.

2. The Commission shall have jurisdiction coextensive with the Metropolitan District for the regulation of passenger transportation within the Metropolitan District on a coordinated basis, without regard to political boundaries within the Metropolitan District, as set forth in this Compact.

Article III.

1. (A) The Commission shall be composed of three members, one member appointed by the Governor of Virginia from the Department of Motor Vehicles of the Commonwealth of Virginia, one member appointed by the Governor of Maryland from the Maryland Public Service Commission, and one member appointed by the Mayor of the District of Columbia from a District of Columbia agency with oversight of matters relating to the Commission.

(B) A member appointed shall serve for a term coincident with the term of that member on the agency of the signatory, and a member may be removed or suspended from office as the law of the appointing signatory provides.

(C) Vacancies shall be filled for an unexpired term in the same manner as an original appointment.

(D) An amendment to Section 1 (A) of this Article shall not affect any member in office on the amendment's effective date.

2. A person in the employment of or holding an official relation to a person or company subject to the jurisdiction of the Commission or having an interest of any nature in a person or company or affiliate or associate thereof, may not hold the office of commissioner or serve as an employee of the Commission or have any power or duty or receive any compensation in relation to the Commission.

3. (A) The Commission shall select a chairman from among its members.

(B) The chairman shall be responsible for the Commission's work and shall have all powers to discharge that duty.

4. A signatory may pay the Commissioner from its jurisdiction the salary or expenses, if any, that it considers appropriate.

5. (A) The Commission may employ engineering, technical, legal, clerical, and other personnel on a regular, part-time, or consulting basis to assist in the discharge of its functions.

(B) The Commission is not bound by any statute or regulation of a signatory in the employment or discharge of an officer or employee of the Commission, except that contained in this Compact.

6. The Commission shall establish its office at a location to be determined by the Commission within the Metropolitan District and shall publish rules and regulations governing the conduct of its operations.

Article IV.

1. (A) The signatories shall bear the expenses of the Commission in the manner set forth here.

(B) The Commission shall submit to the Governor of Virginia, the Governor of Maryland, and the Mayor of the District of Columbia, when requested, a budget of its requirements for the period required by the laws of the signatories for presentation to the legislature.

(C) The Commission shall allocate its expenses among the signatories in the proportion that the population of each signatory within the Metropolitan District bears to the total population of the Metropolitan District.

(D) (I) The Commission shall base its allocation on the latest available population statistics of the Bureau of the Census; or

(II) If current population data are not available, the Commission may, upon the request of a signatory, employ estimates of population prepared in a manner approved by the Commission and by the signatory making the request.

(E) The Governors of the two states and the Mayor of the District of Columbia shall approve the allocation made by the Commission.

2. (A) The signatories shall appropriate their proportion of the budget for the expenses of the Commission and shall pay that appropriation to the Commission.

(B) The budget of the Commission and the appropriations of the signatories may not include a sum for the payment of salaries or expenses of the Commissioners.

(C) The provisions of § 2.1-30 of the Code of Virginia do not apply to any official or employee of the Commonwealth of Virginia acting or performing services under this Act.

3. (A) If the Commission requests and a signatory makes available personnel, services, or material which the Commission would otherwise have to employ or purchase, the Commission shall:

(I) determine an amount; and

(II) reduce the expenses allocable to a signatory.

(B) If any services in kind are rendered, the Commission shall return to the signatory an amount equivalent to the savings to the Commission represented by the contribution in kind.

4. (A) The Commission shall have the power to establish fees under regulations, including but not limited to filing fees and annual fees.

(B) The Commission shall return to the signatories fees established by it in proportion to the share of the Commission's expenses home by each signatory in the fiscal year during which the fees were collected.

5. (A) The Commission shall keep accurate books of account, showing in full its receipts and disbursements.

(B) The books of account shall be open for inspection by representatives of the respective signatories at any reasonable time)

Article V.

1. An action by the Commission may not be effective unless a majority of the members concur.

2. An order entered by the Commission under the provisions of Title II of this Act which affect operations or matters solely intrastate or solely within the District of Columbia may not be effective unless the Commissioner from the affected signatory concurs.

3. Two members of the Commission are a quorum.

4. The Commission may delegate by regulation the tasks that it considers appropriate.

Article VI.

This Compact does not amend, alter, or affect the power of the signatories and their political subdivisions to levy and collect taxes on the property or income of any person or company subject to this Act or upon any material, equipment, or supplies purchased by that person or company or to levy, assess, and collect franchise or other similar taxes, or fees for the licensing of vehicles and their operation.

Article VII.

This amended Compact shall become effective ninety days after the signatories adopt it.

Article VIII.

1. (A) This Compact may be amended from time to time without the prior consent or approval of the Congress of the United States and any amendment shall be effective unless, within one year, the Congress disapproves that amendment.

(B) An amendment may not be effective unless adopted by each of the signatories.

2. (A) A signatory may withdraw from the Compact upon written notice to the other signatories.

(B) In the event of a withdrawal, the Compact shall be terminated at the end of the Commission's next full fiscal year following the notice.

3. Upon the termination of this Compact, the jurisdiction over the matters and persons covered by this Act shall revert to the signatories and the federal government, as their interests may appear, and the applicable laws of the signatories and the federal government shall be reactivated without further legislation.

Article IX.

Each of the signatories pledges to each of the other signatories faithful cooperation in the regulation of passenger transportation within the Metropolitan District and agrees to enact any necessary legislation to achieve the objectives of the Compact for the mutual benefit of the citizens living in the Metropolitan District.

Article X.

1. If a provision of this Act or its application to any person or circumstance is held invalid in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

2. In accordance with the ordinary rules for construction of interstate compacts, this Act shall be liberally construed to effectuate its purposes.

Title II. Compact Regulatory Provisions.

Article XI.

1. This Act shall apply to the transportation for hire by any carrier of persons between any points in the Metropolitan District, including but not limited to:

(A) As to interstate and foreign commerce, transportation performed over a regular route between a point in the Metropolitan District and a point outside the Metropolitan District if:

(I) The majority of passengers transported over that regular route are transported between points within the Metropolitan District; and

(II) That regular route is authorized by a certificate of public convenience and necessity issued by the Interstate Commerce Commission; and

(B) The rates, charges, regulations, and minimum insurance requirements for taxicabs and other vehicles that perform a bona fide taxicab service, where the taxicab or other vehicle:

(I) has a seating capacity of nine persons or less, including the driver; and

(II) provides transportation from one signatory to another within the Metropolitan District.

2. Solely for the purposes of this section and Section 18 of this Article:

(A) The Metropolitan District shall include that portion of Anne Arundel County, Maryland, occupied by the Baltimore-Washington International Airport; and

(B) Jurisdiction of the Commission shall apply to taxicab rates, charges, regulations, and minimum insurance requirements for interstate transportation between the Baltimore-Washington International Airport and other points in the Metropolitan District, unless conducted by a taxicab licensed by the state of Maryland or a political subdivision of the state of Maryland, or operated under a contract with the state of Maryland.

3. Excluded from the application of this Act are:

(A) Transportation by water, air, or rail;

(B) Transportation performed by the federal government, the signatories to this Compact, or any political subdivision of the signatories;

(C) Transportation performed by the Washington Metropolitan Area Transit Authority;

(D) Transportation by a motor vehicle employed solely in transporting teachers and school children through grade 12 to or from public or private schools;

(E) Transportation performed over a regular route between a point in the Metropolitan District and a point outside the Metropolitan District, including transportation between those points on the regular route that are within the Metropolitan District, if:

(I) the majority of passengers transported over the regular route are not transported between points in the Metropolitan District; and

(II) the regular route is authorized by a certificate of public convenience and necessity issued by the Interstate Commerce Commission;

(F) Matters other than rates, charges, regulations, and minimum insurance requirements relating to vehicles and operations described in sections 1(B) and 2 of this article;

(G) Transportation solely within the Commonwealth of Virginia and the activities of persons performing that transportation; and

(H) The exercise of any power or the discharge of any duty conferred or imposed upon the State Corporation Commission of the Commonwealth of Virginia by the Virginia Constitution.

Definitions.

4. In this Act the following words have the meanings indicated.

(A) "Carrier" means a person who engages in the transportation of passengers by motor vehicle or other form or means of conveyance for hire.

(B) "Motor vehicle" means an automobile, bus, or other vehicle propelled or drawn by mechanical or electrical power on the public streets or highways of the Metropolitan District and used for the transportation of passengers.

(C) "Person" means an individual, firm, copartnership, corporation, company, association or joint stock association, and includes a trustee, receiver, assignee, or personal representative of them.

(D) "Taxicab" means a motor vehicle for hire (other than a vehicle operated under a certificate of Authority issued by the Commission) having a seating capacity of nine persons or less, including the driver, used to accept or solicit passengers along the public streets for transportation.

General Duties of Carriers.

5. Each authorized carrier shall:

(A) Provide safe and adequate transportation service, equipment, and facilities; and

(B) Observe and enforce Commission regulations established under this Act.

6. (A) A person may not engage in transportation subject to this Act unless there is in force a "certificate of Authority" issued by the Commission authorizing the person to engage in that transportation.

(B) On the effective date of this Act a person engaged in transportation subject to this Act under an existing "certificate of Public Convenience and Necessity" or order issued by the Commission shall be issued a new "certificate of Authority" within 120 days after the effective date of this amendment.

(C) (I) Pending issuance of the new certificate of Authority, the continuance of operations shall be permitted under an existing certificate or order issued by the Commission which will continue in effect on the effective date of this Act.

(II) The operations described in paragraph (I) of this subsection shall be performed according to the rates, regulations, and practices of the certificate holder on file with the Commission on the effective date of this Act.

7. (A) When an application is made under this section for a certificate of Authority, the Commission shall issue a certificate to any qualified applicant, authorizing all or any part of the transportation covered by the application, if it finds that:

(I) The applicant is fit, willing, and able to perform that transportation properly, conform to the provisions of this Act, and conform to the rules, regulations and requirements of the Commission; and

(II) That the transportation is consistent with the public interest.

(B) If the Commission finds that the requirements of subsection (A) of this section have not been met, the application shall be denied by the Commission.

(C) The Commission shall act upon applications under this Act as soon as possible.

(D) The Commission may attach to the issuance of a certificate and to the exercise of the rights granted under it any term, condition, or limitation that is consistent with the public interest.

(E) A term, condition, or limitation imposed by the Commission may not restrict the right of a carrier to add to equipment and facilities over the routes or within the territory specified in the certificate, as business development and public demand may require.

(F) A person applying for or holding a certificate of Authority shall comply with Commission regulations regarding maintenance of a surety bond, insurance policy, self-insurance qualification, or other security or agreement in an amount that the Commission may require to pay any final judgment against a carrier for bodily injury or death of a person, or for loss or damage to property of another, resulting from the operation, maintenance, or use of a motor vehicle or other equipment in performing transportation subject to this Act.

(G) A certificate of Authority is not valid unless the holder is in compliance with the insurance requirements of the Commission.

8. Application to the Commission for a certificate under this Act shall be:

(A) Made in writing;

(B) Verified; and

(C) In the form and with the information that the Commission regulations require.

9. (A) A certificate of Authority issued by the Commission shall specify the route over which a regularly scheduled commuter service or other regular-route service will operate.

(B) A certificate issued by the Commission authorizing irregular-route service shall be coextensive with the Metropolitan District.

(C) A carrier subject to this Act may not provide any passenger transportation for hire on an individual fare paying basis in competition with an existing, scheduled, regular-route, passenger transportation service performed by, or under a contract with, the federal government, a signatory to the Compact, a political subdivision of a signatory, or the Washington Metropolitan Area Transit Authority, notwithstanding any "Certificate of Authority."

(D) A certificate for the transportation of passengers may include authority to transport newspapers, passenger baggage, express, or mail in the same vehicle, or to transport passenger baggage in a separate vehicle.

10. (A) Certificates shall be effective from the date specified on them and shall remain in effect until amended, suspended, or terminated.

(B) Upon application by the holder of a certificate, the Commission may suspend, amend, or terminate the Certificate of Authority.

(C) Upon complaint or the Commission's own initiative, the Commission, after notice and hearing, may suspend or revoke all or part of any Certificate of Authority for willful failure to comply with:

(I) A provision of this Act;

(II) An order, rule, or regulation of the Commission; or

(III) A term, condition, or limitation of the certificate.

(D) The Commission may direct that a carrier cease an operation conducted under a certificate if the Commission finds the operation, after notice and hearing, to be inconsistent with the public interest.

11. (A) A person may not transfer a Certificate of Authority unless the Commission approves the transfer as consistent with the public interest.

(B) A person other than the person to whom an operating authority is issued by the Commission may not lease, rent, or otherwise use that operating authority.

12. (A) A carrier may not abandon any scheduled commuter service operated under a Certificate of Authority issued to the carrier under this Act, unless the Commission authorizes the carrier to do so by a Commission order.

(B) Upon application by a carrier, the Commission shall issue an order, after notice and hearing, if it finds that abandonment of the route is consistent with the public interest.

(C) The Commission, by regulation or otherwise, may authorize the temporary suspension of a route if it is consistent with the public interest.

(D) As long as the carrier has an opportunity to earn a reasonable return in all its operations, the fact that a carrier is operating a service at a loss will not, of itself, determine the question of whether abandonment of service is consistent with the public interest.

13. (A) When the Commission finds that there is an immediate need for service that is not available, the Commission may grant temporary authority for that service without a hearing or other proceeding up to a maximum of 180 consecutive days, unless suspended or revoked for good cause.

(B) A grant of temporary authority does not create any presumption that permanent authority will be granted at a later date.

Rates and Tariffs.

14. (A) Each carrier shall file with the Commission, publish, and keep available for public inspection tariffs showing:

(I) Fixed-rates and fixed-fares for transportation subject to this Act; and

(II) Practices and regulations, including those affecting rates and fares, required by the Commission.

(B) Each effective tariff shall:

(I) Remain in effect for at least 60 days from its effective date, unless the Commission orders otherwise; and

(II) Be published and kept available for public inspection in the form and manner prescribed by the Commission.

(C) A carrier may not charge a rate or fare for transportation subject to this Act other than the applicable rate or fare specified in a tariff filed by the carrier under this Act and in effect at the time.

15. (A) A carrier proposing to change a rate, fare, regulation, or practice specified in an effective tariff shall file a tariff showing the change in the form and manner, and with the information, justification, notice, and supporting material prescribed by the Commission.

(B) Each tariff filed under subsection (A) of this section shall state a date on which the tariff shall take effect, which shall be at least seven calendar days after the date on which the tariff is filed, unless the Commission orders an earlier effective date or rejects the tariff.

(C) (I) A tariff filed for approval with the Commission may be refused acceptance for filing if it is not consistent with this Act and Commission regulations; and

(II) A tariff refused for filing shall be void.

16. (A) The Commission may hold a hearing upon complaint or upon the Commission's own initiative after reasonable notice to determine whether a rate, fare, regulation, or practice relating to a tariff is unjust, unreasonable, unduly discriminatory, or unduly preferential between classes of riders or between locations within the Metropolitan District.

(B) Within 120 days of the hearing, the Commission shall pass an order prescribing the lawful rate, fare, regulation, or practice, or affirming the tariff.

Through Routes, Joint Fares.

17. With the approval of the Commission, any carrier subject to this Act may establish through routes and joint fares with any other lawfully authorized carrier.

Taxicab Fares.

18. (A) the Commission shall prescribe reasonable rates for transportation by taxicab, only when:

(I) The trip is between a point in the jurisdiction of one signatory and a point in the jurisdiction of another signatory; and

(II) Both points are within the Metropolitan District.

(B) The fare or charge for taxicab transportation may be calculated on a mileage basis, a zone basis, or on any other basis approved by the Commission.

(C) The Commission may not require the installation of a taximeter in any taxicab when a taximeter is not permitted or required by the jurisdiction licensing and otherwise regulating the operation and service of the taxicab.

(D) A person licensed by a signatory to own or operate a taxicab shall comply with Commission regulations regarding maintenance of a surety bond, insurance policy, self-insurance qualification, or other security or agreement in an amount that the Commission may require to pay a final judgment for bodily injury or death of a person, or for loss or damage to property of another, resulting from the operation, maintenance, or use of a taxicab in performing transportation subject to this Act.

Article XII.

Accounts, Records, and Reports.

1. (A) The Commission may prescribe that any carrier subject to this Act:

(I) Submit special reports and annual or other periodic reports;

(II) Make reports in a form and manner required by the Commission;

(III) Provide a detailed answer to any question about which the Commission requires information;

(IV) Submit reports and answers under oath; and

(V) Keep accounts, records, and memoranda of its activity, including movement of traffic and receipt and expenditure of money in a form and for a period required by the Commission.

(B) The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.

(C) This section shall apply to any person controlling, controlled by, or under common control with a carrier subject to this Act, whether or not that person otherwise is subject to this Act.

(D) A carrier that has its principal office outside of the Metropolitan District J operates both inside and outside of the Metropolitan District may keep all accounts, records, and memoranda at its principal office, but the carrier shall produce those materials before the Commission when directed by the Commission.

(E) This section does not relieve a carrier from recordkeeping or reporting obligations imposed by a state or federal agency or regulatory commission for transportation service rendered outside the Metropolitan District.

Issuance of Securities.

2. This Act does not impair any authority of the federal government and the signatories to regulate the issuance of securities by a carrier.

Consolidations, Mergers, and Acquisition of Control.

3. (A) A carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to;

(I) Consolidate or merge any part of the ownership, management, or operation of its property or franchise with a carrier that operates in the Metropolitan District;

(II) Purchase, lease, or contract to operate a substantial part of the property or franchise of another carrier that operates in the Metropolitan District; or

(III) Acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means.

(B) Application for Commission approval of a transaction under this section shall be made in the form and with the information that the regulations of the Commission require.

(C) If the Commission finds, after notice and hearing, that the proposed transaction is consistent with the public interest, the Commission shall pass an order authorizing the transaction.

(D) Pending determination of an application filed under this section, the Commission may grant "temporary approval" without a hearing or other proceeding up to a maximum of 180 consecutive days if the Commission determines that grant to be consistent with the public interest.

Article XIII.

Investigations by the Commission and Complaints.

1. (A) A person may file a written complaint with the Commission regarding anything done or omitted by a person in violation of a provision of this Act, or in violation of a requirement established under it.

(B) (I) It the respondent does not satisfy the complaint and the facts suggest that there are reasonable grounds for an investigation, the Commission shall investigate the matter.

(II) It the Commission determines that a complaint does not state facts which warrant action, the Commission may dismiss the complaint without hearing.

(III) The Commission shall notify a respondent that a complaint has been filed at least ten days before a hearing is set on the complaint.

(C) The Commission may investigate on its own motion a fact, condition, practice, or matter to;

(I) Determine whether a person has violated or will violate a provision of this Act or a rule, regulation, or order;

(II) Enforce the provisions of this Act or prescribe or enforce rules or regulations under it; or

(III) Obtain information to recommend further legislation.

(D) If, after hearing, the Commission finds that a respondent has violated a provision of this Act or any requirement established under it, the Commission shall;

(I) Issue an order to compel the respondent to comply with this Act; and

(II) Effect other just and reasonable relief.

(E) For the purpose of an investigation or other proceeding under this Act, the Commission may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry.

Hearings; Rules of Procedure.

2. (A) Hearings under this Act shall be held before the Commission, and records shall be kept.

(B) Rules of practice and procedure adopted by the Commission shall govern all hearings, investigations, and proceedings under this Act, but the Commission may apply the technical rules of evidence when appropriate.

Administrative powers of Commission; Rules, Regulations, and Orders.

3. (A) The Commission shall perform any act, and prescribe, issue, make, amend, or rescind any order, rule, or regulation that it finds necessary to carry out the provisions of this Act.

(B) The rules and regulations of the Commission shall prescribe the form of any statement, declaration, application, or report filed with the Commission, the information it shall contain, and the time of filing.

(C) The rules and regulations of the Commission shall be effective thirty days after publication in the manner which the Commission shall prescribe, unless a different date is specified.

(D) Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe.

(E) For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for them.

(F) Commission rules and regulations shall be available for public inspection during reasonable business hours.

Reconsideration of Orders.

4. (A) A party to a proceeding affected by a final order or decision of the Commission may file within thirty days of its publication a written application requesting Commission reconsideration of the matter involved, and stating specifically the errors claimed as grounds for the reconsideration.

(B) The Commission shall grant or deny the application within thirty days after it has been filed.

(C) If the Commission does not grant or deny the application by order within thirty days, the application shall be deemed denied.

(D) If the application is granted, the Commission shall rescind, modify, or affirm its order or decision with or without a hearing, after giving notice to all parties.

(E) Filing an application for reconsideration may not act as a stay upon the execution of a Commission order or decision, or any part of it unless the Commission orders otherwise.

(F) An appeal may not be taken from an order or decision of the Commission until an application for reconsideration has been filed and determined.

(G) Only an error specified as a ground for reconsideration may be used as a ground for judicial review.

Judicial Review.

5. (A) Any party to a proceeding under this Act may obtain a review of the Commission's order in the United States Court of Appeals for the Fourth Circuit, or in the United States Court of Appeals for the District of Columbia Circuit, by filing within sixty days after Commission determination of an application for reconsideration, a written petition praying that the order of the Commission be modified or set aside.

(B) A copy of the petition shall be delivered to the office of the Commission and the Commission shall certify and file with the court a transcript of the record upon which the Commission order was entered.

(C) The court shall have exclusive jurisdiction to affirm, modify, remand for reconsideration, or set aside the Commission's order.

(D) The court's judgment shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in Title 28 U.S.C. §§ 1254 and 2350.

(E) The commencement of proceedings under subsection (A) of this section may not operate as a stay of the Commission's order unless specifically ordered by the court.

(F) The Commission and its members, officers, agents, employees, or representatives are not liable to suit or action or for any judgment or decree for damages, loss, or injury resulting from action taken under the Act, nor required in any case arising or any appeal taken under this Act to make a deposit, pay costs, or pay for service to the clerks of a court or to the marshal of the United States or give a supersedeas bond or security for damages.

Enforcement of Act; Penalty for Violations.

6. (A) Whenever the Commission determines that a person is engaged or will engage in an act or practice which violates a provision of this Act or a rule, regulation, or order under it, the Commission may bring an action in the United States District Court in the district in which the person resides or conducts business or in which the violation occurred to enjoin the act or practice and to enforce compliance with this Act or a rule, regulation, or order under it.

(B) If the court makes a determination under subsection (A) of this section, that a person has violated or will violate this Act or a rule, regulation, or order under the Act, the court shall grant a permanent or temporary injunction or decree or restraining order without bond.

(C) Upon application of the Commission, the United States District Court for the district in which the person resides or conducts business, or in which the violation occurred, shall have jurisdiction to issue an order directing that person to comply with the provisions of this Act or a rule, regulation, or order of the Commission under it, and to effect other just and reasonable relief.

(D) The Commission may employ attorneys necessary for:

(I) The conduct of its work;

(II) Representation of the public interest in Commission investigations, cases or proceedings on the Commission's own initiative or upon complaint; or

(III) Representation of the Commission in any court case.

(E) The expenses of employing an attorney shall be paid out of the funds of the Commission, unless otherwise directed by the court.

(F) (I) A person who knowingly and willfully violates a provision of this Act, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than $1,000 for the first violation and not more than $5,000 for any subsequent violation.

(II) Each day of the violation shall constitute a separate violation.

(III) Civil forfeitures shall be paid to the Commission with interest as assessed by the court.

(IV) The Commission shall pay to each signatory a share of the civil forfeitures and interest equal to the proportional share of the Commission's expenses borne by each signatory in the fiscal year during which the civil forfeiture is collected by the Commission.

Article XIV.

Expenses of Investigations and Other Proceedings.

1. (A) A carrier shall bear all expenses of an investigation or other proceeding conducted by the Commission concerning the carrier, and all litigation expenses, including appeals, arising from an investigation or other proceeding.

(B) When the Commission initiates an investigation or other proceeding, the Commission may require the carrier to pay to the Commission a sum estimated to cover the expenses that will be incurred under this section.

(C) Money paid by the carrier shall be deposited in the name and to the credit of the Commission, in any bank or other depository located in the Metropolitan District designated by the Commission, and the Commission may disburse that money to defray expenses of the investigation, proceeding, or litigation in question.

(D) The Commission shall return to the carrier any unexpended balance remaining after payment of expenses.

Applicability of Other Laws.

2. (A) The applicability of each law, rule, regulation, or order of a signatory relating to transportation subject to this Act shall be suspended on the effective date of this Act.

(B) The provisions of subsection (A) of this section do not apply to a law of a signatory relating to inspection of equipment and facilities.

(C) During the existence of the Compact, the jurisdiction of the Interstate Commerce Commission is suspended to the extent it is in conflict with the provisions of this Act.

Existing Rules, Regulations, Orders, and Decisions.

3. All Commission rules, regulations, orders, or decisions that are in force on the effective date of this Act shall remain in effect and be enforceable under this Act, unless otherwise provided by the Commission.

Pending Actions or Proceedings.

4. A suit, action, or other judicial proceeding commenced prior to the effective date of this Act by or against the Commission is not affected by the enactment of this Act and shall be prosecuted and determined under the law applicable at the time the proceeding was commenced.

Annual Report of the Commission.

5. The Commission shall make an annual report for each fiscal year ending June 30, to the Governor of Virginia and the Governor of Maryland, and to the Mayor of the District of Columbia as soon as practicable after June 30, but no later than the first day of January of each year, which may contain, in addition to a report of the work performed under this Act, other information and recommendations concerning passenger transportation within the Metropolitan District as the Commission considers advisable. (1988, c. 890; 2007, c. 378; 2009, c. 540)

§ 3. Whereas, Maryland, Virginia and the District of Columbia heretofore have entered into the Washington Metropolitan Area Transit Regulation Compact (Virginia—Ch. 627, 1958 Acts of Assembly; Maryland—Ch. 613, Acts of General Assembly 1959; District of Columbia—Resolution of the Board of Commissioners adopted December 22, 1960), with the consent of the Congress (J.R., September 15, 1960, P.L., 86-794, 74 Stat. 1031, as amended by 76 Stat. 764), as a first step toward the improvement of transit service in the metropolitan area of Washington, D.C.;

Whereas, in said Compact each of the Signatories pledged to each of the other signatory parties faithful cooperation in the solution and control of transit and traffic problems within said metropolitan area and, in order to effect such purposes, agreed to enact any necessary legislation to achieve the objectives of the Compact to the mutual benefit of the citizens living within said metropolitan area and for the advancement of the interests of the Signatories;

Whereas, it has been established by a decade of studies that a regional system of improved and expanded transit facilities, including grade-separated rail facilities in congested areas, is essential in said metropolitan area for the satisfactory movement of people and goods, the alleviation of present and future traffic congestion, the economic welfare and vitality of all parts of the area, the effectiveness of the departments and agencies of the federal government located within the area, the orderly growth and development of the District of Columbia and the Maryland and Virginia portions of the area, the comfort and convenience of the residents of and visitors to the area, and the preservation of the beauty and dignity of the Nation's Capital;

Whereas, the Congress has authorized Maryland, Virginia and the District of Columbia to negotiate a Compact for the establishment of an organization empowered to provide necessary transit facilities (P.L. 86-669, 74 Stat. 537) and in said legislation declared the policy, inter alia, that the development and administration of such transit facilities requires (1) cooperation among the federal, state and local government of the area, (2) financial participation by the federal government in the creation of major facilities that are beyond the financial capacity or borrowing powers of the private carriers, the District of Columbia and the local governments of the area, and (3) coordination of transit facilities with other public facilities and with the use of land, public and private;

Whereas, private transit companies should be utilized to the extent practicable in providing the regional transit facilities and services, consistent with the requirements of the public interest that the

publicly and privately owned facilities be operated as a coordinated regional system without unnecessary duplicating services;

Whereas, adequate provision should be made for the protection of transit labor in the development and operation of the regional system;

Whereas, adequate provisions should be made to eliminate any requirement of additional authentication of manual signature of bonds guaranteed by the United States of America; and

Whereas, it is hereby determined that an Authority to be created by interstate compact between the District of Columbia, the State of Maryland and the Commonwealth of Virginia, is the most suitable form of organization to achieve the stated objectives;

Now, therefore, the District of Columbia, the State of Maryland and the Commonwealth of Virginia, hereinafter referred to as Signatories, do hereby amend the Washington Metropolitan Area Transit Regulation Compact by adding thereto Title III, as hereinafter set forth, and do hereby covenant and agree substantially, as follows:

Title III

Article I. Definitions.

Definitions

1. As used in this Title, the following words and terms shall have the following meanings, unless the context clearly requires a different meaning:

(a) "Board" means the Board of Directors of the Washington Metropolitan Area Transit Authority;

(b) "Director" means a member of the Board of Directors of the Washington Metropolitan Area Transit Authority;

(c) "Private transit companies" and "private carriers" means corporations, persons, firms or associations rendering transit service within the Zone pursuant to a certificate of public convenience and necessity issued by the Washington Metropolitan Area Transit Commission or by a franchise granted by the United States or any Signatory party to this Title;

(d) "Signatory" means the State of Maryland, the Commonwealth of Virginia and the District of Columbia;

(e) "State" includes District of Columbia;

(f) "Transit facilities" means all real and personal property located in the Zone, necessary or useful in rendering transit service between points within the Zone, by means of rail, bus, water or air and any other mode of travel, including, without limitation, tracks, rights-of-way, bridges, tunnels, subways, rolling stock for rail, motor vehicle, marine and air transportation, stations, terminals and

ports, areas for parking and all equipment, fixtures, buildings and structures and services incidental to or required in connection with the performance of transit service;

(g) "Transit services" means the transportation of persons and their packages and baggage by means of transit facilities between points within the Zone including the transportation of newspapers, express and mail between such points, and charter service which originates within the Zone but does not include taxicab service or individual-ticket-sales sightseeing operations;

(h) "Transit Zone" or "Zone" means the Washington Metropolitan Area Transit Zone created and described in Section 3 as well as any additional area that may be added pursuant to Section 83(a) of this Compact; and

(i) "WMATC" means Washington Metropolitan Area Transit Commission.

Article II. Purpose and Functions.

Purpose

2. The purpose of this Title is to create a regional instrumentality, as a common agency of each Signatory party, empowered, in the manner hereinafter set forth, (1) to plan, develop, finance and cause to be operated improved transit facilities, in coordination with transportation and general development planning for the Zone, as part of a balanced regional system of transportation, utilizing to their best advantage the various modes of transportation, (2) to coordinate the operation of the public and privately owned or controlled transit facilities, to the fullest extent practicable, into a unified regional transit system without unnecessary duplicating service, and (3) to serve such other regional purposes and to perform such other regional functions as the Signatories may authorize by appropriate legislation.

Article III. Organization and Area.

Washington Metropolitan Area Transit Zone

3. There is hereby created the Washington Metropolitan Area Transit Zone which shall embrace the District of Columbia, the Cities of Alexandria, Falls Church and Fairfax and the Counties of Arlington, Fairfax and Loudoun and political subdivisions of the Commonwealth of Virginia located within those counties, and the counties of Montgomery and Prince George's in the State of Maryland and political subdivisions of the State of Maryland located in said counties.

Washington Metropolitan Area Transit Authority

4. There is hereby created, as an instrumentality and agency of each of the Signatory parties hereto, the Washington Metropolitan Area Transit Authority which shall be a body corporate and politic, and which shall have the powers and duties granted herein and such additional powers as may hereafter be conferred upon it pursuant to law.

Board Membership

5. (a) The Authority shall be governed by a Board of eight Directors consisting of two Directors for each Signatory and two for the federal government (one of whom shall be a regular passenger and customer of the bus or rail service of the Authority). For Virginia, the Directors shall be appointed by the Northern Virginia Transportation Commission; for the District of Columbia by the Council of the District of Columbia; for Maryland, by the Washington Suburban Transit Commission; and for the federal government, by the Administrator of General Services. For Virginia and Maryland, the Directors shall be appointed from among the members of the appointing body, except as otherwise provided herein, and shall serve for a term coincident with their term on the appointing body. A Director for a Signatory may be removed or suspended from office only as provided by the law of the Signatory from which he was appointed. The nonfederal appointing authorities shall also appoint an alternate for each Director. In addition, the Administrator of General Services shall also appoint two nonvoting members who shall serve as the alternates for the federal Directors. An alternate Director may act only in the absence of the Director for whom he has been appointed an alternate, except that, in the case of the District of Columbia where only one Director and his alternate are present, such alternate may act on behalf of the absent Director. Each alternate, including the federal nonvoting Directors, shall serve at the pleasure of the appointing authority. In the event of a vacancy in the office of Director or alternate, it shall be filled in the same manner as an original appointment.

(b) Before entering upon the duties of his office each Director and alternate director shall take and subscribe to the following oath (or affirmation) of office or any such other oath or affirmation, if any, as the Constitution or laws of the Government he represents shall provide:

"I,....., hereby solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and Laws of the state or political jurisdiction from which I was appointed as a Director (alternate director) of the Board of Washington Metropolitan Area Transit Authority and will faithfully discharge the duties of the office upon which I am about to enter."

Compensation of Directors and Alternates

6. Members of the Board and alternates shall serve without compensation but may be reimbursed for necessary expenses incurred as an incident to the performance of their duties.

Organization and Procedure

7. The Board shall provide for its own organization and procedure. It shall organize annually by the election of a Chairman and Vice-Chairman from among its members. Meetings of the Board shall be held as frequently as the Board deems that the proper performance of its duties requires and the Board shall keep minutes of its meetings. The Board shall adopt rules and regulations governing its meeting, minutes and transactions.

Quorum and Actions by the Board

8. (a) Four Directors or alternates consisting of at least one Director or alternate appointed from each Signatory, shall constitute a quorum and no action by the Board shall be effective unless a majority of the Board present and voting, which majority shall include at least one Director or alternate from each Signatory, concur therein; provided, however, that a plan of financing may be adopted or a mass transit plan adopted, altered, revised or amended by the unanimous vote of the Directors representing any two Signatories.

(b) The actions of the Board shall be expressed by motion or resolution. Actions dealing solely with internal management of the Authority shall become effective when directed by the Board, but no other action shall become effective prior to the expiration of thirty days following its adoption; provided, however, that the Board may provide for the acceleration of any action upon a finding that such acceleration is required for the proper and timely performance of its functions.

Officers

9. (a) The officers of the Authority, none of whom shall be members of the Board, shall consist of a general manager, a secretary, a treasurer, a comptroller, an inspector general, and a general counsel and such other officers as the Board may provide. Except for the office of general manager, inspector general, and comptroller, the Board may consolidate any of such other offices in one person. All such officers shall be appointed and may be removed by the Board, shall serve at the pleasure of the Board and shall perform such duties and functions as the Board shall specify. The Board shall fix and determine the compensation to be paid to all officers and, except for the general manager who shall be a full-time employee, all other officers may be hired on a full-time or part-time basis and may be compensated on a salary or fee basis, as the Board may determine. All employees and such officers as the Board may designate shall be appointed and removed by the general manager under such rules of procedure and standards as the Board may determine.

(b) The general manager shall be the chief administrative officer of the Authority and, subject to policy direction by the Board, shall be responsible for all activities of the Authority.

(c) The treasurer shall be the custodian of the funds of the Authority, shall keep an account of all receipts and disbursements and shall make payments only upon warrants duly and regularly signed by the Chairman or Vice-Chairman of the Board, or other person authorized by the Board to do so, and by the secretary or general manager; provided, however, that the Board may provide that warrants not exceeding such amounts or for such purposes as may from time to time be specified by the Board may be signed by the general manager or by persons designated by him.

(d) The inspector general shall report to the Board and head the Office of Inspector General, an independent and objective unit of the Authority that conducts and supervises audits, program evaluations, and investigations relating to Authority activities; promotes economy, efficiency, and effectiveness in Authority activities; detects and prevents fraud and abuse in Authority activities;

and keeps the Board fully and currently informed about deficiencies in Authority activities as well as the necessity for and progress of corrective action.

(e) An oath of office in the form set out in § 5 (b) of this Article shall be taken, subscribed and filed with the Board by all appointed officers.

(f) Each Director, officer and employee specified by the Board shall give such bond in such form and amount as the Board may require, the premium for which shall be paid by the Authority.

Conflict of Interest

10. (a) No Director, officer or employee shall:

(1) be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the Board or the Authority is a party;

(2) in connection with services performed within the scope of his official duties, solicit or accept money or any other thing of value in addition to the compensation or expenses paid to him by the Authority;

(3a) offer money or any thing of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the Authority.

(b) Any Director, officer or employee who shall willfully violate any provision of this section shall, in the discretion of the Board, forfeit his office or employment.

(c) Any contract or agreement made in contravention of this section may be declared void by the Board.

(d) Nothing in this section shall be construed to abrogate or limit the applicability of any federal or state law which may be violated by any action prescribed by this section.

Article IV. Pledge of Cooperation.

11. Each Signatory pledges to each other faithful cooperation in the achievement of the purposes and objects of this Title.

Article V. General Powers.

Enumeration

12. In addition to the powers and duties elsewhere described in this Title, and except as limited in this Title, the Authority may:

(a) Sue and be sued;

(b) Adopt and use a corporate seal and alter the same at pleasure;

(c) Adopt, amend, and repeal rules and regulations respecting the exercise of the powers conferred by this Title;

(d) Construct, acquire, own, operate, maintain, control, sell and convey real and personal property and any interest therein by contract, purchase, condemnation, lease, license, mortgage or otherwise but all of said property shall be located in the Zone and shall be necessary or useful in rendering transit service or in activities incidental thereto;

(e) Receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services as may be transferred or made available to it by any Signatory party, any political subdivision or agency thereof, by the United States, or by any agency thereof, or by any other public or private corporation or individual, and enter into agreements to make reimbursement for all or any part thereof;

(f) Enter into and perform contracts, leases and agreements with any person, firm or corporation or with any political subdivision or agency of any Signatory party or with the federal government, or any agency thereof, including, but not limited to, contracts or agreements to furnish transit facilities and service;

(g) Create and abolish offices, employments and positions (other than those specifically provided for herein) as it deems necessary for the purposes of the Authority, and fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension and retirement rights of its officers and employees without regard to the laws of any of the Signatories;

(h) Establish, in its discretion, a personnel system based on merit and fitness and, subject to eligibility, participate in the pension and retirement plans of any Signatory, or political subdivision or agency thereof, upon terms and conditions mutually acceptable;

(i) Contract for or employ any professional services;

(j) Control and regulate the use of facilities owned or controlled by the Authority, the service to be rendered and the fares and charges to be made therefor;

(k) Hold public hearings and conduct investigations relating to any matter affecting transportation in the Zone with which the Authority is concerned and, in connection therewith, subpoena witnesses, papers, records and documents; or delegate such authority to any officer. Each Director may administer oaths or affirmations in any proceeding or investigation;

(l) Make or participate in studies of all phases and forms of transportation, including transportation vehicle research and development techniques and methods for determining traffic projections, demand motivations, and fiscal research and publicize and make available the results of such studies and other information relating to transportation;

(m) Exercise, subject to the limitations and restrictions herein imposed, all powers reasonably necessary or essential to the declared objects and purposes of this Title; and

(n) Establish regulations providing for public access to Board records.

Article VI. Planning.

Mass Transit Plan

13. (a) The Board shall develop and adopt, and may from time to time review and revise, a mass transit plan for the immediate and long-range needs of the Zone. The mass transit plan shall include one or more plans designating (1) the transit facilities to be provided by the Authority, including the locations of terminals, stations, platforms, parking facilities and the character and nature thereof; (2) the design and location of such facilities; (3) whether such facilities are to be constructed or acquired by lease, purchase or condemnation; (4) a timetable for the provision of such facilities; (5) the anticipated capital cost; (6) estimated operating expenses and revenues relating thereto; and (7) the various other factors and considerations, which, in the opinion of the Board, justify and require the projects therein proposed. Such plan shall specify the type of equipment to be utilized, the areas to be served, the routes and schedules of service expected to be provided and probable fares and charges therefor.

(b) In preparing the mass transit plan, and in any review or revision thereof, the Board shall make full utilization of all data, studies, reports and information available from the National Capital Transportation Agency and from any other agencies of the federal government, and from Signatories and the political subdivisions thereof.

Planning Process

14. (a) The mass transit plan, and any revisions, alterations or amendments thereof, shall be coordinated, through the procedures hereinafter set forth, with

(1) other plans and programs affecting transportation in the Zone in order to achieve a balanced system of transportation, utilizing each mode to its best advantage;

(2) the general plan or plans for the development of the Zone; and

(3) the development plans of the various political subdivisions embraced within the Zone.

(b) It shall be the duty and responsibility of each member of the Board to serve as liaison between the Board and the body which appointed him to the Board. To provide a framework for regional participation in the planning process, the Board shall create technical committees concerned with planning and collection and analyses of data relative to decision-making in the transportation planning process and the Mayor and Council of the District of Columbia, the component governments of the Northern Virginia Transportation District and the Washington Suburban Transit District shall appoint representatives to such technical committees and otherwise cooperate with the Board in the formulation of a mass transit plan, or in revisions, alterations or amendments thereof.

(c) The Board, in the preparation, revision, alteration or amendment of a mass transit plan, shall

(1) consider data with respect to current and prospective conditions in the Zone, including, without limitation, land use, population, economic factors affecting development plans, goals or objectives for the development of the Zone and the separate political subdivisions, transit demands to be generated by such development, travel patterns, existing and proposed transportation and transit facilities, impact of transit plans on the dislocation of families and businesses, preservation of the beauty and dignity of the Nation's Capital, factors affecting environmental amenities and aesthetics and financial resources;

(2) cooperate with and participate in any continuous, comprehensive transportation planning process cooperatively established by the highway agencies of the Signatories and the local political subdivisions in the Zone to meet the planning standards now or hereafter prescribed by the Federal-Aid Highway Acts; and

(3) to the extent not inconsistent with or duplicative of the planning process specified in subdivision (2) of this subsection (c), cooperate with the National Capital Planning Commission, the National Capital Regional Planning Council, the Washington Metropolitan Council of Governments, the Washington Metropolitan Area Transit Commission, the highway agencies of the Signatories, the Maryland-National Capital Park and Planning Commission, the Northern Virginia Regional Planning and Economic Development Commission, the Maryland State Planning Department and the Commission of Fine Arts. Such cooperation shall include the creation, as necessary, of technical committees composed of personnel, appointed by such agencies, concerned with planning and collection and analysis of data relative to decision-making in the transportation planning process.

Adoption of Mass Transit Plan

15. (a) Before a mass transit plan is adopted, altered, revised or amended, the Board shall transmit such proposed plan, alteration, revision or amendment for comment to the following and to such other agencies as the Board shall determine:

(1) the Mayor and Council of the District of Columbia, the Northern Virginia Transportation Commission and the Washington Suburban Transit Commission;

(2) the governing bodies of the counties and cities embraced within the Zone;

(3) the transportation agencies of the Signatories;

(4) the Washington Metropolitan Area Transit Commission;

(5) the Washington Metropolitan Council of Governments;

(6) the National Capital Planning Commission;

(7) the National Capital Regional Planning Council;

(8) the Maryland-National Capital Park and Planning Commission;

(9) the Northern Virginia Regional Planning and Economic Development Commission;

(10) the Maryland State Planning Department; and

(11) the private transit companies operating in the Zone and the Labor Unions representing the employees of such companies and employees of contractors providing services under operating contracts.

(b) A copy of the proposed mass transit plan, amendment or revision, shall be kept at the office of the Board and shall be available for public inspection. Information with respect thereto shall be released to the public. After thirty days' notice published once a week for two successive weeks in one or more newspapers of general circulation within the Zone, a public hearing shall be held with respect to the proposed plan, alteration, revision or amendment. The thirty days' notice shall begin to run on the first day the notice appears in any such newspaper. The Board shall consider the evidence submitted and statements and comments made at such hearing and may make any changes in the proposed plan, amendment or revision which it deems appropriate and such changes may be made without further hearing.

Article VII. Financing.

Policy

16. With due regard for the policy of Congress for financing a mass transit plan for the Zone set forth in Section 204 (g) of the National Capital Transportation Act of 1960 (74 Stat. 537), it is hereby declared to be the policy of this Title that, as far as possible, the payment of all costs shall be borne by the persons using or benefiting from the Authority's facilities and services and any remaining costs shall be equitably shared among the federal, District of Columbia and participating local governments in the Zone. The allocation among such governments of such remaining cost shall be determined by agreement among them and shall be provided in the manner hereinafter specified.

Plan of Financing

17. (a) The Authority, in conformance with said policy, shall prepare and adopt a plan for financing the construction, acquisition and operation of facilities specified in a mass transit plan adopted pursuant to Article VI hereof, or in any alteration, revision or amendment thereof. Such plan of financing shall specify the facilities to be constructed or acquired, the cost thereof, the principal amount of revenue bonds, equipment trust certificates and other evidences of debt proposed to be issued, the principal terms and provisions of all loans and underlying agreements and indentures, estimated operating expenses and revenues and the proposed allocation among the federal, District of Columbia and participating local governments of the remaining costs and deficits, if any, and such other information as the Commission may consider appropriate.

(b) Such plan of financing shall constitute a proposal to the interested governments for financial participation and shall not impose any obligation on any government and such obligations shall be created only as provided in § 18 of this Article VII.

Commitments for Financial Participation

18. (a) Commitments on behalf of the portion of the Zone located in Virginia shall be by contract or agreement by the Authority with the Northern Virginia Transportation District, or its component governments, as authorized in the Transportation District Act of 1964 (Ch. 631, 1964 Virginia Acts of Assembly), to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or any alteration, revision or amendment thereof, and for meeting expenses and obligations in the operation of such facilities. No such contract or agreement, however, shall be entered into by the Authority with the Northern Virginia Transportation District unless said District has entered into the contracts or agreements with its member governments, as contemplated by § 1 (b) (4) of Article 4 of said Act, which contracts or agreements expressly provide that such contracts or agreements shall inure to the benefit of the Authority and shall be enforceable by the Authority in accordance with the provisions of § 2, Article 5 of said Act, and such contracts or agreements are acceptable to the Board. The General Assembly of Virginia hereby authorizes and designates the Authority as the agency to plan for and provide transit facilities and services for the area of Virginia encompassed within the Zone within the contemplation of Article 1, § 3 (c) of said Act.

(b) Commitments on behalf of the portion of the Zone located in Maryland shall be by contract or agreement by the Authority with the Washington Suburban Transit District, pursuant to which the Authority undertakes to provide transit facilities and service in consideration for the agreement by said District to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

(c) With respect to the federal government, the commitment or obligation to render financial assistance shall be created by appropriation or in such other manner, or by such other legislation, as the Congress shall determine. Commitments by the District of Columbia shall be by contract or agreement between the governing body of the District of Columbia and the Authority, pursuant to which the Authority undertakes, subject to the provisions of § 20 hereof, to provide transit facilities and service in consideration for the undertaking by the District of Columbia to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

(d) (1) All payments made by the local Signatory governments for the Authority for the purpose of matching federal funds appropriated in any given year as authorized under Title VI, § 601, P.L. 110-432 regarding funding of capital and preventive maintenance projects of the Authority shall be made from amounts derived from dedicated funding sources.

(2) For purposes of this paragraph (d), a "dedicated funding source" means any source of funding that is earmarked or required under state or local law to be used to match federal appropriations authorized under Title VI, § 601, P.L. 110-432 for payments to the Authority.

Administrative Expenses

19. Prior to the time the Authority has receipts from appropriations and contracts or agreements as provided in § 18 of this Article VII, the expenses of the Authority for administration and for preparation of a mass transit and financing plan, including all engineering, financial, legal and other services required in connection therewith, shall, to the extent funds for such expenses are not provided through grants by the federal government, be borne by the District of Columbia, by the Washington Suburban Transit District and the component governments of the Northern Virginia Transportation District. Such expenses shall be allocated among such governments on the basis of population as reflected by the latest available population statistics of the Bureau of the Census; provided, however, that upon the request of any director the Board shall make the allocation upon estimates of population acceptable to the Board. The allocations shall be made by the Board and shall be included in the annual current expense budget prepared by the Board.

Acquisition of Facilities from Federal or Other Agencies

20. (a) The Authority is authorized to acquire by purchase, lease or grant or in any manner other than condemnation, from the federal government or any agency thereof, from the District of Columbia, Maryland or Virginia, or any political subdivision or agency thereof, any transit and related facilities, including real and personal property and all other assets, located within the Zone, whether in operation or under construction. Such acquisition shall be made upon such terms and conditions as may be agreed upon and subject to such authorization or approval by the Congress and the governing body of the District of Columbia, as may be required; provided, however, that if such acquisition imposes or may impose any further or additional obligation or liability upon the Washington Suburban Transit District, the Northern Virginia Transportation District, or any component government thereof, under any contract with the Authority, the Authority shall not make the acquisition until any such affected contract has been appropriately amended.

(b) For such purpose, the Authority is authorized to assume all liabilities and contracts relating thereto, to assume responsibility as primary obligor, endorser or guarantor on any outstanding revenue bonds, equipment trust certificates or other form of indebtedness authorized in this Act issued by such predecessor agency or agencies and, in connection therewith, to become a party to,

and assume the obligations of, any indenture or loan agreement underlying or issued in connection with any outstanding securities or debts.

Temporary Borrowing

21. The Board may borrow, in anticipation of receipts, from any Signatory, the Washington Suburban Transit District, the Northern Virginia Transportation District, or any component government thereof, or from any lending institution for any purposes of this Title, including administrative expenses. Such loans shall be for a term not to exceed two years and at such rates on interest as shall be acceptable to the Board. The Signatories and any such political subdivision or agency may, in its discretion, make such loans from any available money.

Funding

22. The Board shall not construct or acquire any of the transit facilities specified in a mass transit plan adopted pursuant to the provisions of Article VI of this Title, or in any alteration, revision or amendment thereof, nor make any commitments or incur any obligations with respect thereto until funds are available therefor.

Article VIII. Budget.

Capital Budget

23. The Board shall annually adopt a capital budget, including all capital projects it proposes to undertake or continue during the budget period, containing a statement of the estimated cost of each project and the method of financing thereof.

Current Expense Budget

24. The Board shall annually adopt a current expense budget for each fiscal year. Such budget shall include the Board's estimated expenditures for administration, operation, maintenance and repairs, debt service requirements and payments to be made into any funds required to be maintained. The total of such expenses shall be balanced by the Board's estimated revenues and receipts from all sources, excluding funds included in the capital budget or otherwise earmarked for other purposes.

Adoption and Distribution of Budgets

25. (a) Following the adoption by the Board of annual capital and current expense budgets, the general manager shall transmit certified copies of such budgets to the principal budget officer of the federal government, the District of Columbia, the Washington Suburban Transit District and of the component governments of the Northern Virginia Transportation Commission at such time and in such manner as may be required under their respective budgetary procedures.

(b) Each budget shall indicate the amounts, if any, required from the federal government, the government of the District of Columbia, the Washington Suburban Transit District and the

component governments of the Northern Virginia Transportation District, determined in accordance with the commitments made pursuant to Article VII, § 18 of this Title, to balance each of said budgets.

Payment

26. Subject to such review and approval as may be required by their budgetary or other applicable processes, the federal government, the Government of the District of Columbia, the Washington Suburban Transit District and the component governments of the Northern Virginia Transportation District shall include in their respective budgets next to be adopted and appropriate or otherwise provide the amounts certified to each of them as set forth in the budgets.

Article IX. Revenue Bonds.

Borrowing Power

27. The Authority may borrow money for any of the purposes of this Title, may issue its negotiable bonds and other evidences of indebtedness in respect thereto and may mortgage or pledge its properties, revenues and contracts as security therefor.

All such bonds and evidences of indebtedness shall be payable solely out of the properties and revenues of the Authority. The bonds and other obligations of the Authority, except as may be otherwise provided in the indenture under which they were issued, shall be direct and general obligations of the Authority and the full faith and credit of the Authority are hereby pledged for the prompt payment of the debt service thereon and for the fulfillment of all other undertakings of the Authority assumed by it to or for the benefit of the holders thereof.

Funds and Expenses

28. The purposes of this Title shall include, without limitation, all costs of any project or facility or any part thereof, including interest during a period of construction and for a period not to exceed two years thereafter and any incidental expenses (legal, engineering, fiscal, financial, consultant and other expenses) connected with issuing and disposing of the bonds; all amounts required for the creation of an operating fund, construction fund, reserve fund, sinking fund, or other special fund; all other expenses connected with administration, the planning, design, acquisition, construction, completion, improvement or reconstruction of any facility or any part thereof; and reimbursement of advances by the Board or by others for such purposes and for working capital.

Credit Excluded; Officers, State, Political Subdivisions and Agencies

29. The Board shall have no power to pledge the credit of any Signatory party, political subdivision or agency thereof, or to impose any obligation for payment of the bonds upon any Signatory party, political subdivision or agency thereof, but may pledge the contracts of such governments and agencies; provided, however, that the bonds may be underwritten in whole or in part as to principal

and interest by the United States, or by any political subdivision or agency of any Signatory; provided, further, that any bonds underwritten in whole or in part as to principal and interest by the United States shall not be issued without approval of the Secretary of the Treasury. Neither the Directors nor any person executing the bonds shall be liable personally on the bonds of the Authority or be subject to any personal liability or accountability by reason of the issuance thereof.

Funding and Refunding

30. Whenever the Board deems it expedient, it may fund and refund the bonds and other obligations of the Authority whether or not such bonds and obligations have matured. It may provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming or retiring any bonds (including the payment of any premium, duplicate interest or cash adjustment required in connection therewith) issued by the Authority or issued by any other issuing body, the proceeds of the sale of which have been applied to any facility acquired by the Authority or which are payable out of the revenues of any facility acquired by the Authority. Bonds may be issued partly to refund bonds and other obligations then outstanding, and partly for any other purpose of the Authority. All provisions of this Title applicable to the issuance of bonds are applicable to refunding bonds and to the issuance, sale or exchange thereof.

Bonds; Authorization Generally

31. Bonds and other indebtedness of the Authority shall be authorized by resolution of the Board. The validity of the authorization and issuance of any bonds by the Authority shall not be dependent upon nor affected in any way by: (i) the disposition of bond proceeds by the Board or by contract, commitment or action taken with respect to such proceeds; or (ii) the failure to complete any part of the project for which bonds are authorized to be issued. The Authority may issue bonds in one or more series and may provide for one or more consolidated bond issues, in such principal amounts and with such terms and provisions as the Board may deem necessary. The bonds may be secured by a pledge of all or any part of the property, revenues and franchises under its control. Bonds may be issued by the Authority in such amount, with such maturities and in such denominations and form or forms, whether coupon or registered, as to principal alone or as to both principal and interest, as may be determined by the Board. The Board may provide for redemption of bonds prior to maturity on such notice and at such time or times and with such redemption provisions, including premiums, as the Board may determine.

Bonds; Resolution and Indentures Generally

32. The Board may determine and enter into indentures or adopt resolutions providing for the principal amount, date or dates, maturities, interest rate, or rates, denominations, form, registration, transfer, interchange and other provisions of bonds and coupons and the terms and conditions upon which the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded. The resolution

of the Board authorizing any bond or any indenture so authorized under which the bonds are issued may include all such covenants and other provisions not inconsistent with the provisions of this Title, other than any restriction on the regulatory powers vested in the Board by this Title, as the Board may deem necessary or desirable for the issue, payment, security, protection or marketing of the bonds, including without limitation covenants and other provisions as to the rates or amounts of fees, rents and other charges to be charged or made for use of the facilities; the use, pledge, custody, securing, application and disposition of such revenues, of the proceeds of the bonds, and of any other moneys or contracts of the Authority; the operation, maintenance, repair and reconstruction of the facilities and the amounts which may be expended therefor; the sale, lease or other disposition of the facilities; the insuring of the facilities and of the revenues derived therefrom; the construction or other acquisition of other facilities; the issuance of additional bonds or other indebtedness; the rights of the bondholders and of any trustee for the bondholders upon default by the Authority or otherwise; and the modification of the provisions of the indenture and of the bonds. Reference on the face of the bonds to such resolution or indenture by its date of adoption or the apparent date on the face thereof is sufficient to incorporate all of the provisions thereof and of this Title into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this Title and is bound thereby.

Maximum Maturity

33. No bond or its terms shall mature in more than fifty years from its own date and in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

Tax Exemption

34. All bonds and all other evidences of debt issued by the Authority under the provisions of this Title and the interest thereon shall at all times be free and exempt from all taxation by or under authority of any Signatory parties, except for transfer, inheritance and estate taxes.

Interest

35. Bonds shall bear interest at such rate or rates as may be determined by the Board, payable annually or semiannually.

Place of Payment

36. The Board may provide for the payment of the principal and interest of bonds at any place or places within or without the Signatory states, and in any specified lawful coin or currency of the United States of America.

Execution

37. The Board may provide for the execution and authentication of bonds by the manual, lithographed or printed facsimile signature of members of the Board, and by additional authentication by a trustee or fiscal agent appointed by the Board; provided, however, that one of such signatures shall be manual; and provided, further, that no such additional authentication or manual signatures need be required in the case of bonds guaranteed by the United States of America. If any of the members whose signatures or countersignatures appear upon the bonds or coupons cease to be members before the delivery of the bonds or coupons, their signatures or countersignatures are nevertheless valid and of the same force and effect as if the members had remained in office until the delivery of the bonds and coupons.

Holding Own Bonds

38. The Board shall have power out of any funds available therefor to purchase its bonds and may hold, cancel or resell such bonds.

Sale

39. The Board may fix terms and conditions for the sale or other disposition of any authorized issue of bonds. The Board may sell bonds at less than their par or face value but no issue of bonds may be sold at an aggregate price below the par or face value thereof if such sale would result in a net interest cost to the Authority calculated upon the entire issue so sold in excess of the applicable rate determined by the Board, payable semiannually, computed with relation to the absolute maturity of the bonds according to standard tables of bond values, deducting the amount of any premium to be paid on the redemption of any bonds prior to maturity. All bonds issued and sold pursuant to this Title may be sold in such manner, either at public or private sale, as the Board shall determine.

Negotiability

40. All bonds issued under the provisions of this Title are negotiable instruments.

Bonds Eligible for Investment and Deposit

41. Bonds issued under the provisions of this Title are hereby made securities in which all public officers and public agencies of the Signatories and their political subdivisions and all banks, trust companies, savings and loan associations, investment companies and others carrying on a banking business, all insurance companies and insurance associations and others carrying on an insurance business, all administrators, executors, guardians, trustees and other fiduciaries, and all other persons may legally and properly invest funds, including capital in their control or belonging to them. Such

bonds are hereby made securities which may properly and legally be deposited with and received by any officer of any Signatory, or of any agency or political subdivision of any Signatory, for any purpose for which the deposit of bonds or other obligations of such Signatory is now or may hereafter be authorized by law.

Validation Proceedings

42. Prior to the issuance of any bonds, the Board may institute a special proceeding to determine the legality of proceedings to issue the bonds and their validity under the laws of any of the Signatory parties. Such proceeding shall be instituted and prosecuted in rem and the final judgment rendered therein shall be conclusive against all persons whomsoever and against each of the Signatory parties.

43. No indenture need be recorded or filed in any public office, other than the office of the Board. The pledge of revenues provided in any indenture shall take effect forthwith as provided therein and irrespective of the date of receipt of such revenues by the Board or the indenture trustee. Such pledge shall be effective as provided in the indenture without physical delivery of the revenues to the Board or to the indenture trustee.

Pledged Revenues

44. Bond redemption and interest payments shall, to the extent provided in the resolution or indenture, constitute a first, direct and exclusive charge and lien on all revenues received from the use and operation of the facility, and on any sinking or other funds created therefrom. All such revenues, together with interest thereon, shall constitute a trust fund for the security and payment of such bonds and except as and to the extent provided in the indenture with respect to the payment therefrom of expenses for other purposes including administration, operation, maintenance, improvements or extensions of the facilities or other purposes shall not be used or pledged for any other purpose so long as such bonds, or any of them, are outstanding and unpaid.

Remedies

45. The holder of any bond may for the equal benefit and protection of all holders of bonds similarly situated: (1) by mandamus or other appropriate proceedings require and compel the performance of any of the duties imposed upon the Board or assumed by it, its officers, agents or employees under the provisions of any indenture, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of the facilities, or in connection with the collection, deposit, investment, application and disbursement of the revenues derived from the operation and use of the facilities, or in connection with the deposit, investment and disbursement of the proceeds received from the sale of bonds; or (2) by action or suit in a court of competent jurisdiction of any Signatory party require the Authority to account as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds. The

enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds.

Article X. Equipment Trust Certificates.

Power

46. The Board shall have power to execute agreements, leases and equipment trust certificates with respect to the purchase of facilities or equipment such as cars, trolley buses and motor buses, or other craft, in the form customarily used in such cases and appropriate to effect such purchase, and may dispose of such equipment trust certificates in such manner as it may determine to be for the best interests of the Authority. Each vehicle covered by an equipment trust certificate shall have the name of the owner and lessor plainly marked upon both sides thereof, followed by the words "Owner and Lessor".

Payments

47. All moneys required to be paid by the Authority under the provisions of such agreements, leases and equipment trust certificates shall be payable solely from the revenue to be derived from the operation of the transit system or from such grants, loans, appropriations or other revenues, as may be available to the Board under the provisions of this Title. Payment for such facilities or equipment, or rentals thereof, may be made in installments, and the deferred installments may be evidenced by equipment trust certificates as aforesaid, and title to such facilities or equipment may not vest in the Authority until the equipment trust certificates are paid.

Procedure

48. The agreement to purchase facilities or equipment by the Board may direct the vendor to sell and assign the equipment to a bank or trust company, duly authorized to transact business in any of the Signatory states, or to the Housing and Home Finance Administrator, as trustee, lessor or vendor, for the benefit and security of the equipment trust certificates and may direct the trustee to deliver the facilities and equipment to one or more designated officers of the Board and may authorize the trustee simultaneously therewith to execute and deliver a lease of the facilities or equipment to the Board.

Agreements and Leases

49. The agreements and leases shall be duly acknowledged before some person authorized by law to take acknowledgments of deeds and in the form required for acknowledgment of deeds and such agreements, leases, and equipment trust certificates shall be authorized by resolution of the Board and shall contain such covenants, conditions and provisions as may be deemed necessary or appropriate to insure the payment of the equipment trust certificates from the revenues to be derived from the operation of the transit system and other funds.

The covenants, conditions and provisions of the agreements, leases and equipment trust certificates shall not conflict with any of the provisions of any resolution or trust agreement securing the payment of bonds or other obligations of the Authority then outstanding or conflict with or be in derogation of the rights of the holders of any such bonds or other obligations.

Law Governing

50. The equipment trust certificates issued hereunder shall be governed by Laws of the District of Columbia and for this purpose the chief place of business of the Authority shall be considered to be the District of Columbia. The filing of any documents required or permitted to be filed shall be governed by the Laws of the District of Columbia.

Article XI. Operation of Facilities.

Operation by Contract or Lease

51. Any facilities and properties owned or controlled by the Authority may be operated by the Authority directly or by others pursuant to contract or lease as the Board may determine.

The Operating Contract

52. Without limitation upon the right of the Board to prescribe such additional terms and provisions as it may deem necessary and appropriate, the operating contract shall:

(a) specify the services and functions to be performed by the Contractor;

(b) provide that the Contractor shall hire, supervise and control all personnel required to perform the services and functions assumed by it under the operating contract and that all such personnel shall be employees of the Contractor and not of the Authority;

(c) require the Contractor to assume the obligations of the labor contract or contracts of any transit company which may be acquired by the Authority and assume the pension obligations of any such transit company;

(d) require the Contractor to comply in all respects with the labor policy set forth in Article XIV of this Title;

(e) provide that no transfer of ownership of the capital stock, securities or interests in any Contractor, whose principal business in the operating contract, shall be made without written approval of the Board and the certificates or other instruments representing such stock, securities or interests shall contain a statement of this restriction;

(f) provide that the Board shall have the sole authority to determine the rates or fares to be charged, the routes to be operated and the service to be furnished;

(g) specify the obligations and liabilities which are to be assumed by the Contractor and those which are to be the responsibility of the Authority;

(h) provide for an annual audit of the books and accounts of the Contractor by an independent certified public accountant to be selected by the Board and for such other audits, examinations and investigations of the books and records, procedures and affairs of the Contractor at such times and in such manner as the Board shall require, the cost of such audits, examinations and investigations to be borne as agreed by the parties in the operating contracts; and

(i) provided that no operating contract shall be entered into for a term in excess of five years; provided, that any such contract may be renewed for successive terms, each of which shall not exceed five years. Any such operating contract shall be subject to termination by the Board for cause only.

Compensation for Contractor

53. Compensation to the Contractor under the operating contract may, in the discretion of the Board, be in the form of (1) a fee paid by the Board to the Contractor for services, (2) a payment by the Contractor to the Board for the right to operate the system, or (3) such other arrangement as the Board may prescribe; provided, however, that the compensation shall bear a reasonable relationship to the benefits to the Authority and to the estimated costs the Authority would incur in directly performing the functions and duties delegated under the operating contract; and provided, further that no such contract shall create any right in the Contractor (1) to make or change any rate or fare or alter or change the service specified in the contract to be provided or (2) to seek judicial relief by any form of original action, review or other proceeding from any rate or fare or service prescribed by the Board. Any assertion, or attempted assertion, by the Contractor of the right to make or change any rate or fare or service prescribed by the Board shall constitute cause for termination of the operating contract. The operating contract may provide incentives for efficient and economical management.

Selection of Contractor

54. The Board shall enter into an operating contract only after formal advertisement and negotiations with all interested and qualified parties, including private transit companies rendering transit service within the Zone; provided, however, that, if the Authority acquires transit facilities from any agency of the federal or District of Columbia governments, in accordance with the provisions of Article VII, § 20 of this Title, the Authority shall assume the obligations of any operating contract which the transferor agency may have entered into.

Article XII. Coordination of Private and Public Facilities.

Declaration of Policy

55. It is hereby declared that the interest of the public in efficient and economical transit service and in the financial well-being of the Authority and of the private transit companies requires that the public and private segments of the regional transit system be operated, to the fullest extent possible, as a coordinated system without unnecessary duplicating service.

Implementation of Policy

56. In order to carry out the legislative policy set forth in § 55 of this Article XII

(a) The Authority--

(1) except as herein provided, shall not, directly or through a Contractor, perform transit service by bus or similar motor vehicles;

(2) shall, in cooperation with the private carriers and WMATC coordinate to the fullest extent practicable, the schedules for service performed by its facilities with the schedules for service performed by private carriers; and

(3) shall enter into agreements with the private carriers to establish and maintain, subject to approval by WMATC, through routes and joint fares and provide for the division thereof, or, in the absence of such agreements, establish and maintain through routes and joint fares in accordance with orders issued by WMATC directed to the private carriers when the terms and conditions for such through service and joint fares are acceptable to it.

(b) The WMATC, upon application, complaint, or upon its own motion, shall--

(1) direct private carriers to coordinate their schedules for service with the schedules for service performed by facilities owned or controlled by the Authority;

(2) direct private carriers to improve or extend any existing services or provide additional service over additional routes;

(3) authorize a private carrier, pursuant to agreement between said carrier and the Authority, to establish and maintain through routes and joint fares for transportation to be rendered with facilities owned or controlled by the Authority if, after hearing held upon reasonable notice, WMATC finds that such through routes and joint fares are required by the public interest; and

(4) in the absence of such an agreement with the Authority, direct a private carrier to establish and maintain through routes and joint fares with the Authority, if, after hearing held upon reasonable notice, WMATC finds that such through service and joint fares are required by the public interest; provided, however, that no such order, rule or regulation of WMATC shall be construed to require the Authority to establish and maintain any through route and joint fare.

(c) WMATC shall not authorize or require a private carrier to render any service, including the establishment or continuation of a joint fare for a through route service with the Authority which is based on a division thereof between the Authority and private carrier which does not provide a reasonable return to the private carrier, unless the carrier is currently earning a reasonable return on its operation as a whole in performing transportation subject to the jurisdiction of WMATC. In determining the issue of reasonable return, WMATC shall take into account any income attributable

to the carrier, or to any corporation, firm or association owned in whole or in part by the carrier, from the Authority whether by way of payment for services or otherwise.

(d) If the WMATC is unable, through the exercise of its regulatory powers over the private carriers granted in subsection (b) hereof or otherwise, to bring about the requisite coordination of operations and service between the private carriers and the Authority, the Authority may in the situations specified in subsection (b) hereof, cause such transit service to be rendered by its Contractor by bus or other motor vehicle, as it shall deem necessary to effectuate the policy set forth in § 55 hereof. In any such situation, the Authority, in order to encourage private carriers to render bus service to the fullest extent practicable, may, pursuant to agreement, make reasonable subsidy payments to any private carrier.

(e) The Authority may acquire the capital stock or the transit facilities of any private transit company and may perform transit service, including service by bus or similar motor vehicle, with transit facilities so acquired, or with transit facilities acquired pursuant to Article VII, § 20. Upon acquisition of the capital stock or the transit facilities of any private transit company, the Authority shall undertake the acquisition, as soon as possible, of the capital stock or the transit facilities of each of the other private transit companies within the Zone requesting such acquisition. Lack of such request, however, shall not be construed to preclude the Authority from acquiring the capital stock or the transit facilities of any such company pursuant to § 82 of Article XVI.

Rights of Private Carriers Unaffected

57. Nothing in this title shall restrict or limit such rights and remedies, if any, that any private carrier may have against the Authority arising out of acts done or actions taken by the Authority hereunder. In the event any court of competent jurisdiction shall determine that the Authority has unlawfully infringed any rights of any private carrier or otherwise caused or permitted any private carrier to suffer legally cognizable injury, damages or harm and shall award a judgment therefor, such judgment shall constitute a lien against any and all of the assets and properties of the Authority.

Financial Assistance to Private Carriers

58. (a) The Board may accept grants from and enter into loan agreements with the Housing and Home Finance Administrator, pursuant to the provisions of the Urban Mass Transportation Act of 1964 (78 Stat. 302), or with any successor agency or under any law of similar purport, for the purpose of rendering financial assistance to private carriers.

(b) An application by the Board for any such grant or loan shall be based on and supported by a report from WMATC setting forth for each private carrier to be assisted (1) the equipment and facilities to be acquired, constructed, reconstructed, or improved, (2) the service proposed to be rendered by such equipment and facilities, (3) the improvement in service expected from such facilities and equipment, (4) how the use of such facilities and equipment will be coordinated with

the transit facilities owned by the Authority, (5) the ability of the affected private carrier to repay any such loans or grants and (6) recommended terms for any such loans or grants.

(c) Any equipment or facilities acquired, constructed, reconstructed or improved with the proceeds of such grants or loans shall be owned by the Authority and may be made available to private carriers only by lease or other agreement which contain provisions acceptable to the Housing and Home Finance Administrator assuring that the Authority will have satisfactory continuing control over the use of such facilities and equipment.

Article XIII. Jurisdiction; Rates and Service.

Washington Metropolitan Area Transit Commission.

59. Except as provided herein, this Title shall not affect the functions and jurisdiction of WMATC, as granted by Titles I and II of this Compact, over the transportation therein specified and the persons engaged therein and the Authority shall have no jurisdiction with respect thereto.

Public Facilities

60. Service performed by transit facilities owned or controlled by the Authority, and the rates and fares to be charged for such service, shall be subject to the sole and exclusive jurisdiction of the Board and, notwithstanding any other provision in this Compact contained, WMATC shall have no authority with respect thereto, or with respect to any contractor in connection with the operation by it of transit facilities owned or controlled by the Authority. The determinations of the Board with respect to such matters shall not be subject to judicial review nor to the processes to any court.

Standards

61. Insofar as practicable, and consistent with the provision of adequate service at reasonable fares, the rates and fares and service shall be fixed by the Board so as to result in revenues which will:

(a) pay the operating expenses and provide for repairs, maintenance and depreciation of the transit system owned or controlled by the Authority;

(b) provide for payment of all principal and interest on outstanding revenue bonds and other obligations and for payment of all amounts to sinking funds and other funds as may be required by the terms of any indenture of loan agreement;

(c) provide for the purchase, lease or acquisition of rolling stock, including provisions for interest, sinking funds, reserve funds, or other funds required for the payment of any obligations incurred by the Authority for the acquisition of rolling stock; and

(d) provide funds for any purpose the Board deems necessary and desirable to carry out the purposes of this title.

Hearings

62. (a) The Board shall not raise any fare or rate, nor implement a major service reduction, except after holding a public hearing with respect thereto.

(b) Any Signatory, any political subdivision thereof, any agency of the federal government and any person, firm or association served by or using the transit facilities of the Authority and any private carrier may file a request with the Board for a hearing with respect to any rates or charges made by the Board or any service rendered with the facilities owned or controlled by the Authority. Such request shall be in writing, shall state the matter on which a hearing is requested and shall set forth clearly the matters and things on which the request relies. As promptly as possible after such a request is filed, the Board, or such officer or employee as it may designate, shall confer with the protestant with respect to the matters complained of. After such conference, the Board, if it deems the matter meritorious and of general significance, may call a hearing with respect to such request.

(c) The Board shall give at least fifteen days' notice for all public hearings. The notice shall be given by publication in a newspaper of daily circulation throughout the Transit Zone and such notice shall be published once a week for two successive weeks. The notice period shall start with the first day of publication. Notices of public hearings shall be posted in accordance with regulations promulgated by the Board.

(d) Prior to calling a hearing on any matter specified in this section, the Board shall prepare and file at its main office and keep open for public inspection its report relating to the proposed action to be considered at such hearing. Upon receipt by the Board of any report submitted by WMATC, in connection with a matter set for hearing, pursuant to the provisions of § 63 of this Article XIII, the Board shall file such report at its main office and make it available for public inspection. For hearings called by the Board pursuant to paragraph (b), above, the Board also shall cause to be lodged and kept open for public inspection the written request upon which the hearing is granted and all documents filed in support thereof.

Reference of Matters to WMATC

63. To facilitate the attainment of the public policy objectives for operation of the publicly and privately owned or controlled transit facilities as stated in Article XII, § 55, prior to the hearings provided for by § 62 hereof--

(a) The Board shall refer to WMATC for its consideration and recommendations, any matter which the Board considers may affect the operation of the publicly and privately owned or controlled transit facilities as a coordinated regional transit system and any matter for which the Board has called a hearing, pursuant to § 62 of this Article XIII, except that temporary or emergency changes in matters affecting service shall not be referred; and

(b) WMATC, upon such reference of any matter to it, shall give the referred matter preference over any other matters pending before it and shall, as expeditiously as practicable, prepare and transmit

its report thereon to the Board. The Board may request WMATC to reconsider any part of its report or to make any supplemental reports it deems necessary. All of such reports shall be advisory only.

(c) Any report submitted by WMATC to the Board shall consider, without limitation, the probable effect of the matter or proposal upon the operation of the publicly and privately owned or controlled transit facilities as a coordinated regional system, passenger movements, fare structures, service and the impact on the revenues of both the public and private facilities.

Article XIV. Labor Policy.

Construction

64. The Board shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Authority or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project, which contract shall be deemed to be a contract of the character specified in § 103 of the Contract Work Hours Standards Act (76 Stat. 357), as now or as may hereafter be in effect. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and § 2 of the Act of June thirteen, nineteen hundred thirty-four, as amended (48 Stat. 948, as amended; 40 U.S.C. 276 (c)). The requirements of this section shall also be applicable with respect to the employment of laborers and mechanics in the construction, alteration or repair, including painting and decorating, of the transit facilities owned or controlled by the Authority where such activities are performed by a contractor pursuant to agreement with the operator of such facilities.

Equipment and Supplies

65. Contracts for the manufacture or furnishing of materials, supplies, articles and equipment shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq), as now or as may hereafter be in effect.

Operations

66. (a) The rights, benefits, and other employee protective conditions and remedies of § 13 (c) of the Federal Transit Act, as amended (49 U.S.C. Section 5333 (b)), as determined by the Secretary of Labor, shall apply to Washington Metropolitan Area Transit Authority employees otherwise covered by the Act. The Authority shall extend to employees whose positions are adversely affected by the expenditure of federal funds obtained by WMATA pursuant to congressional appropriations, the rights, benefits, and other employee protective conditions and remedies of section 13 (c) of the Federal Transit Act, as amended (49 U.S.C. § 5333(b)).

(b) The Authority shall deal with and enter into written contracts with employees as defined in § 152 of Title 29, United States Code, through accredited representatives of such employees or representatives of any labor organization authorized to act for such employees concerning wages, salaries, hours, working conditions, and pension or retirement provisions. Each such contract entered into after the effective date of this act shall prohibit the contracting employees from engaging in any strike or an employer from engaging in any lockout.

(c) In case of any labor dispute involving the Authority and such employees where collective bargaining does not result in agreement, either party may declare that an impasse has been reached between the parties and may, by written notification to the other party and to the Federal Mediation and Conciliation Service, request the Service to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. Within five days of the receipt of the request the Federal Mediation and Conciliation Service shall appoint a mediator in accordance with its rules and procedures for such appointment. The mediator shall meet with the parties forthwith, either jointly or separately, and shall take such steps as he or she deems appropriate to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The mediator shall not, however, make findings of fact or recommend terms of settlement. Each party shall pay one-half of the expenses of such mediator. If the mediator is unable to effect settlement of the controversy within fifteen days after his or her appointment, the Authority shall submit such dispute to fact finding by a board composed of three persons, one appointed by the Authority, one appointed by the labor organization representing the employees, and a third member to be agreed upon by the labor organization and the Authority. The member agreed upon by the labor organization and the Authority shall act as chairman of the board. The determination of the majority of the fact finding board thus established shall be advisory as to all matters in dispute. If after a period of ten days from the date of the appointment of the two persons representing the Authority and the labor organization, the third person has not been selected, then either of the two persons may request the Federal Mediation and Conciliation Service to furnish a list of five persons from which the third person shall be selected; provided, however, that the list shall not include the name of the person who served as mediator unless inclusion of his or her name is mutually agreed to by both parties.

The persons appointed by the Authority and the labor organization, promptly after the receipt of such list shall determine by lot the order of elimination, and thereafter each shall in that order alternately eliminate one name until only one name remains. The remaining person on the list shall be the third member of the fact finding board. The term "labor dispute" shall be broadly construed and shall include any controversy concerning wages, salaries, hours, working conditions, or benefits including health and welfare, sick leave, insurance or pension or retirement provisions but not limited thereto, and including any controversy concerning any differences or questions that may arise between the parties including but not limited to the making or maintaining of collective bargaining agreements, the terms to be included in such agreements, and the interpretation or application of such collective bargaining agreements. Each party shall pay one-half of the expenses of such fact finding. Under no circumstances may the parties resort to binding arbitration after the date of enactment of this act or the expiration date of any contract requiring binding arbitration, whichever is later. This prohibition against binding arbitration shall not be interpreted to preclude such arbitration of individual employee grievances.

(d) The Authority is hereby authorized and empowered to establish and maintain a system of pensions and retirement benefits for such officers and employees of the Authority as may be designated or described by resolution of the Authority; to fix the terms of and restrictions on admission to such system and the classifications therein; to provide that persons eligible for admission in such pension system shall not be eligible for admission to, or receive any benefits from, any other pension system (except Social Security benefits), which is financed or funded, in whole or in part, directly or indirectly by funds paid or appropriated by the Authority to such other pension system, and to provide in connection with such pension system, a system of benefits payable to the beneficiaries and dependents of any participant in such pension system after the death of such participant (whether accidental or otherwise, whether occurring in the actual performance of duty or otherwise, or both) subject to such exceptions, conditions, restrictions and classifications as may be provided by resolution of the Authority. Such pension system shall be financed or funded by such means and in such manner as may be determined by the Authority to be economically feasible. Unless the Authority shall otherwise determine, no officer or employee of the Authority and no beneficiary or dependent of any such officer or employee shall be eligible to receive any pension or retirement or other benefits both from or under any such pension system and from or under any pension or retirement system established by an acquired transportation system or established or provided for, by or under the provisions of any collective bargaining agreement between the Authority and the representatives of its employees.

(e) Whenever the Authority acquires existing transit facilities from a public or privately owned utility either in proceeding by eminent domain or otherwise, the Authority shall assume and observe all existing labor contracts and pension obligations. When the Authority acquires an existing

transportation system, all employees who are necessary for the operation thereof by the Authority shall be transferred to and appointed as employees of the Authority, subject to all the rights and benefits of this Title. These employees shall be given seniority credit and sick leave, vacation, insurance and pension credits in accordance with the records or labor agreements from the acquired transportation system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired transportation system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The Authority shall assume the obligations of any transportation system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. It shall assume the provisions of any collective bargaining agreement between such acquired transportation system and the representatives of its employees. The Authority and the employees, through their representatives for collective bargaining purposes, shall take whatever action may be necessary to have pension trust funds presently under the joint control of the acquired transportation system and the participating employees through their representative transferred to the trust fund to be established, maintained and administered jointly by the Authority and the participating employees through their representatives. No employee of any acquired transportation system who is transferred to a position with the Authority shall by reason of such transfer be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits, than he enjoyed as an employee of such acquired transportation system.

(f) The Authority shall not require any person, as a condition of employment or continuation of employment, to join any labor union or labor organization. The Authority shall not require any person, as a condition of employment or continuation of employment, to pay any dues, fees, or other charges of any kind to any labor union or labor organization.

Article XV. Relocation Assistance.

Relocation Program and Payments

67. Section 7 of the Urban Mass Transportation Act of 1964, and as the same may from time to time be amended, and all regulations promulgated thereunder, are hereby made applicable to individuals, families, business concerns and nonprofit organizations displaced from real property by actions of the Authority without regard to whether financial assistance is sought by or extended to the Authority under any provision of that Act; provided, however, that in the event real property is acquired for the Authority by an agency of the federal government, or by a State or local agency or instrumentality, the Authority is authorized to reimburse the acquiring agency for relocation payments made by it.

Relocation of Public or Public Utility Facilities

68. Notwithstanding the provisions of § 67 of this Article XV, any highway or other public facility or any facilities of a public utility company which will be dislocated by reason of a project deemed necessary by the Board to effectuate the authorized purposes of this Title shall be relocated if such facilities are devoted to a public use, and the reasonable cost of relocation, if substitute facilities are necessary, shall be paid by the Board from any of its moneys.

Article XVI. General Provisions.

Creation and Administration of Funds

69. (a) The Board may provide for the creation and administration of such funds as may be required. The funds shall be disbursed in accordance with rules established by the Board and all payments from any fund shall be reported to the Board. Moneys and such funds and other moneys of the Authority shall be deposited, as directed by the Board, in any branch or subsidiary of any state or national bank which has operations within the Zone, and having a total paid-in capital of at least one million dollars ($1,000,000). The trust department of any such state or national bank may be designated as a depositary to receive any securities acquired or owned by the Authority. The restriction with respect to paid-in capital may be waived for any such bank which agrees to pledge federal securities to protect the funds and securities of the Authority in such amounts and pursuant to such arrangements as may be acceptable to the Board.

(b) Any moneys of the Authority may, in the discretion of the Board and subject to any agreement or covenant between the Authority and the holders of any of its obligations limiting or restricting classes of investments, be invested in: (i) Direct obligations of or obligations guaranteed by the United States of America; (ii) Bonds, debentures, notes or other evidences of indebtedness issued by agencies of the United States of America, including but not limited to the following: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks, Federal National Mortgage Association; Student Loan Marketing Association; Government National Mortgage Association; Tennessee Valley Authority; or United States Postal Service; (iii) Securities that qualify as lawful investments and may be accepted as security for fiduciary, trust and public funds under the control of the United States or any officer or officers thereof, or securities eligible as collateral for deposits of moneys of the United States, including United States Treasury tax and loan accounts; (iv) Domestic and Eurodollar certificates of deposit; and (v) Bonds, debentures, notes or other evidences of indebtedness issued by a domestic corporation, such as a corporation organized under the laws of one of the states of the United States, provided that such obligations are nonconvertible and at the time of their purchase are rated in the highest rating categories by a nationally recognized bond rating agency.

Annual Independent Audit

70. (a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the Authority. The audit shall be made by qualified certified public accountants selected by the Board, who shall have no personal interest direct or indirect in the financial affairs of the Authority or any of its officers or employees. The report of audit shall be prepared in accordance with generally accepted auditing principles and shall be filed with the Chairman and other officers as the Board shall direct. Copies of the report shall be distributed to each Director, to the Congress, to the Mayor and Council of the District of Columbia, to the Governors of Virginia and Maryland, to the Washington Suburban Transit Commission, to the Northern Virginia Transportation Commission and to the governing bodies of the political subdivisions located within the Zone which are parties to commitments for participation in the financing of the Authority and shall be made available for public distribution.

(b) The financial transactions of the Board shall be subject to audit by the United States General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Board are kept.

(c) Any Director, officer or employee who shall refuse to give all required assistance and information to the accountants selected by the Board or who shall refuse to submit to them for examination such books, documents, records, files, accounts, papers, things or property as may be requested shall, in the discretion of the Board, forfeit his office.

Reports

71. The Board shall make and publish an annual report on its programs, operations, and finances, which shall be distributed in the same manner provided by § 70 of this Article XVI for the report of annual audit. It may also prepare, publish and distribute such other public reports and informational materials as it may deem necessary or desirable.

Insurance

72. The Board may self-insure or purchase insurance and pay the premiums therefor against loss or damage to any of its properties; against liability for injury to persons or property; and against loss of revenue from any cause whatsoever. Such insurance coverage shall be in such form and amount as the Board may determine, subject to the requirements of any agreement arising out of insurance of bonds or other obligations by the Authority.

Contracting and Purchasing

73. (a) (1) Except as provided in subsections (b), (c), and (f) of this section, and except in the case of procurement procedures otherwise expressly authorized by statute, the Authority in conducting a procurement of property, services, or construction shall:

(A) obtain full and open competition through the use of competitive procedures in accordance with the requirements of this Section; and

(B) use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

(2) In determining the competitive procedure appropriate under the circumstances, the Authority shall:

(A) solicit sealed bids if:

(i) time permits the solicitation, submission, and evaluation of sealed bids;

(ii) the award will be made on the basis of price and other price-related factors;

(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

(iv) there is a reasonable expectation of receiving more than one sealed bid; or

(B) request competitive proposals if sealed bids are not appropriate under clause (A) of this paragraph.

(b) The Authority may provide for the procurement of property, services, or construction covered by this Section using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property, service, or construction if the Authority determines that excluding the source would increase or maintain competition and would likely result in reduced overall costs for procurement of property, services, or construction.

(c) The Authority may use procedures other than competitive procedures if:

(1) the property, services, or construction needed by the Authority is available from only one responsible source and no other type of property, services, or construction will satisfy the needs of the Authority; or

(2) the Authority's need for the property, services, or construction is of such an unusual and compelling urgency that the Authority would be seriously injured unless the Authority limits the number of sources from which it solicits bids or proposals; or

(3) the Authority determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement; or

(4) the property or services needed can be obtained through federal or other governmental sources at reasonable prices.

(d) For the purpose of applying subsection (c) (1) of this Section:

(1) in the case of a contract for property, services, or construction to be awarded on the basis of acceptance of an unsolicited proposal, the property, services, or construction shall be deemed to be available from only one responsible source if the source has submitted an unsolicited proposal that demonstrates a concept:

(A) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability to provide the service; and

(B) the substance of which is not otherwise available to the Authority and does not resemble the substance of a pending competitive procurement.

(2) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment or the continued provision of highly specialized services, the property, services, or construction may be deemed to be available from only the original source and may be procured through procedures other than competitive procedures if it is likely that award to a source other than the original source would result in:

(A) substantial duplication of cost to the Authority that is not expected to be recovered through competition; or

(B) unacceptable delays in fulfilling the Authority's needs.

(e) If the Authority uses procedures other than competitive procedures to procure property, services, or construction under subsection (c) (2) of this Section, the Authority shall request offers from as many potential sources as is practicable under the circumstances.

(f)(1) To promote efficiency and economy in contracting, the Authority may use simplified acquisition procedures for purchases of property, services and construction.

(2) For the purposes of this subsection, simplified acquisition procedures may be used for purchases for an amount that does not exceed the simplified acquisition threshold adopted by the federal government.

(3) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the procedures under paragraph (1) of this subsection.

(4) In using simplified acquisition procedures, the Authority shall promote competition to the maximum extent practicable.

(g) The Board shall adopt policies and procedures to implement this Section. The policies and procedures shall provide for publication of notice of procurements and other actions designed to secure competition where competitive procedures are used.

(h) The Authority in its discretion may reject any and all bids or proposals received in response to a solicitation.

Rights-of-Way

74. The Board is authorized to locate, construct and maintain any of its transit and related facilities in, upon, over, under or across any streets, highways, freeways, bridges and any other vehicular facilities, subject to the applicable laws governing such use of such facilities by public agencies. In the absence of such laws, such use of such facilities by the Board shall be subject to such reasonable conditions as the highway department or other affected agency of a Signatory party may require; provided, however, that the Board shall not construct or operate transit or related facilities upon, over, or across any parkways or park lands without the consent of, and except upon the terms and conditions required by, the agency having jurisdiction with respect to such parkways and park lands, but may construct or operate such facilities in a subway under such parkways or park lands upon such reasonable terms and conditions as may be specified by the agency having jurisdiction with respect thereto.

Compliance with Laws, Regulations and Ordinances

75. The Board shall comply with all laws, ordinances and regulations of the Signatories and political subdivisions and agencies thereof with respect to use of streets, highways and all other vehicular facilities, traffic control and regulation, zoning, signs and buildings.

Police Security

76. (a) The Authority is authorized to establish and maintain a regular police force, to be known as the Metro Transit Police, to provide protection for its patrons, personnel, and Transit facilities. The Metro Transit Police shall have the powers and duties and shall be subject to the limitations set forth in this section. It shall be composed of both uniformed and plain clothes personnel and shall be charged with the duty of enforcing the laws of the Signatories, and the laws, ordinances, and regulations of the political subdivisions thereof in the Transit Zone, and the rules and regulations of the Authority. The jurisdiction of the Metro Transit Police shall include all the Transit facilities (including bus stops) owned, controlled, or operated by the Authority, but this restriction shall not limit the power of the Metro Transit Police to make arrests in the Transit Zone for violations committed upon, to, or against such Transit facilities committed from within or outside such Transit facilities while in hot or close pursuit, or to execute traffic citations and criminal process in accordance with subsection (c) below. The members of the Metro Transit Police shall have concurrent jurisdiction in the performance of their duties with the duly constituted law-enforcement agencies of the Signatories and of the political subdivisions thereof in which any Transit facility of the Authority is located or in which the Authority operates any Transit service. On-duty Metro Transit Police officers are authorized to make arrests off of Transit facilities within the Transit Zone when immediate action is necessary to protect the health,

safety, welfare or property of an individual from actual or threatened harm or from an unlawful act. Nothing contained in this section shall either relieve any Signatory or political subdivision or agency thereof from its duty to provide police, fire, and other public safety service and protection, or limit, restrict, or interfere with the jurisdiction of or the performance of duties by the existing police, fire, and other public safety agencies. For purposes of this section, "bus stop" means that area within 150 feet of a MetroBus bus stop sign, excluding the interior of any building not owned, controlled or operated by the Washington Metropolitan Area Transit Authority.

(b) A member of the Metro Transit Police shall have same powers, including the power of arrest, and shall be subject to the same limitations, including regulatory limitations, in the performance of his duties as a member of the duly constituted police force of the political subdivision in which the Metro Transit Police member is engaged in the performance of his duties. A member of the Metro Transit Police is authorized to carry and use only such weapons, including handguns, as are issued by the Authority. A member of the Metro Transit Police is subject to such additional limitations in the use of weapons as are imposed on the duly constituted police force for the political subdivision in which he is engaged in the performance of his duties.

(c) Members of the Metro Transit Police shall have power to execute on the Transit facilities owned, controlled, or operated by the Authority any traffic citation or any criminal process issued by any court of any Signatory or of any political subdivision of a Signatory, for any felony, misdemeanor, or other offense against the laws, ordinances, rules, or regulations specified in subsection (a). With respect to offenses committed upon, to, or against the Transit facilities owned, controlled, or operated by the Authority, the Metro Transit Police shall have power to execute criminal process within the Transit Zone.

(d) Upon the apprehension or arrest of any person by a member of the Metro Transit Police pursuant to the provisions of subsection (b), the officer, as required by the law of the place of apprehension or arrest, shall either issue a summons or a citation against the person, book the person, or deliver the person to the duly constituted police or judicial officer of the Signatory or political subdivision where the apprehension or arrest is made, for disposition as required by law.

(e) The Authority shall have the power to adopt rules and regulations for the safe, convenient, and orderly use of the Transit facilities owned, controlled, or operated by the Authority, including the payment and the manner of the payment of fares or charges therefor, the protection of the Transit facilities, the control of traffic and parking upon the Transit facilities, and the safety and protection of the riding public. In the event that any such rules and regulations contravene the laws, ordinances, rules, or regulations of a Signatory or any political subdivision thereof which are existing or subsequently enacted, these laws, ordinances, rules, or regulations of the Signatory or the political subdivision shall apply and the conflicting rule or regulation, or portion thereof, of the Authority shall be void within the jurisdiction of that Signatory or political subdivision. In all other respects the rules

and regulations of the Authority shall be uniform throughout the Transit Zone. The rules and regulations established under this subsection shall be adopted by the Board following public hearings held in accordance with Section 62 (c) and (d) of this Compact. The final regulation shall be published in a newspaper of general circulation within the Zone at least 15 days before its effective date. Any person violating any rule or regulation of the Authority shall be subject to arrest and, upon conviction by a court of competent jurisdiction, shall pay a fine of not more than two hundred fifty dollars ($250) and costs. Criminal violations of any rule or regulation of the Authority shall be prosecuted by the Signatory or political subdivision in which the violation occurred, in the same manner by which violations of law, ordinances, rules and regulations of the Signatory or political subdivisions are prosecuted.

(f) With respect to members of the Metro Transit Police, the Authority shall:

(1) Establish classifications based on the nature and scope of duties, and fix and provide for their qualification, appointment, removal, tenure, term, compensation, pension, and retirement benefits;

(2) Provide for their training and, for this purpose, the Authority may enter into contracts or agreements with any public or private organization engaged in police training, and this training and the qualifications of the uniformed and plain clothes personnel shall at least equal the requirements of each Signatory and of the political subdivisions therein in the Transit Zone for their personnel performing comparable duties; and

(3) Prescribe distinctive uniforms to be worn.

(g) The Authority shall have the power to enter into agreements with the Signatories, the political subdivisions thereof in the Transit Zone, and public safety agencies located therein, including those of the Federal Government, for the delineation of the functions and responsibilities of the Metro Transit Police and the duly constituted police, fire, and other public safety agencies, and for mutual assistance.

(h) Before entering upon the duties of office, each member of the Metro Transit Police shall take or subscribe to an oath or affirmation, before a person authorized to administer oaths, faithfully to perform the duties of that office.

Exemption from Regulation

77. Except as otherwise provided in this Title, any Transit service rendered by Transit facilities owned or controlled by the Authority and the Authority or any corporation, firm or association performing such transit service pursuant to an operating contract with the Authority, shall, in connection with the performance of such service, be exempt from all laws, rules, regulations and orders of the Signatories and of the United States otherwise applicable to such transit service and persons, except that laws,

rules, regulations and orders relating to inspection of equipment and facilities, safety and testing shall remain in force and effect; provided, however, that the Board may promulgate regulations for the safety of the public and employees not inconsistent with the applicable laws, rules, regulations or orders of the Signatories and of the United States.

Tax Exemption

78. It is hereby declared that the creation of the Authority and the carrying out of the corporate purposes of the Authority is in all respects for the benefit of the people of the Signatory states and is for a public purpose and that the Authority and the Board will be performing an essential governmental function, including, without limitation, proprietary, governmental and other functions, in the exercise of the powers conferred by this Title. Accordingly, the Authority and the Board shall not be required to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision or upon its activities in the operation and maintenance of any Transit facilities or upon any revenues therefrom and the property and income derived therefrom shall be exempt from all federal, State, District of Columbia, municipal and local taxation. This exemption shall include, without limitation, all motor vehicle license fees, sales taxes and motor fuel taxes.

Reduced Fares

79. The District of Columbia, the Northern Virginia Transportation District, the Washington Suburban Transit District and the component governments thereof, may enter into contracts or agreements with the Authority to make equitable payments for fares lower than those established by the Authority pursuant to the provisions of Article XIII hereof for any specified class or category of riders.

Liability for Contracts and Torts

80. The Authority shall be liable for its contracts and for its torts and those of its Directors, officers, employees and agents committed in the conduct of any proprietary function, in accordance with the law of the applicable Signatory (including rules on conflict of laws), but shall not be liable for any torts occurring in the performance of a governmental function. The exclusive remedy for such breach of contracts and torts for which the Authority shall be liable, as herein provided, shall be by suit against the Authority. Nothing contained in this Title shall be construed as a waiver by the District of Columbia, Maryland, Virginia and the counties and cities within the Zone of any immunity from suit.

Jurisdiction of Courts

81. The United States District Courts shall have original jurisdiction, concurrent with the courts of Maryland, Virginia and the District of Columbia, of all actions brought by or against the Authority and to enforce subpoenas issued under this Title. Any such action initiated in a State or District of

Columbia Court shall be removable to the appropriate United States District Court in the manner provided by Act of June 25, 1948, as amended (28 U.S.C. 1446).

Condemnation

82. (a) The Authority shall have the power to acquire by condemnation, whenever in its opinion it is necessary or advantageous to the Authority to do so, any real or personal property, or any interest therein, necessary or useful for the transit system authorized herein, except property owned by the United States, by a Signatory, or any political subdivision thereof, whenever such property cannot be acquired by negotiated purchase at a price satisfactory to the Authority.

(b) Proceedings for the condemnation of property in the District of Columbia shall be instituted and maintained under the Act of December 23, 1963 (77 Stat. 577-581, D.C. Code 1961, Supp. IV, Sections 1351-1368). Proceedings for the condemnation of property located elsewhere within the Zone shall be instituted and maintained, if applicable, pursuant to the provisions of the Act of August 1, 1888, as amended (25 Stat. 357, 40 U.S.C. 257) and the Act of June 25, 1948 (62 Stat. 935 and 937, 28 U.S.C. 1358 and 1403) or any other applicable act; provided, however, that if there is no applicable federal law, condemnation proceedings shall be in accordance with the provisions of the state law of the Signatory in which the property is located governing condemnation by the highway agency of such state. Whenever the words "real property," "realty," "land," "easement," "right-of-way," or words of similar meaning are used in any applicable federal or state law relating to procedure, jurisdiction and venue, they shall be deemed, for the purposes of this Title, to include any personal property authorized to be acquired hereunder.

(c) Any award or compensation for the taking of property pursuant to this Title shall be paid by the Authority, and none of the Signatory parties nor any other agency, instrumentality or political subdivision thereof shall be liable for such award or compensation.

Enlargement and Withdrawal; Duration

83. (a) When advised in writing by the Northern Virginia Transportation Commission or the Washington Suburban Transit Commission that the geographical area embraced therein has been enlarged, the Board, upon such terms and conditions as it may deem appropriate, shall by resolution enlarge the Zone to embrace the additional area.

(b) The duration of this Title shall be perpetual but any Signatory thereto may withdraw therefrom upon two years' written notice to the Board.

(c) The withdrawal of any Signatory shall not relieve such Signatory, any transportation district, county or city or other political subdivision thereof from any obligation to the Authority, or inuring to the benefit of the Authority, created by contract or otherwise.

Amendments and Supplements

84. Amendments and supplements to this Title to implement the purposes thereof may be adopted by legislative action of any of the Signatory parties concurred in by all of the others. When one Signatory adopts an amendment or supplement to an existing Section of the Compact, that amendment or supplement shall not be immediately effective, and the previously enacted provision or provisions shall remain in effect in each jurisdiction until the amendment or supplement is approved by the other Signatories and is consented to by Congress.

Construction and Severability

85. The provisions of this Title and of the agreements thereunder shall be severable and if any phrase, clause, sentence or provision of this Title or any such agreement is declared to be unconstitutional or the applicability thereof to any Signatory party, political subdivision or agency thereof is held invalid, the constitutionality of the remainder of this Title or any such agreement and the applicability thereof to any other Signatory party, political subdivision or agency thereof or circumstance shall not be affected thereby. It is the legislative intent that the provisions of this Title be reasonably and liberally construed.

Effective Date; Execution

86. This Title shall be adopted by the Signatories in the manner provided by law therefor and shall be signed and sealed in four duplicate original copies. One such copy shall be filed with the Secretary of State of each of the Signatory parties or in accordance with laws of the State in which the filing is made, and one copy shall be filed and retained in the archives of the Authority upon its organization. This Title shall become effective ninety days after the enactment of concurring legislation by or on behalf of the District of Columbia, Maryland and Virginia and consent thereto by the Congress and all other acts or actions have been taken, including the signing and execution of the Title by the Governors of Maryland and Virginia and the Mayor and Council of the District of Columbia. (1966, c. 2; 1969, Ex. Sess., c. 21; 1970, c. 590; 1972, c. 571; 1973, c. 508; 1974, c. 576; 1977, c. 592; 1981, c. 378; 1984, c. 610; 1987, c. 112; 1995, c. 150; 1997, c. 736; 2009, cc. 771, 828)

Water and Waste Authorities Act, Virginia

§ 15.2-5100.Title of chapter

This chapter shall be known and may be cited as the "Virginia Water and Waste Authorities Act." This chapter shall constitute full and complete authority, without regard to the provisions of any other law for the doing of the acts herein authorized, and shall be liberally construed to effect the purposes of the chapter.

Code 1950, § 15-764.1; 1950, p. 1312; 1962, c. 623, § 15.1-1239; 1997, c. 587.

§ 15.2-5101.Definitions

As used in this chapter, unless the context requires a different meaning:

"Authority" means an authority created under the provisions of § 15.2-5102 or Article 6 (§ 15.2-5152 et seq.) of this chapter or, if any such authority has been abolished, the entity succeeding to the principal functions thereof.

"Bonds" and "revenue bonds" include notes, bonds, bond anticipation notes, and other obligations of an authority for the payment of money.

"Cost," as applied to a system, includes the purchase price of the system or the cost of acquiring all of the capital stock of the corporation owning such system and the amount to be paid to discharge all of its obligations in order to vest title to the system or any part thereof in the authority; the cost of improvements; the cost of all land, properties, rights, easements, franchises and permits acquired; the cost of all labor, machinery and equipment; financing and credit enhancement charges; interest prior to and during construction and for one year after completion of construction; any deposit to any bond interest and principal reserve account, start-up costs and reserves and expenditures for operating capital; cost of engineering and legal services, plans, specifications, surveys, estimates of costs and revenues; other expenses necessary or incident to the determining of the feasibility or practicability of any such acquisition, improvement, or construction; administrative expenses and such other expenses as may be necessary or incident to the financing authorized in this chapter and to the acquisition, improvement, or construction of any such system and the placing of the system in operation by the authority. Any obligation or expense incurred by an authority in connection with any of the foregoing items of cost and any obligation or expense incurred by the authority prior to the issuance of revenue bonds under the provisions of this chapter for engineering studies, for estimates of cost and revenues, and for other technical or professional services which may be utilized in the acquisition, improvement or construction of such system is a part of the cost of such system.

"Cost of improvements" means the cost of constructing improvements and includes the cost of all labor and material; the cost of all land, property, rights, easements, franchises, and permits acquired which are deemed necessary for such construction; interest during any period of disuse during such

construction; the cost of all machinery and equipment; financing charges; cost of engineering and legal expenses, plans, specifications; and such other expenses as may be necessary or incident to such construction.

"Federal agency" means the United States of America or any department, agency, instrumentality, or bureau thereof.

"Green roof" means a roof or partially covered roof consisting of plants, soil, or another lightweight growing medium that is installed on top of a waterproof membrane and designed in accordance with the Virginia Stormwater Management Program's standards and specifications for green roofs, as set forth in the Virginia BMP Clearinghouse.

"Improvements" means such repairs, replacements, additions, extensions and betterments of and to a system as an authority deems necessary to place or maintain the system in proper condition for the safe, efficient and economical operation thereof or to provide service in areas not currently receiving such service.

"Owner" includes persons, federal agencies, and units of the Commonwealth having any title or interest in any system, or the services or facilities to be rendered thereby.

"Political subdivision" means a locality or any institution or commission of the Commonwealth of Virginia.

"Refuse" means solid waste, including sludge and other discarded material, such as solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations or from community activities or residences. "Refuse" does not include (i) solid and dissolved materials in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954 (42 U.S.C. § 2011, et seq.), as amended.

"Refuse collection and disposal system" means a system, plant or facility designed to collect, manage, dispose of, or recover and use energy from refuse and the land, structures, vehicles and equipment for use in connection therewith.

"Sewage" means the water-carried wastes created in and carried, or to be carried, away from residences, hotels, schools, hospitals, industrial establishments, commercial establishments or any other private or public buildings, together with such surface or ground water and household and industrial wastes as may be present.

"Sewage disposal system" means any system, plant, disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary

landfills, or other works, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage, industrial waste or other wastes.

"Sewer system" or "sewage system" means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage, industrial wastes or other wastes to a plant of ultimate disposal.

"Stormwater control system" means a structural system of any type that is designed to manage the runoff from land development projects or natural systems designated for such purposes, including, without limitation, retention basins, ponds, wetlands, sewers, conduits, pipelines, pumping and ventilating stations, and other plants, structures, and real and personal property used for support of the system.

"System" means any sewage disposal system, sewer system, stormwater control system, water or waste system, and for authorities created under Article 6 (§ 15.2-5152 et seq.) of this chapter, such facilities as may be provided by the authority under § 15.2-5158.

"Unit" means any department, institution or commission of the Commonwealth; any public corporate instrumentality thereof; any district; or any locality.

"Water or waste system" means any water system, sewer system, sewage disposal system, or refuse collection and disposal system, or any combination of such systems. "Water system" means all plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water, or facilities incident thereto, and any integral part thereof, including water supply systems, water distribution systems, dams and facilities for the generation or transmission of hydroelectric power, reservoirs, wells, intakes, mains, laterals, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves and equipment, appurtenances, and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof but not including dams or facilities for the generation or transmission of hydroelectric power that are not incident to plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water.

Code 1950, § 15-764.2; 1950, p. 1312; 1952, c. 430; 1962, c. 623, § 15.1-1240; 1970, c. 617; 1979, c. 280; 1982, c. 469; 1997, cc. 527, 573, 587; 2006, c. 219; 2009, cc. 402, 473.

§ 15.2-5102.One or more localities may create authority

A. The governing body of a locality may by ordinance or resolution, or the governing bodies of two or more localities may by concurrent ordinances or resolutions or by agreement, create a water authority, a sewer authority, a sewage disposal authority, a stormwater control authority, a refuse collection and disposal authority, or any combination or parts thereof. The name of the authority shall contain the word "authority." The authority shall be a public body politic and corporate and a political subdivision

of the Commonwealth. The ordinance, resolution or agreement creating the authority shall not be adopted or approved until a public hearing has been held on the question of its adoption or approval, and after approval at a referendum if one has been ordered pursuant to this chapter.

B. Any authority, or any subsidiary thereof, organized pursuant to this section to operate a refuse collection and disposal system that, pursuant to statute, is specifically authorized to include in the system (i) facilities for processing solid waste as a fuel and (ii) facilities for generating steam and electricity for sale, shall not be subject to regulation under the Utilities Facilities Act (§ 56-265.1 et seq.), provided that sales of electricity generated at such facilities are made only to a federal agency whose primary responsibility is national defense and the energy is delivered directly from the generator to the customer's facilities or to a public utility.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, cc. 527, 573, 587; 1999, cc. 896, 925; 2011, c. 199.

§ 15.2-5102.1.(Contingent expiration date, see Editor's note) Hampton Roads area refuse collection and disposal system authority

Any authority, or any subsidiary thereof, organized pursuant to § 15.2-5102 to operate a refuse collection and disposal system that has among its members the Cities of Norfolk, Virginia Beach, Portsmouth, Chesapeake, and Franklin, and the Counties of Isle of Wight, Southampton, and Suffolk, shall, notwithstanding any other law to the contrary, comply with the following requirements:

1. Each locality that is a member of the authority shall be entitled to nominate individuals to fill one position on the Board of Directors (the Board) by submitting a list of three potential directors, each of whom shall possess general business knowledge and shall not be an elected official, to the Governor. The Governor shall then select and appoint one director from each of the lists of nominees prepared by the member localities. In addition, each member locality shall be authorized to directly appoint, upon a majority vote of the governing body of the member locality, one ex officio member of the Board who shall be an employee of the member locality. The members of the Board shall be appointed for terms of four years each. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments. No member shall serve for more than two consecutive four-year terms, except that (i) any member appointed to the unexpired term of another shall be eligible to serve two consecutive four-year terms and (ii) a member directly appointed by the governing body of a member locality shall not be subject to a term limit.

2. The authority shall develop and maintain an overall strategic plan that shall cover a period of at least five years forward from the year in which it is submitted and approved by the Board. The plans shall be reviewed annually to determine whether amendments are needed. Any such amendments shall be submitted to the board of directors for approval.

3. The authority's core purpose shall be defined as "management of the safe and environmentally sound disposal of regional waste." The authority shall devote its time and effort to activities associated with its core purpose. A vote of a majority of the Board shall be required prior to undertaking any activities not associated with the authority's core purpose.

4. The authority shall develop and maintain a strategic operating plan identifying all elements of its core business units and core purpose, how each business and administrative unit will support the overall strategic plan, and how the authority will achieve its stated mission and core purpose. The strategic operating plan shall be subject to review and approval of the Board on an annual basis.

5. The authority shall consider outsourcing any or all functions that may result in reduced costs to the authority, and the authority shall annually issue requests for proposals that potentially reduce the costs of any of its programs. In addition, the authority shall accept and review any proposals under the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) that potentially reduce the costs of any of the authority's programs.

6. The authority shall evaluate its landfill capacity annually, taking into consideration and projecting future changes in the quantity of waste disposed of in its landfill, or landfills reasonably situated or contractually obligated to accept its waste.

7. The authority shall keep records of its costs, revenue, debts, and capital expenses by fiscal year for each program. The authority shall also keep records of costs for each individual capital project.

8. The authority shall maintain a detailed financing plan that shall include a plan for the retirement of all debt and a plan for the funding of all planned capital projects. The plan for the funding of all planned capital projects shall specify the amount of debt the authority will issue in furtherance of the projects and the debt repayment plan for any new debt created by the capital projects, including the revenue source that will be used to repay the debt. The detailed financing plan shall be updated and approved annually by the Board and reviewed and certified annually by an external certified public accountant.

9. Prior to issuance of new debt, the Board shall perform a due diligence investigation of the appropriateness of issuing the debt, including an analysis of the costs of repaying the debt. Such analysis shall be certified by an external certified public accountant, reviewed by the Board, and approved by a vote of a minimum of 75 percent of the Board. The issuance of new debt shall require a vote of a minimum of 75 percent of the Board of Directors of the authority. The authority shall not issue long-term bond indebtedness to fund operational expenses. The provisions of this subdivision shall not apply to the issuance of new debt issued for the purpose of refunding or refinancing debt incurred by the authority prior to September 30, 2009.

10. In the interest of open and transparent government, the authority shall adhere strictly to the requirements of the Freedom of Information Act (§ 2.2-3700 et seq.).

11. The executive director of the authority shall not be permitted to execute or commit the authority to any contract, memorandum of agreement or memorandum of understanding without an informed vote of approval by the Board. This subdivision shall not apply in the case of (i) contracts for the purchase of goods and services for an aggregate sum of less than $30,000, which are subject to the Virginia Procurement Act (Va. Code § 2.2-4300 et seq.) but exempted from competitive negotiation or competitive sealed bidding by a duly adopted policy of the Board and (ii) sole source and emergency procurements made pursuant to subsections E and F of § 2.2-4303.

2009, c. 742; 2018, c. 547.

§ 15.2-5103.Ordinance, agreement or resolution creating authority to include articles of incorporation

A. The ordinance, agreement or resolution creating an authority shall include articles of incorporation which shall set forth:

1. The name of the authority and address of its principal office.

2. The name of each participating locality and the names, addresses and terms of office of the first members of the board of the authority.

3. The purposes for which the authority is being created and, to the extent that the governing body of the locality determines to be practicable, preliminary estimates of capital costs, proposals for any specific projects to be undertaken by the authority, and preliminary estimates of initial rates for services of such projects as certified by responsible engineers.

4. If there is more than one participating locality, the number of board members who shall exercise the powers of the authority and the number from each participating locality.

B. Any such ordinance, agreement or resolution that does not set forth the information required in subdivision 3 of subsection A regarding capital cost estimates, project proposals and project service rate estimates shall set forth a finding by the governing body that inclusion of such information is impracticable.

C. Any ordinance, agreement or resolution adopted pursuant to §§ 15.2-5152 through 15.2-5157 shall provide that any bonds issued by the community development authority shall be a debt of the authority, not the local government. Unless otherwise provided in the ordinance which establishes the authority, the local government shall not retire any part of the bonds or pay any debt service of an authority out of revenues or funds derived from sources other than those set out in § 15.2-5158, except that, where the authority finances improvements not contemplated by the original ordinance, the local government may, by ordinance or resolution, make such provisions for repayment as are otherwise permitted under general law. This subsection shall have no effect upon authorities formed pursuant to § 15.2-5102.

Code 1950, § 15-764.4; 1950, p. 1315; 1962, c. 623, § 15.1-1242; 1972, cc. 370, 544; 1984, c. 239; 1997, cc. 363, 587.

§ 15.2-5104.Advertisement of ordinance, agreement or resolution and notice of hearing

The governing body of each participating locality shall cause to be advertised at least one time in a newspaper of general circulation in such locality a copy of the ordinance, agreement or resolution creating an authority, or a descriptive summary of the ordinance, agreement or resolution and a reference to the place within the locality where a copy of the ordinance, agreement or resolution can be obtained, and notice of the day, not less than thirty days after publication of the advertisement, on which a public hearing will be held on the ordinance, agreement or resolution.

Code 1950, § 15-764.5; 1950, p. 1315; 1962, c. 623, § 15.1-1243; 1972, c. 370; 1983, c. 80; 1997, c. 587.

§ 15.2-5105.Hearing; referendum

If at the hearing, in the judgment of the governing body of the participating locality, substantial opposition is heard, the governing body may at its discretion petition the circuit court to order a referendum on the question of adopting or approving the ordinance, agreement or resolution. The provisions of § 24.2-684 shall govern the order for a referendum. When two or more localities are participating in the formation of such authority, the referendum, if ordered, shall be held on the same date in all participating localities. If ten percent of the qualified voters in a locality file a petition with the governing body at the hearing calling for a referendum, such governing body shall petition the circuit court to order a referendum in that locality as provided in this section.

Code 1950, § 15-764.6; 1950, p. 1315; 1962, c. 623, § 15.1-1244; 1970, c. 617; 1972, c. 370; 1973, c. 478; 1975, c. 517; 1997, c. 587.

§ 15.2-5106.Voters' petition requesting agreement and referendum

The qualified voters of any locality whose governing body has not acted to create an authority under § 15.2-5102 may file with the governing body of such locality a petition asking the governing body to effect an agreement in accordance with § 15.2-5102 with the localities named in the petition. Such petition shall be signed by at least ten percent of the number of the locality's voters who voted in the last presidential election and in no case be signed by fewer than fifty voters. The petition shall ask the governing body to petition the circuit court for a referendum on the question of the creation of the authority.

If the governing body is unable, or for any reason fails, to perfect such agreement within three months of the day the petition was filed with such governing body, then the circuit court for the locality shall appoint a committee of five representative citizens of the locality to act for and in lieu of the governing body in perfecting the agreement and in petitioning for a referendum. The agreement shall not take effect unless approved in the referendum by a majority of the voters voting in the referendum.

1972, c. 370, § 15.1-1244.1; 1975, c. 517; 1997, c. 587.

§ 15.2-5107.Filing articles of incorporation

After adoption or approval of an ordinance, resolution or agreement creating an authority, the governing bodies of the participating localities shall file with the State Corporation Commission the authority's articles of incorporation.

Code 1950, § 15-764.7; 1950, p. 1316; 1962, c. 623, § 15.1-1245; 1973, c. 478; 1997, c. 587.

§ 15.2-5108.Issuance of certificate or charter

The State Corporation Commission shall issue a certificate of incorporation or charter to the authority if it finds that:

1. The articles of incorporation conform to law; and

2. The estimated costs and rates for services of the proposed projects are fair and equitable, and have been advertised under § 15.2-5104 or subsection A of § 15.2-5156, as applicable.

Upon the issuance of the certificate or charter such authority shall be conclusively deemed to have been lawfully and properly created and established and authorized to exercise its powers under this chapter.

Code 1950, § 15-764.8; 1950, p. 1316; 1962, c. 623, § 15.1-1246; 1973, c. 478; 1983, c. 80; 1984, c. 239; 1997, c. 587; 2009, c. 473.

§ 15.2-5109.Dissolution and termination of authority

Whenever the board of an authority determines that the purposes for which it was created have been completed or are impractical or impossible or that its functions have been taken over by one or more political subdivisions and that all its obligations have been paid or have been assumed by one or more of such political subdivisions or any authority created thereby or that cash or United States government securities have been deposited for their payment, it shall adopt and file with the governing body of each political subdivision which is a member of the authority a resolution declaring such facts. If all the governing bodies adopt resolutions concurring in such declaration and finding that the authority should be dissolved, they shall file appropriate articles of dissolution with the State Corporation Commission. When the affairs of the authority have been wound up and all of its assets have been distributed, the governing bodies shall file appropriate articles of termination of corporate existence with the State Corporation Commission.

If any of the governing bodies refuse to adopt resolutions concurring in such declaration, then the authority may petition the circuit court for any locality which is a member of the authority to order one or more of such governing bodies to create a new authority. The circuit court may order the governing body of the political subdivision requesting dissolution of the existing authority to adopt an ordinance establishing a new authority to which the provisions of §§ 15.2-5102 through 15.2-5106 shall not

apply. Thereafter, the court may order that the assets be divided among the authorities and, subject to the approval of any debt holder, require the assumption of a proportionate share of the obligations of the existing authority by the new authority.

Notwithstanding the provisions of subdivision 1 of § 15.2-5114, an authority shall continue in existence and shall not be dissolved because the term for which it was created, including any extensions thereof, has expired, unless all of such authority's functions have been taken over and its obligations have been paid or have been assumed by one or more political subdivisions or by an authority created thereby, or cash or United States government securities have been deposited for their payment.

1970, c. 617, § 15.1-1269.1; 1982, c. 662; 1997, c. 587; 2009, c. 216.

§ 15.2-5110.Amendment of articles of incorporation

The articles of incorporation of any authority created under the provisions of this chapter may be amended with respect to the name or powers of such authority or in any other manner not inconsistent with this chapter by following the procedure prescribed by law for the creation of an authority.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587.

§ 15.2-5111.Specification of projects

If they have specified the initial purpose or purposes of the authority and insofar as practicable, any project or projects to be undertaken by the authority, the governing bodies of any of the localities organizing an authority may, at any time by ordinance or resolution, after a public hearing, and with or without a referendum, specify further projects to be undertaken by the authority. No other projects shall be undertaken by the authority than those so specified. If the governing bodies of the localities organizing the authority fail to specify any project or projects to be undertaken, then the authority shall be deemed to have all the powers granted by this chapter.

Code 1950, § 15-764.9; 1950, p. 1316; 1962, c. 623, § 15.1-1247; 1984, c. 239; 1997, c. 587.

§ 15.2-5112.Joinder of another locality or authority; withdrawal from authority

A. Any locality may become a member of any existing authority, and any locality which is a member of an existing authority may withdraw therefrom upon unanimous consent of the remaining members of the authority in accordance with this section. However, no locality may withdraw from any authority that has outstanding bonds without the unanimous consent of all the holders of such bonds unless all such bonds have been paid or cashed or United States government obligations have been deposited for their payment.

B. The governing body of any locality wishing to withdraw from an existing authority shall signify its desire by resolution or ordinance.

C. The governing body of any locality wishing to become a member of an existing authority and the governing bodies of the political subdivisions then members of the authority shall by concurrent resolutions or ordinances or by agreement provide for the joinder of such locality. The resolutions, ordinances or agreement creating the expanded authority shall specify the number and terms of office of members of the board of the expanded authority which are to be appointed by each of the participating political subdivisions, and the names, addresses and terms of office of initial appointments to board membership. Upon the date of issuance of the certificate by the State Corporation Commission as provided in this section, the terms of office of the board members of the existing authority shall terminate and the appointments made in the resolutions, ordinances or agreement creating the expanded authority shall become effective.

D. If the authority by resolution expresses its consent to withdrawal or joinder of a locality, the governing body of such locality and the governing bodies of the political subdivisions then members of the authority shall advertise the ordinance, resolution or agreement and hold a public hearing in accordance with § 15.2-5104.

Upon adoption or approval of the ordinance, resolution or agreement, the governing body seeking to withdraw or join the authority shall file either an application to withdraw from or an application to become a member of the authority, whichever applies, with the State Corporation Commission. A joinder application shall set forth all of the information required in the case of original incorporation and shall be accompanied by certified copies of the resolutions, ordinances or agreement described in subsection B. Joinder and withdrawal applications shall be executed by the proper officers of the withdrawing or incoming locality under its official seal, and shall be joined in by the proper officers of the governing board of the authority, and in the case of a locality seeking to become a member of the authority also by the proper officers of each of the political subdivisions that are then members of the authority, pursuant to resolutions by the governing bodies of such political subdivisions.

E. If the State Corporation Commission finds that the application conforms to law it shall approve the application. When all proper fees and charges have been paid, it shall file the approved application and issue to the applicant a certificate of withdrawal or a certificate of joinder, whichever applies, attached to a copy of the approved application. The withdrawal or joinder shall become effective upon the issuing of such certificate.

F. Any authority may join an existing authority if the joinder is approved by concurrent ordinances or resolutions of the localities which created the joining authority, notwithstanding any contrary provisions of § 15.2-5150. However, if the localities, at the time of the creation of an authority, state that the authority is created with the intention of joining an existing authority, such concurrent

ordinances or resolutions shall not be necessary. The provisions of this section pertaining to a locality becoming a member or withdrawing from an authority shall also apply, mutatis mutandis, to an authority becoming a member or withdrawing.

Code 1950, § 15-764.10; 1950, p. 1316; 1960, c. 313; 1962, c. 623, § 15.1-1248; 1968, c. 355; 1973, c. 478; 1993, cc. 670, 690; 1995, cc. 414, 415, 634; 1997, c. 587.

§ 15.2-5113.Members of authority board; chief administrative or executive officer

A. 1. The powers of each authority created by the governing body of a single locality shall be exercised by an authority board of five members, or at the option of the board of supervisors of a county, a number of board members equal to the number of members of the board of supervisors. The powers of each authority created by the governing bodies of two or more localities shall be exercised by the number of authority board members specified in its articles of incorporation, which shall be not less than one member from each participating locality and not less than a total of five members. The board members of an authority shall be selected in the manner and for the terms provided by the agreement or ordinance or resolution or concurrent ordinances or resolutions creating the authority. One or more members of the governing body or one or more directors of an industrial or economic development authority of a locality may be appointed board members of the authority, the provisions of any other law to the contrary notwithstanding. No board member shall be appointed for a term of more than four years. When one or more additional political subdivisions join an existing authority, each of such joining political subdivisions shall have at least one member on the board. Board members shall hold office until their successors have been appointed and may succeed themselves. The board members of the authority shall elect one of their number chairman, and shall elect a secretary and treasurer who need not be members. The offices of secretary and treasurer may be combined.

2. Notwithstanding the provisions of subdivision A 1, if the City of Virginia Beach forms a community development authority pursuant to the provisions of Article 6 (§ 15.2-5152 et seq.) for the purpose of developing the sports and entertainment district, as defined in § 15.2-5928, the board of such authority may consist of a number of members equal to the number of members of the governing body of the City of Virginia Beach.

B. A majority of board members shall constitute a quorum and the vote of a majority of board members shall be necessary for any action taken by the authority. An authority may, by bylaw, provide a method to resolve tie votes or deadlocked issues.

C. No vacancy in the board membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. If a vacancy occurs by reason of the death, disqualification or resignation of a board member, the governing body of the political subdivision which appointed the authority board member shall appoint a successor to fill the unexpired term.

Whenever a political subdivision withdraws its membership from an authority, the term of any board member appointed to the board of the authority from such political subdivision shall immediately terminate. Board members shall receive such compensation as fixed by resolution of the governing body or bodies which are members of the authority, and shall be reimbursed for any actual expenses necessarily incurred in the performance of their duties.

D. Alternate board members may also be selected. Such alternates shall be selected in the same manner and shall have the same qualifications as the board members except that an alternate for an elected board member need not be an elected official. The term of each alternate shall be the same as the term of the board member for whom each serves as an alternate; however, the alternate's term shall not expire because of the board member's death, disqualification, resignation, or termination of employment with the member's political subdivision. If a board member is not present at a meeting of the authority, the alternate for that board member shall have all the voting and other rights of a board member and shall be counted for purposes of determining a quorum.

E. The board members may appoint a chief administrative or executive officer who shall serve at the pleasure of the board members. He shall execute and enforce the orders and resolutions adopted by the board members and perform such duties as may be delegated to him by the board members.

Code 1950, § 15-764.11; 1950, p. 1317; 1962, c. 623, § 15.1-1249; 1968, c. 355; 1972, c. 544; 1973, cc. 135, 521; 1974, c. 276; 1979, cc. 273, 280; 1980, c. 67; 1995, c. 285; 1997, c. 587; 2009, c. 655; 2020, c. 467.

§ 15.2-5114.Powers of authority

Each authority is an instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each authority may:

1. Exist for a term of 50 years as a corporation, and for such further period or periods as may from time to time be provided by appropriate resolutions of the political subdivisions which are members of the authority; however, the term of an authority shall not be extended beyond a date 50 years from the date of the adoption of such resolutions;

2. Adopt, amend or repeal bylaws, rules and regulations, not inconsistent with this chapter or the general laws of the Commonwealth, for the regulation of its affairs and the conduct of its business and to carry into effect its powers and purposes;

3. Adopt an official seal and alter the same at pleasure;

4. Maintain an office at such place or places as it may designate;

5. Sue and be sued;

6. Acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain any system or any combination of systems within, outside, or partly within and partly outside one or

more of the localities which created the authority, or which after February 27, 1962, joined such authority; acquire by gift, purchase or the exercise of the right of eminent domain lands or rights in land or water rights in connection therewith, within, outside, or partly within and partly outside one or more of the localities which created the authority, or which after February 27, 1962, joined such authority; and sell, lease as lessor, transfer or dispose of all or any part of any property, real, personal or mixed, or interest therein, acquired by it; however, in the exercise of the right of eminent domain the provisions of § 25.1-102 shall apply. In addition, the authority in any county or city to which §§ 15.2-1906 and 15.2-2146 are applicable shall have the same power of eminent domain and shall follow the same procedure provided in §§ 15.2-1906 and 15.2-2146. No property or any interest or estate owned by any political subdivision shall be acquired by an authority by the exercise of the power of eminent domain without the consent of the governing body of such political subdivision. Except as otherwise provided in this section, each authority is hereby vested with the same authority to exercise the power of eminent domain as is set out in Chapter 2 (§ 25.1-200 et seq.) or Chapter 3 (§ 25.1-300 et seq.) of Title 25.1. In acquiring personal property or any interest, right, or estate therein by purchase, lease as lessee, or installment purchase contract, an authority may grant security interests in such personal property or any interest, right, or estate therein;

7. Issue revenue bonds of the authority, such bonds to be payable solely from revenues to pay all or a part of the cost of a system;

8. Combine any systems as a single system for the purpose of operation and financing;

9. Borrow at such rates of interest as authorized by the general law for authorities and as the authority may determine and issue its notes, bonds or other obligations therefor. Any political subdivision that is a member of an authority may lend, advance or give money to such authority;

10. Fix, charge and collect rates, fees and charges for the use of, or for the services furnished by, or for the benefit derived from, any facilities or systems owned, operated or financed by the authority. Such rates, fees, rents and charges shall be charged to and collected by such persons and in such manner as the authority may determine from (i) any person contracting for any such services and/or (ii) the owners or tenants who own, use or occupy any real estate or improvements that are served by, or benefit from, any such facilities or systems, and, if authorized by the authority, customers of facilities within a community development authority district. Water and sewer connection fees established by any authority shall be fair and reasonable, and each authority may establish and offer rate incentives designed to encourage the use of green roofs. If established, the incentives shall be based on the percentage of stormwater runoff reduction the green roof provides. Such fees and incentives shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders that are in conflict with any of the foregoing provisions;

11. Enter into contracts with the federal government, the Commonwealth, the District of Columbia or any adjoining state or any agency or instrumentality thereof, any unit or any person. Such contracts may provide for or relate to the furnishing of services and facilities of any system of the authority or in connection with the services and facilities rendered by any like system owned or controlled by the federal government, the Commonwealth, the District of Columbia or any adjoining state or any agency or instrumentality thereof, any unit or any person, and may include contracts providing for or relating to the right of an authority, created for such purpose, to receive and use and dispose of all or any portion of the refuse generated or collected by or within the jurisdiction or under the control of any one or more of them. In the implementation of any such contract, an authority may exercise the powers set forth in §§ 15.2-927 and 15.2-928. The power granted authorities under this chapter to enter into contracts with private entities includes the authority to enter into public-private partnerships for the establishment and operation of systems, including the authority to contract for, and contract to provide, meter reading, billing and collections, leak detection, meter replacement and any related customer service functions;

12. Contract with the federal government, the Commonwealth, the District of Columbia, any adjoining state, any person, any locality or any public authority or unit thereof, on such terms as the authority deems proper, for the construction, operation or use of any project which is located partly or wholly outside the Commonwealth;

13. Enter upon, use, occupy, and dig up any street, road, highway or private or public lands in connection with the acquisition, construction or improvement, maintenance or operation of a system, or streetlight system in King George County, subject, however, to such reasonable local police regulation as may be established by the governing body of any unit having jurisdiction;

14. Contract with any person, political subdivision, federal agency, or any public authority or unit, on such terms as the authority deems proper, for the purpose of acting as a billing and collecting agent for rates, fees, rents or charges imposed by any such authority;

15. Install, own and lease pipe or conduit for the purpose of carrying fiber optic cable, provided that such pipe or conduit and the rights-of-way in which they are contained are made available on a nondiscriminatory, first-come, first-served basis to retail providers of broadband and other telecommunications services unless the facilities have insufficient capacity for such access and additional capacity cannot reasonably be added to the facilities; and

16. Create, acquire, purchase, own, maintain, use, license, and sell intellectual property rights, including any patent, trademark, or copyright, relating to the business of the authority.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, cc. 12, 527, 573, 587; 2001, c. 120; 2002,

c. 446; 2003, c. 940; 2004, c. 545; 2005, c. 666; 2007, c. 813; 2008, c. 542; 2009, cc. 402, 473; 2011, c. 653.

§ 15.2-5115.Same; contracts relating to use of systems

An authority may make and enter into all contracts or agreements, as the authority may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted by this chapter, including contracts with any federal agency, the Commonwealth, the District of Columbia or any adjoining state or any unit thereof, on such terms and conditions as the authority may approve, relating to (i) the use of any system, or streetlight system in King George County acquired or constructed by the authority under this chapter, or the services therefrom or the facilities thereof, or (ii) the use by the authority of the services or facilities of any system, or streetlight system in King George County owned or operated by an owner other than the authority.

The contract shall be subject to such provisions, limitations or conditions as may be contained in the resolution of the authority authorizing revenue bonds of the authority or the provisions of any trust agreement securing such bonds. Such contract may provide for the collecting of fees, rates or charges for the services and facilities rendered to a unit or to the inhabitants thereof, by such unit or by its agents or by the agents of the authority, and for the enforcement of delinquent charges for such services and facilities. The provisions of the contract and of any ordinance or resolution of the governing body of a unit enacted pursuant thereto shall not be repealed so long as any of the revenue bonds issued under the authority of this chapter are outstanding and unpaid. The provisions of the contract, and of any ordinance or resolution enacted pursuant thereto, shall be for the benefit of the bondholders. The aggregate of any fees, rates or charges which are required to be collected pursuant to any such contract, ordinance or resolution shall be sufficient to pay all obligations which may be assumed by the other contracting party.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, cc. 527, 573, 587; 2007, c. 813; 2009, c. 473.

§ 15.2-5116.Same; effect of annexation

In the event of any annexation by a municipality not a member of the authority of lands, areas, or territory served by the authority, an authority may continue to do business and exercise its jurisdiction over its properties and facilities in and upon or over such lands, areas or territory as long as any bonds or indebtedness remain outstanding or unpaid, or any contracts or other obligations remain in force.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587.

§ 15.2-5117.Same; insurance for employees

An authority may establish retirement, group life insurance, and group accident and sickness insurance plans or systems for its employees in the same manner as localities are permitted under §§ 51.1-801 and 51.1-802.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587.

§ 15.2-5118.Powers of Authority; streetlights in King George County

Notwithstanding any contrary provision of law in this chapter, an authority may lease as lessee or otherwise contract for the provision of, operate, and maintain streetlights in King George County. The lessor or other contractual provider of such streetlights shall be a public service corporation that holds a certificate of public convenience and necessity to provide retail electric service in the territory in which such streetlights are located. King George County may contribute funds to the authority by act of its governing body for use by the authority in carrying out the authority's powers listed in this section. In addition, the authority may fix, charge, and collect fees, rates, and charges for the use of the service described in this section or for such service furnished by the authority. Such fees, rates, and charges shall be charged to and collected from any person contracting for the service, or lessee, or tenant, or any other person who uses or occupies any real estate served by or benefiting from the service.

1997, c. 587; 2019, c. 632.

§ 15.2-5119.Power to provide and operate electric energy systems

Notwithstanding any contrary provision of law in this chapter, an authority operating a water supply impoundment facility may, in connection with such facility, generate, produce, transmit, deliver, exchange, purchase or sell electric power and energy at wholesale and enter into contracts for such purposes.

1982, c. 469, § 15.1-1250.2; 1997, c. 587.

§ 15.2-5120.Powers of authority in certain counties and cities

An authority or authorities created pursuant to the provisions of this chapter by Arlington County and the City of Alexandria, singularly or jointly, may enter into contracts relating to the furnishing of services and facilities for refuse collection and disposal and conversion of same to energy (system) with any person or partnership or corporation (entity). The contract shall not have a term in excess of 30 years from the date on which service is first provided. It may make provisions for:

1. The use by the authority of all or a portion of the disposal capacity of such system for the authority's present or future requirements;

2. The delivery by or for the account of the authority of specified quantities of refuse, whether or not the authority collects such refuse;

3. The making of payments in respect of such quantities of refuse, whether or not the refuse is delivered, including payments in respect of revenues lost if such refuse is not delivered;

4. Adjustments to payments to be made by the authority because of inflation, changes in energy prices or residue disposal costs, taxes imposed upon the system, or other events beyond the control of the entity or in respect of the actual costs of maintaining, repairing, or operating the system, including debt service or capital lease payments, capital costs, or other financing charges relating to the system; and

5. The collection by the entity of fees, rates, or charges from persons using disposal capacity for which the authority has contracted.

The authority may fix, charge, and collect fees, rates, and charges for services furnished or made available by the entity operating the system to provide sufficient funds at all times during the term of the contract, together with other funds available to the authority for such purposes, to pay all amounts due from time to time under such contract and to provide a margin of safety for such payment. The authority may covenant with the entity to establish and maintain fees, rates, and charges at such levels during the term of the contract for such purposes.

Such fees, rates, and charges shall not apply to refuse generated, purchased, or utilized by any enterprise located in the service area and engaged in the business of manufacturing, mining, processing, refining, or conversion that is not disposed at or through such system.

The fees, rates, and charges may be imposed upon the owners, tenants, or occupants of each occupied lot or parcel of land that the authority determines (with the concurrence at the time of such determination of the local government in which such parcel is located) is in the service area, or portion thereof, of the system for which the authority has contracted, whether or not refuse generated from such parcel is actually delivered to such system.

The fees, rates, and charges shall be fixed in accordance with the procedures set forth in subsection D of § 15.2-5136. Such fees, rates, and charges may be allocated among the owners, tenants, or occupants of each lot or parcel of land that the authority determines is in the service area, or portion thereof, of the system for which the authority has contracted. Such allocation may be based upon:

1. Waste generation estimates, the average number of persons residing, working in, or otherwise connected with such premises, the type and character of such premises, or upon any combination of the foregoing factors;

2. The amount of refuse delivered to such system;

3. The assessed value of such parcels; or

4. A combination of the foregoing.

There shall be a lien on real estate for the amount of such fees, rates, and charges as provided in § 15.2-5139. The authority is empowered by resolution or other lawful action to enforce the payment of the lien by means of the actions described in § 15.2-5138.

The power to establish such fees, rates, and charges shall be in addition to any other powers granted hereunder, and such fees, rates, and charges shall not be subject to the jurisdiction of any commission, authority, or other unit of government. The entity contracting with the authority, except to the extent that rights herein given may be restricted by the contract, either at law or in equity, by suit, mandamus, or other proceedings, may protect and enforce any and all rights granted under such contract and may face and compel the performance of all duties required by this chapter or by such contract to be performed by the authority or by any officer thereof, including without limitation the fixing, charging, and collecting of fees, rates, and charges in accordance with this chapter and such contract.

Such contract, with the irrevocable consent of the entity, may be made directly with the trustee for indebtedness issued to finance such system and provide for payment directly to such trustee. The authority may pledge fees, rates, and charges made in respect of the contract with the entity, and such pledge shall be valid and binding from the time it is made. Fees, rates, and charges so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind, in tort, contract, or otherwise, irrespective of whether such parties have notice thereof. Neither the contract nor any assignment thereof need be filed or recorded except in the records of the authority.

The requirements and restrictions of § 15.2-5121 shall not apply to any contract of the authority with respect to the system if the entity for such system will not collect refuse from the generators of the same and there are no such facilities located in the area served by the authority.

1997, c. 587; 2019, c. 632.

§ 15.2-5121.Operation of refuse collection systems; displacement of private companies

A. No authority shall operate or contract for the operation of a refuse collection and disposal system for any political subdivision, or collect service charges therefor, unless the authority, and subsequently the locality's governing body find: (i) that privately owned and operated refuse collection and disposal services are not available on a voluntary basis by contract or otherwise, (ii) that the use of such privately owned services has substantially endangered the public health or has resulted in substantial public nuisance, (iii) that the privately owned refuse collection and disposal service is not able to perform the service in a reasonable and cost-efficient manner, or (iv) that operation by such authority

or the contract for such operation, in spite of any potential anti-competitive effect, is important in order to provide for the development and/or operation of a regional system of refuse collection and disposal for two or more units.

B. Notwithstanding the provisions of subsection A, an authority formed under this chapter shall not operate or contract for the operation of a refuse collection and disposal system which displaces a private company engaged in the provision of refuse collection and disposal unless it provides the company with five years' notice of its decision to operate such a system. As an alternative to delaying displacement five years, the governing body or authority may pay a displaced company an amount equal to the company's preceding twelve months' gross receipts for the displaced service in the displacement area. Such five-year period shall lapse as to any private company being displaced when such company ceases to provide service within the displacement area.

C. For purposes of this section, "displace" or "displacement" means an authority's provision of a system which prohibits a private company from providing the same service and which it is providing at the time the decision that will result in the displacement is made. Displace or displacement does not mean: (i) competition between the public sector and private companies for individual contracts; (ii) situations in which an authority, at the end of a contract with a private company, does not renew the contract and either awards the contract to another private company or, following a competitive process conducted in accordance with the Virginia Public Procurement Act, decides for any reason to provide such service itself; (iii) situations in which action is taken against a private company because the company has acted in a manner threatening to the public health and safety or resulting in a substantial public nuisance; (iv) situations in which action is taken against a private company because the company has materially breached its contract with the political subdivision; (v) entering into a contract with a private company to provide refuse collection and disposal so long as such contract is not entered into pursuant to an ordinance which displaces or authorizes the displacement of another private company providing refuse collection and disposal; or (vi) situations in which a private company refuses to continue operations under the terms and conditions of its existing agreement during the five-year notice period.

D. An authority shall not make the findings required by subsection A or proceed to seek to operate a refuse collection and disposal system for any political subdivision that would displace a private company pursuant to subsection B until it has provided (i) public notice; (ii) a public hearing; and (iii) no less than forty-five days prior to the public hearing, written notice mailed first class to all private companies providing a refuse collection and disposal system in the political subdivision that can be identified through the political subdivision's records.

E. The requirements and restrictions of this section shall not apply in any political subdivision wherein refuse collection and disposal services are being operated or contracted for by any sanitary district located therein, as of July 1, 1983.

F. Notwithstanding the provisions of this section, a political subdivision need not comply with the requirements of this section if:

1. The authority proposes to contract with the private sector for services or systems involving discarded or waste materials removed from the nonhazardous solid waste stream for recycling; or

2. The authority proposes to contract with the private sector for services or systems involving collection and disposal of nonhazardous solid waste and (i) the collected waste will be disposed of in a state-permitted waste management facility; (ii) the authority has a contract for services which shall be paid for through a supporting financial agreement approved by the participating locality's governing body; and (iii) such action will not displace a private company engaged in refuse collection and disposal. For purposes of this section, "recycling" means the process of separating a particular nonhazardous waste material from the waste stream and processing it so that it may be used again as a new material.

1983, c. 155, § 15.1-1250.01; 1992, c. 247; 1993, c. 497; 1994, c. 190; 1995, c. 660; 1997, c. 587.

§ 15.2-5122.Approval for certain water supply impoundment facilities

No locality or authority shall construct, provide or operate outside its boundaries any water supply impoundment system without first obtaining the consent of the governing body of the locality in which such system is to be located; however, no consent shall be required for the operation of any such water supply impoundment system in existence on July 1, 1976, or in the process of construction or for which the site has been purchased or for the orderly expansion of such water supply system.

In any case in which the approval by such governing body is withheld, the party seeking such approval may petition for the convening of a special court, pursuant to §§ 15.2-2135 through 15.2-2141.

1975, c. 573, § 15.1-1250.1; 1976, c. 69; 1997, c. 587.

§ 15.2-5123.Sewage treatment plants to include certain capability

Whenever an authority is constructing a new sewage treatment plant, the facility shall be designed and constructed so that it has the capability to treat the sewage from all onsite sewage disposal systems which are not served by another approved disposal site located within the area of the locality or localities which created the authority to be served by such plant.

1986, c. 329, § 15.1-1239.1; 1997, c. 587.

§ 15.2-5124.Repealed

Repealed by Acts 2015, cc. 263 and 284, cl. 1.

§ 15.2-5125.Issuance of revenue bonds

An authority may provide by resolution for the issuance of revenue bonds of the authority for the purpose of paying the whole or any part of the cost of any system. A community development authority

created under Article 6 (§ 15.2-5152 et seq.) of this chapter may provide by resolution for the issuance of revenue bonds of the authority for the purpose of paying the whole or any part of the cost of such facilities which may be provided by the authority under § 15.2-5158. The principal of and the interest on the bonds shall be payable solely from the funds provided for in this chapter for such payment. The full faith and credit of a political subdivision shall not be pledged to support the bonds. The bonds of each issue may be dated, may mature at any time or times not exceeding forty years from their date or dates, may be subject to redemption or repurchase at such price or prices and under such terms and conditions, and may contain such other provisions, all as determined before their issuance by the authority or in such manner as the authority may provide. The bonds may bear interest payable at such time or times and at such rate or rates as determined by the authority or in such manner as the authority may provide, including the determination by reference to indices or formulas or by agents designated by the authority under guidelines established by it. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. If any officer whose signature or a facsimile of whose signature appears on any bonds or coupons, ceases to be an officer before the delivery of such bonds, his signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. All revenue bonds issued under the provisions of this chapter shall have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon, bearer, registered or book entry form, or any combination of such forms, as the authority may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and the authority may sell such bonds in such manner, either at a public or a private sale, and for such price, as it may determine to be for the best interest of the authority and the political subdivisions to be served thereby.

Code 1950, § 15-764.14; 1950, p. 1321; 1958, c. 484; 1962, c. 623, § 15.1-1252; 1970, c. 617; 1993, c. 850; 1997, cc. 527, 573, 587; 2009, c. 473.

§ 15.2-5126.Time for contesting validity of proposed bond issue; when bonds presumed valid

For a period of thirty days after the date of the filing with the circuit court having jurisdiction over any of the political subdivisions which are members of the authority a certified copy of the initial resolution of the authority authorizing the issuance of bonds, any person in interest may contest the validity of the bonds, the rates, fees and other charges for the services and facilities furnished by, for the use of, or in connection with, any water or waste system or, for authorities created under Article 6 (§ 15.2-5152 et

seq.) of this chapter, such other facilities which may be provided by the authority under § 15.2-5158, the pledge of the revenues of any water or waste system, or any combination of any thereof or, for authorities created under Article 6 of this chapter, such other facilities which may be provided by the authority under § 15.2-5158, any provisions which may be recited in any resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, or any matter contained in, provided for or done or to be done pursuant to the foregoing. If such contest is not given within the thirty-day period, the authority to issue the bonds, the validity of the pledge of revenues necessary to pay the bonds, the validity of any other provision contained in the resolution, trust agreement, indenture or other instrument, and all proceedings in connection with the authorization and the issuance of the bonds shall be conclusively presumed to have been legally taken and no court shall have authority to inquire into such matters and no such contest shall thereafter be instituted.

Upon the delivery of any bonds reciting that they are issued pursuant to this chapter and a resolution or resolutions adopted under this chapter, the bonds shall be conclusively presumed to be fully authorized by all the laws of the Commonwealth and to have been sold, executed and delivered by the authority in conformity with such laws, and the validity of the bonds shall not be questioned by a party plaintiff, a party defendant, the authority, or any other interested party in any court, anything in this chapter or in any other statutes to the contrary notwithstanding.

1997, c. 587.

§ 15.2-5127.Proceeds of bonds

The proceeds of bonds issued pursuant to § 15.2-5125 shall be used solely for the payment of the cost of the system or systems for which they were issued and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the authorizing resolution or in any trust agreement. If the proceeds of the bonds, by error of estimates or otherwise, are less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in the authorizing resolution or in the trust agreement securing them, shall be deemed to be of the same issue and entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose. If the proceeds of the bonds of any issue exceed the amount required for the purpose for which such bonds were issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Code 1950, § 15-764.15; 1950, p. 1322; 1962, c. 623, § 15.1-1253; 1997, c. 587.

§ 15.2-5128.Interim receipts and temporary bonds; bonds mutilated, lost or destroyed

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

If any bond issued under this chapter is mutilated, lost or destroyed, the authority may cause a new bond of like date, number and tenor to be executed and delivered upon the cancellation in exchange or substitution for a mutilated bond and its interest coupons, or in lieu of and in substitution for a lost or destroyed bond and its unmatured interest coupons. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost or destroyed bond has (i) paid the reasonable expense and charges in connection therewith and, in the case of a lost or destroyed bond, has filed with the authority and its treasurer evidence satisfactory to such authority and its treasurer that such bond was lost or destroyed and that the holder was the owner and (ii) furnished indemnity satisfactory to the treasurer of the authority.

Code 1950, § 15-764.16; 1950, p. 1322; 1962, cc. 206, 623, § 15.1-1254; 1997, c. 587.

§ 15.2-5129.Provisions of chapter only requirements for issue

Bonds may be issued under the provisions of this chapter without obtaining the approval or consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things which are specifically required by this chapter.

Code 1950, § 15-764.17; 1950, p. 1322; 1962, c. 623, § 15.1-1255; 1997, c. 587.

§ 15.2-5130.Limitations in bond resolution or trust agreement

The resolution providing for the issuance of revenue bonds of the authority, and any trust agreement securing such bonds, may contain such limitations upon the issuance of additional revenue bonds as the authority deems proper. Such additional revenue bonds shall be issued under such limitations.

Code 1950, § 15-764.18; 1950, p. 1323; 1962, c. 623, § 15.1-1256; 1997, c. 587.

§ 15.2-5131.Bonds not debts of Commonwealth or participating political subdivision

A. Revenue bonds issued under the provisions of this chapter shall not constitute a pledge of the faith and credit of the Commonwealth or of any political subdivision. All bonds shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any political subdivision are pledged to the payment of the principal of or the interest on the bonds. The issuance of revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth or any political subdivision to levy any taxes or to make any appropriation for their payment except from the funds pledged under the provisions of this chapter.

B. Unless otherwise provided in the ordinance which forms the authority or in a subsequent ordinance or resolution authorizing additional improvements, neither the Commonwealth nor any locality shall pay any part of the principal or interest of any bonds issued by a community development authority formed pursuant to §§ 15.2-5152 through 15.2-5157, nor shall any locality carry any part of such bonds on its financial statements as a contingent obligation; except that if a community development

authority fails to pay such bonds, to the extent that a locality has imposed a real property tax surcharge or a special assessment at the request of a community development authority pursuant to subdivisions A 3 or A 5 of § 15.2-5158, funds collected from such sources may be paid against such debt.

C. Debt issued by a community development authority formed pursuant to §§ 15.2-5152 through 15.2-5157 shall not be considered in determining the debt limit of any locality.

Code 1950, § 15-764.19; 1950, p. 1323; 1962, c. 623, § 15.1-1257; 1997, cc. 363, 587.

§ 15.2-5132.Exemption from taxation

No authority shall be required to pay any taxes or assessments upon any system acquired or constructed by it under the provisions of this chapter or upon the income therefrom. The bonds issued under the provisions of this chapter, their transfer and the income therefor, including any profit made on their sale, shall be free from taxation within the Commonwealth.

Code 1950, § 15-764.20; 1950, p. 1323; 1962, c. 623, § 15.1-1258; 1997, cc. 527, 573, 587; 2009, c. 473.

§ 15.2-5133.Trust agreement; bond resolution

In the discretion of the authority, any revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign the revenues to be received. The resolution or trust agreement shall not convey or mortgage any stormwater control system or water or waste system or any part thereof, or any improvement financed pursuant to § 15.2-5158 which is, or will be, dedicated to a public entity other than the authority financing such improvement. However, a bond issued by a community development authority pursuant to subdivision A 2 of § 15.2-5158 may pledge or assign a mortgage in other real property or improvements not otherwise proscribed hereunder and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. Such provisions may include covenants setting forth the duties of the authority in relation to the acquisition, construction, improvement, maintenance, operation, repair and insurance of the system or systems for which such bonds are issued and provisions for the custody, safeguarding and application of all moneys and for the employment of consulting engineers in connection with such construction, reconstruction, or operation. The resolution or trust agreement may set forth the rights and remedies of the bondholders, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. The resolution or trust agreement may also contain such other provisions as the authority deems reasonable and proper for the security of the bondholders. Except as otherwise

provided in this chapter, the authority may provide for the payment of the proceeds of the sale of the bonds and its revenues to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of the resolution or trust agreement may be treated as part of the cost of operation.

Code 1950, § 15-764.21; 1950, p. 1323; 1962, c. 623, § 15.1-1259; 1993, c. 850; 1997, cc. 527, 573, 587; 2009, c. 473.

§ 15.2-5134.Disposition of unclaimed funds due on matured bonds or coupons

Any authority having bonds outstanding on which principal, premium or interest has matured for a period of more than five years may pay any money being held to pay the matured principal, premium or interest into the general fund of the authority. Thereafter, the owners of the matured bonds may look only to the authority for payment. The authority shall maintain a record of the bonds for which the funds were held.

1997, c. 587.

§ 15.2-5135.Contracts concerning interest rates, currency, cash flow and other basis

A. Any authority may enter into any contract which the authority determines to be necessary or appropriate to place the obligation or investment of the authority, as represented by the bonds or the investment of their proceeds, in whole or in part, on the interest rate, cash flow or other basis desired by the authority. Such contracts may include without limitation contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. Such contracts or arrangements may be entered into by the authority in connection with, or incidental to, entering into or maintaining any (i) agreement which secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the authority, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency.

B. Any money set aside and pledged to secure payments of bonds or any contracts entered into pursuant to this section, may be invested in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 and may be pledged to and used to service any of the contracts or agreements entered into pursuant to this section, and any other criteria as may be appropriate.

1997, c. 587.

§ 15.2-5136.Rates and charges

A. The authority may fix and revise rates, fees and other charges (which shall include, but not be limited to, a penalty not to exceed 10 percent on delinquent accounts, and interest on the principal), subject to the provisions of this section, for the use of and for the services furnished or to be furnished

by any system, or streetlight system in King George County, or refuse collection and disposal system or facilities incident thereto, owned, operated or maintained by the authority, or facilities incident thereto, for which the authority has issued revenue bonds as authorized by this chapter. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (i) to pay the cost of maintaining, repairing and operating the system or systems, or facilities incident thereto, for which such bonds were issued, including reserves for such purposes and for replacement and depreciation and necessary extensions, (ii) to pay the principal of and the interest on the revenue bonds as they become due and reserves therefor, and (iii) to provide a margin of safety for making such payments. The authority shall charge and collect the rates, fees and charges so fixed or revised.

B. The rates for water (including fire protection) and sewer service (including disposal) shall be sufficient to cover the expenses necessary or properly attributable to furnishing the class of services for which the charges are made. However, the authority may fix rates and charges for the services and facilities of its water system sufficient to pay all or any part of the cost of operating and maintaining its sewer system (including disposal) and all or any part of the principal of or the interest on the revenue bonds issued for such sewer or sewage disposal system, and may pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

C. Rates, fees and charges for the services of a sewer or sewage disposal system shall be just and equitable, and may be based upon:

1. The quantity of water used or the number and size of sewer connections;

2. The number and kind of plumbing fixtures in use in the premises connected with the sewer or sewage disposal system;

3. The number or average number of persons residing or working in or otherwise connected with such premises or the type or character of such premises;

4. Any other factor affecting the use of the facilities furnished; or

5. Any combination of the foregoing factors.

However, the authority may fix rates and charges for services of its sewer or sewage disposal system sufficient to pay all or any part of the cost of operating and maintaining its water system, including distribution and disposal, and all or any part of the principal of or the interest on the revenue bonds issued for such water system, and to pledge any surplus revenues of its water system, subject to prior pledges thereof, for such purposes.

D. Water and sewer rates, fees and charges established by any authority shall be fair and reasonable. An authority may charge fair and reasonable rates, fees, and charges to create reserves for expansion of its water and sewer or sewage disposal systems. Such rates, fees, and charges shall be reviewed

by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. However, any authority may charge and collect rates, fees, and charges to create a reserve fund for reasonable expansion of its water, sewer, or sewage disposal system. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

E. Rates, fees and charges for the service of a streetlight system shall be just and equitable, and may be based upon:

1. The portion of such system used;

2. The number and size of premises benefiting therefrom;

3. The number or average number of persons residing or working in or otherwise connected with such premises;

4. The type or character of such premises;

5. Any other factor affecting the use of the facilities furnished; or

6. Any combination of the foregoing factors.

However, the authority may fix rates and charges for the service of its streetlight system sufficient to pay all or any part of the cost of operating and maintaining such system.

F. The authority may also fix rates and charges for the services and facilities of a water system or a refuse collection and disposal system sufficient to pay all or any part of the cost of operating and maintaining facilities incident thereto for the generation or transmission of power and all or any part of the principal of or interest upon the revenue bonds issued for any such facilities incident thereto, and to pledge any surplus revenues from any such system, subject to prior pledges thereof, for such purposes. Charges for services to premises, including services to manufacturing and industrial plants, obtaining all or a part of their water supply from sources other than a public water system may be determined by gauging or metering or in any other manner approved by the authority.

G. No rates, fees or charges shall be fixed under subsections A through F of this section or under subdivision 10 of § 15.2-5114 until after a public hearing at which all of the users of the systems or facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be given by two publications, at least six days apart, in a newspaper having a general circulation in the area to be served by such systems or facilities, with the second notice being published at least 14 days before the date fixed in such notice for the hearing. The hearing may be adjourned from time to time. A copy of the notice shall

be mailed to the governing bodies of all localities in which such systems or facilities or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, shall be adopted and put into effect.

H. A copy of the schedule or schedules of the final rates, fees and charges fixed in accordance with subsection G shall be kept on file in the office of the clerk or secretary of the governing body of each locality in which such systems or any part thereof is located, and shall be open to inspection by all interested parties. The rates, fees or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which fall within the same class, without the necessity of a hearing or notice. Any increase in any rates, fees or charges under this section shall be made in the manner provided in subsection G. Any other change or revision of the rates, fees or charges may be made in the same manner as the rates, fees or charges were originally established as provided in subsection G.

I. No rates, fees or charges established, fixed, changed or revised before January 1, 2013, by any authority pursuant to this section or to subdivision 10 of § 15.2-5114 shall be invalidated because of any defect in or failure to publish or provide any notice required under this section or any predecessor provision.

Code 1950, § 15-764.22; 1950, p. 1324; 1962, c. 623, § 15.1-1260; 1978, cc. 298, 407; 1982, c. 469; 1988, c. 169; 1994, c. 477; 1997, cc. 12, 527, 573, 587; 1998, c. 869; 2001, c. 400; 2007, c. 813; 2009, c. 473; 2013, c. 51.

§ 15.2-5137.Water and sewer connections; exceptions

A. Upon or after the acquisition or construction of any water system or sewer system under the provisions of this chapter, the owner, tenant, or occupant of each lot or parcel of land (i) which abuts a street or other public right of way which contains, or is adjacent to an easement containing, a water main or a water system, or a sanitary sewer which is a part of or which is or may be served by such sewer system and (ii) upon which a building has been constructed for residential, commercial or industrial use, shall, if so required by the rules and regulations or a resolution of the authority, with concurrence of the locality in which the land is located, connect the building with the water main or sanitary sewer, and shall cease to use any other source of water supply for domestic use or any other method for the disposal of sewage, sewage waste or other polluting matter. All such connections shall be made in accordance with rules and regulations adopted by the authority, which may provide for a reasonable charge for making such a connection. A private water company which purchases water from a regional authority for sale or delivery to or within a municipality may impose a charge for connection to the water company's system in the same manner, and subject to the same restrictions, as an authority may impose for connection to its water system, subject to the approval of the State Corporation Commission.

B. Notwithstanding any other provision of this chapter, those persons having a domestic supply or source of potable water shall not be required to discontinue the use of such water. However, persons not served by a water supply system, as defined in § 15.2-2149, producing potable water meeting the standards established by the Virginia Department of Health may be required to pay a connection fee, a front footage fee, and a monthly nonuser service charge, which charge shall not be more than that proportion of the minimum monthly user charge, imposed by the authority, as debt service bears to the total operating and debt service costs, or any combination of such fees and charges. In York County and James City County, the monthly nonuser fee may be as provided by general law or not more than 85 percent of the minimum monthly user charge imposed by the authority, whichever is greater.

C. Notwithstanding any other provision of this chapter, those persons having a private septic system or domestic sewage system meeting applicable standards established by the Virginia Department of Health shall not be required under this chapter to discontinue the use of such system. However, such persons may be required to pay a connection fee, a front footage fee, and a monthly nonuser service charge, which charge shall not be more than that proportion of the minimum monthly user charge, imposed by the authority, as debt service bears to the total operating and debt service costs, or any combination of such fees and charges.

D. Persons who have obtained exemption from or deferral of taxation pursuant to an ordinance authorized by § 58.1-3210 may be exempted or deferred by the authority from paying any charges and fees authorized by subsection C, to the same extent as the exemption from or deferral of taxation pursuant to such ordinance.

E. Water and sewer connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

Code 1950, § 15-764.23; 1950, p. 1326; 1962, c. 623, § 15.1-1261; 1970, c. 617; 1980, c. 603; 1982, cc. 562, 567; 1984, c. 552; 1987, c. 75; 1997, cc. 12, 587; 2011, c. 642.

§ 15.2-5138.Enforcement of charges

Any resolution or trust agreement providing for the issuance of revenue bonds under the provisions of this chapter may include any of the following provisions, and may require the authority to adopt such resolutions or to take such other lawful action as is necessary to effectuate such provisions. The authority may adopt such resolutions and take such other actions as follows:

1. Require the owner, tenant or occupant of each lot or parcel of land who is obligated to pay rates, fees or charges for the use of or for the services furnished by any system acquired or constructed by the authority under the provisions of this chapter to make a reasonable deposit with the authority in

advance to insure the payment of such rates, fees or charges and to be subject to application to the payment thereof if delinquent.

2. If any rates, fees or charges for the use of and for the services furnished by any system acquired or constructed by the authority under the provisions of this chapter are not paid within thirty days after due, the authority may at the expiration of such thirty-day period disconnect the premises from the water or sewer system, or otherwise suspend services and proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action.

3. If any rates, fees or charges for the use and services of any sewer system acquired or constructed by the authority under the provisions of this chapter are not paid within thirty days after they become due, require that the owner, tenant or occupant of such premises cease disposing of sewage or industrial wastes originating from or on such premises by discharge directly or indirectly into the sewer system until such rates, fees or charges, with interest, are paid. If such owner, tenant or occupant does not cease such disposal at the expiration of the thirty-day period, the authority may require any political subdivision, district, private corporation, board, body or person supplying water to or selling water for use on such premises to cease supplying water to or selling water for use on such premises within five days after the receipt of notice of such delinquency from the authority. If such political subdivision, district, private corporation, board, body or person does not, at the expiration of such five-day period, cease supplying water to or selling water for use on such premises, then the authority may shut off the supply of water to such premises.

The water supply to or for any person, or for use on real estate of any person, shall not be shut off or stopped under this section if the State Health Commissioner, upon application of the local board of health or health officer of the locality in which such water is supplied or such real estate is located, has found and certifies to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person and the health of others in the locality.

Code 1950, § 15-764.24; 1950, p. 1326; 1962, c. 623, § 15.1-1262; 1997, c. 587.

§ 15.2-5138.1.Enforcement of certain charges when authority does not provide water services

A. This section shall apply only to an authority operating in Planning District 1 or Planning District 2.

B. If any rates, fees or charges for the use and services of any sewer system acquired or constructed by the authority under the provisions of this chapter are not paid within 60 days after they become due, the authority may require that the owner, tenant or occupant of such premises cease disposing of sewage or industrial wastes originating from or on such premises by discharge directly or indirectly into the sewer system until such rates, fees or charges, with interest, are paid. If such owner, tenant or occupant does not cease such disposal at the expiration of the 60-day period, the authority may require any political subdivision, district, private corporation, board, body or person supplying water to

or selling water for use on such premises to cease supplying water to or selling water for use on such premises within five days after the receipt of notice of such delinquency from the authority. If such political subdivision, district, private corporation, board, body or person does not, at the expiration of such five-day period, cease supplying water to or selling water for use on such premises, then the authority may shut off the supply of water to such premises.

C. The water supply to or for any person, or for use on real estate of any person, shall not be shut off or stopped under this section if the State Health Commissioner, upon application of the local board of health or health officer of the locality in which such water is supplied or such real estate is located, has found and certifies to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person and the health of others in the locality.

2008, c. 452.

§ 15.2-5139.Lien for charges

An authority may place a lien upon the real property of an owner only in the same manner provided by § 15.2-2119, and such lien may only be processed, recorded, and released in accordance therewith. An authority may only provide services to lessees or tenants of property owners in accordance with § 15.2-2119.4.

An authority may contract with a locality to collect amounts due on properly recorded utility liens in the same manner as unpaid real estate taxes due the locality.

Code 1950, § 15-764.25; 1950, p. 1327; 1958, c. 97; 1962, c. 623, § 15.1-1263; 1976, c. 243; 1983, c. 422; 1987, c. 307; 1993, c. 383; 1994, cc. 599, 602; 1997, c. 587; 2009, c. 420; 2011, cc. 529, 580; 2012, c. 766; 2017, c. 736.

§ 15.2-5140.Trust funds

All moneys received pursuant to this chapter shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. The resolution or trust agreement providing for the issuance of revenue bonds of the authority shall provide that any officer to whom, or any bank, trust company or other fiscal agent to which, such moneys are paid shall act as trustee of such moneys and shall hold and apply the same for the purposes provided in this chapter, subject to such regulations as such resolution or trust agreement may provide.

Code 1950, § 15-764.26; 1950, p. 1328; 1962, c. 623, § 15.1-1264; 1997, c. 587.

§ 15.2-5141.Bondholder's remedies

Any holder of revenue bonds issued by an authority under this chapter, or of any of the coupons appertaining thereto, except to the extent the rights given by this chapter may be restricted by the resolution or trust agreement providing for the issuance of such bonds, may, either at law or in equity,

by suit, mandamus or other proceeding, enforce all rights under the laws of Virginia or granted by this chapter or under such resolution or trust agreement. Such holder may also compel the performance of all duties required by this chapter or by the resolution or trust agreement to be performed by the authority or by any officer thereof, including the fixing, charging and collecting of rates, fees and charges for the use of or for the services furnished by any system.

Code 1950, § 15-764.27; 1950, p. 1328; 1962, c. 623, § 15.1-1265; 1997, c. 587; 2009, c. 473.

§ 15.2-5142.Refunding bonds

An authority may provide by resolution for the issuance of revenue refunding bonds of the authority to refund any revenue bonds outstanding and issued under this chapter, whether or not such outstanding bonds have matured or are then subject to redemption. Proceeds of such revenue refunding bonds may be used to discharge the revenue bonds, or such revenue refunding bonds may be exchanged for the revenue bonds. Each such authority may provide by resolution for the issuance of a single issue of revenue bonds of the authority for the combined purposes of (i) paying the cost of any system, or any combination thereof, or the improvement, extension, addition or reconstruction thereof, and (ii) refunding revenue bonds of the authority which have been issued under the provisions of this chapter which are outstanding, whether or not such outstanding bonds have matured or are then subject to redemption. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the bondholders, and the rights, powers, privileges, duties and obligations of the authority with respect to such bonds, shall be governed by the foregoing provisions of this chapter to the extent that they are applicable.

Code 1950, § 15-764.28; 1950, p. 1328; 1962, c. 623, § 15.1-1266; 1974, c. 226; 1997, c. 587; 2009, c. 473.

§ 15.2-5143.Purchase in open market or otherwise

Provision may be made in the proceedings authorizing refunding revenue bonds for the purchase of the refunded revenue bonds in the open market or pursuant to tenders made from time to time when there is available in the escrow or sinking fund for the payment of the refunded revenue bonds a surplus in an amount or amounts to be fixed in such proceedings.

1997, c. 587.

§ 15.2-5144.Investment in bonds

Any bonds issued pursuant to this chapter are hereby made securities in which all public officers, bodies and political subdivisions of the Commonwealth; all insurance companies and associations; and all savings banks and savings institutions, including savings and loan associations, trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees and other fiduciaries in the Commonwealth, may properly and legally invest funds in their control.

Code 1950, § 15-764.29; 1950, p. 1329; 1962, c. 623, § 15.1-1267; 1997, c. 587.

§ 15.2-5145.Financial report; authority budget; audit

Any locality may, by resolution, require an authority to:

1. Submit to it an annual financial statement in a form prescribed by the Auditor of Public Accounts; or

2. Have an audit conducted for any fiscal year according to generally accepted auditing and accounting standards or according to the audit specifications and audit program prescribed by the Auditor of Public Accounts.

1978, c. 617, § 15.1-1269.2; 1997, c. 587.

§ 15.2-5146.Use of state land

A. The Commonwealth hereby consents to the use of all lands above or under water and owned or controlled by it which are necessary for the construction, improvement, operation or maintenance of any stormwater control system or water or waste system; except that the use of any portion between the right-of-way limits of any primary or secondary highway in this Commonwealth shall be subject to the approval of the Commissioner of Highways.

B. In addition to the provisions of subsection A, the Governor is authorized, at the request of an authority created pursuant to § 15.2-5102 and in a form approved by the Attorney General, to disclaim any and all rights, title, and interest of the Commonwealth in and to lands used pursuant to subsection A if he finds (i) there is no greater public need or purpose than such use or (ii) that public use and necessity have been established pursuant to subsection B of § 15.2-1903. Such disclaimer shall be filed with the appropriate court and shall have the legal force and effect of disclaiming, releasing, and renouncing all of the right, title, and interest of the Commonwealth in and to such lands.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587; 2009, c. 861.

§ 15.2-5147.Powers of localities, etc., to make grants and conveyances to and contracts with authority

Each political subdivision may:

1. Convey or lease to any authority, with or without consideration, any system or portion thereof, or any right or interest in such facilities or any property appertaining thereto, upon such terms and conditions as the governing body determines to be in the best interest of such political subdivision;

2. Contract, jointly or severally, with any authority for the collection, treatment or disposal of sewage, industrial waste or refuse; and grant to such authority the right to receive, use and dispose of all or any portion of the refuse generated or collected by or within the jurisdiction or under the control of such unit; and in implementation of such contract or grant, exercise the powers set forth in §§ 15.2-927 and 15.2-928; and

3. Contract with any authority for shutting off the supply of water furnished by any water system owned or operated by such political subdivision or under its jurisdiction or control to any premises connected with any sewer system of the authority if the owner, tenant or occupant of such premises fails to pay any rates, fees or charges for the use of or for the services furnished by such sewer system within the time or times specified in such contract.

Code 1950, § 15-764.31; 1950, p. 1330; 1962, c. 623, § 15.1-1269; 1979, c. 280; 1997, c. 587; 2009, c. 473.

§ 15.2-5148.Units may convey property

Any unit, notwithstanding any contrary provision of law, may transfer jurisdiction over or lease, lend, grant or convey to an authority, upon the request of the authority and upon such terms and conditions to which the governing body and authority may agree, such real or personal property as may be necessary or desirable in connection with the acquisition, construction, improvement, operation or maintenance of a system by the authority, including public roads and other property already devoted to public use.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, cc. 527, 573, 587; 2009, c. 473.

§ 15.2-5149.Interference with railroad structures

Whenever any railroad tracks, pipes, poles, wires, conduits or other structures or facilities which are located in, along, across, over or under any public road, street, highway, alley or other public right-of-way become an obstruction to, interfere with or are endangered by the construction, operation or maintenance of any system of the authority, the unit having ownership, control or jurisdiction over such public road, street, highway, alley or other public right-of-way may, as the exercise of an essential governmental function, order the safeguarding, maintaining, relocating, rebuilding, removing or replacing of such railroad tracks, pipes, poles, wires, conduits or other structures or facilities by the owner thereof at the expense of the authority, subject to the provisions of § 25.1-102.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587.

§ 15.2-5150.Creating or joining more than one authority

No governing body that is a member of an authority, shall create or join with any other governing body in the creation of another authority or join another authority if the latter authority would duplicate the services being performed in any part of the areas being served by the authority of which the governing body is a member.

Code 1950, § 15-764.13; 1950, p. 1321; 1958, c. 402; 1962, c. 623, § 15.1-1251; 1968, c. 355; 1997, c. 587.

§ 15.2-5151.Water utilities may act as billing agents

Any public utility supplying water to the owners, lessees or tenants of real estate which is or will be served by any sewer or sewage disposal system of an authority may act as the billing and collecting agent of the authority for any rates, fees, rents or charges imposed by the authority for the service rendered by such sewer or sewage disposal system. Such water utility shall furnish to the authority copies of its regular periodic meter reading and water consumption records and other pertinent data as may be required for the authority to act as its own billing and collecting agent. The authority shall pay to the water utility the reasonable additional cost of clerical services and other expenses incurred by the water utility in rendering such services to the authority. Upon the inability of the authority and the water utility to agree upon the terms and conditions under which the water utility will act as the billing and collecting agent of the authority, either or both may petition the State Corporation Commission for a determination of the terms and conditions under which the water company shall act as the billing and collecting agent of the authority. If the water utility acts as the billing and collecting agent of an authority it shall set forth separately on its bills the rates, fees or charges imposed by the authority. However, both the water and sewage disposal charges shall be payable to and collected by the water utility, and payment of either shall be refused unless both are paid. The authority shall pay to the water utility the cost of shutting off any water service on account of nonpayment of the sewage disposal charge. In the event of such discontinuance of water service the water service shall not be reestablished until the sewage disposal charge has been paid.

Code 1950, § 15-764.12; 1950, p. 1318; 1954, c. 554; 1958, cc. 400, 402; 1960, c. 430; 1962, cc. 130, 623, § 15.1-1250; 1968, cc. 355, 556; 1970, cc. 444, 617; 1972, c. 161; 1979, c. 280; 1980, c. 159; 1981, c. 610; 1983, c. 422; 1984, c. 554; 1994, c. 477; 1997, c. 587.

§ 15.2-5152.Localities may consider petitions for creation of authority

A. Any city may consider petitions for the creation of community development authorities in accordance with this article.

B. Any town may by ordinance elect to assume the power to consider petitions for the creation of community development authorities in accordance with this article. A public hearing shall be held on such ordinance.

C. Any county may by ordinance elect to assume the power to consider petitions for the creation of community development authorities in accordance with this article. A public hearing shall be held on such ordinance.

D. Notwithstanding any other provision of law, community development authorities shall be created pursuant to this Article and the provisions of §§ 15.2-5103 and 15.2-5107 through 15.2-5111.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2003, c. 712; 2005, c. 547; 2009, c. 473.

§ 15.2-5153.Landowners may petition localities

The owner or owners of at least 51 percent of the land area or assessed value of land in any tract or tracts of land in any locality or localities may petition the locality or localities in which the tract or tracts are located for the creation of a community development authority, provided that before the creation of a community development authority in any town or county, the town or county has elected to consider petitions to create community development authorities pursuant to the applicable provisions of § 15.2-5152. Any petition for the creation of a community development authority in multiple tracts which are not contiguous shall be signed by the owner or owners of at least 51 percent of the land area or assessed value of land in each such non-contiguous tract.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2003, c. 443; 2005, c. 547; 2009, c. 473.

§ 15.2-5154.Contents of petition

A petition for the creation of a community development authority shall:

1. Set forth the name and describe the boundaries of the proposed district, including any provisions for adjusting the community development authority district boundaries pursuant to subsection A of § 15.2-5155;

2. Describe the services and facilities proposed to be undertaken by the community development authority within the district;

3. Describe a proposed plan for providing and financing such services and facilities within the district;

4. Describe the benefits which can be expected from the provision of such services and facilities by the community development authority;

5. Provide that the board members of the community development authority shall be selected under the applicable provisions of § 15.2-5113; and

6. Request the local governing body to establish the proposed community development authority for the purposes set forth in the petition.

Such petition may provide that the board members of the community development authority appointed pursuant to § 15.2-5113 shall consist of a majority of the petitioning landowners or their designees or nominees.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2009, c. 473.

§ 15.2-5155.Ordinance or resolution creating authority

A. Any locality authorized to consider petitions under this article may, by ordinance or resolution not inconsistent with the petition proposing the creation of the authority, create a community development authority, a public body politic and corporate and political subdivision of the Commonwealth. Community development authorities proposed for districts that are within any two or more localities may be formed by concurrent ordinances of each locality, and such localities may contract with one another for administration of the authority. If the boundaries of the proposed community development authority district are located wholly in a town, the owner or owners shall petition the town and need not petition the county and the town may create the authority without action by the county. If the petition for the creation of a community development authority so provides, the ordinance or resolution creating the community development authority may provide for the locality at any time after the creation of the community development authority to adjust the boundaries of the community development authority district to exclude certain land as long as the owners of at least 51 percent of the land area or assessed value of land remaining in the community development authority district after the adjustment petitioned for the creation of the community development authority.

B. An ordinance or resolution creating a community development authority shall not permit the community development authority to provide services which are provided by, or are obligated to be provided by, any authority already in existence whose charter requires or permits service within the proposed community development district, unless the existing authority first certifies to the governing body that the services provided by the proposed community development authority will not have a negative impact upon the existing authority's operational or financial condition. Such certification shall not be unreasonably withheld by the existing authority.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2003, c. 712; 2009, c. 473.

§ 15.2-5156.Hearing; notice

A. An ordinance or resolution creating a community development authority shall not be adopted or approved until a public hearing has been held by the governing body on the question of its adoption or approval. Notice of the public hearing shall be published once a week for three successive weeks in a newspaper of general circulation within the locality. The petitioning landowners shall bear the expense of publishing the notice. The hearing shall not be held sooner than ten days after completion of publication of the notice.

B. After the public hearing and before adoption of the ordinance or resolution, the local governing body shall mail a true copy of its proposed ordinance or resolution creating the development authority to the petitioning landowners or their attorney in fact. Unless waived in writing, any petitioning landowner shall have thirty days from mailing of the proposed ordinance or resolution in which to withdraw his signature from the petition in writing prior to the vote of the local governing body on such ordinance or resolution. If any signatures on the petition are so withdrawn, the local governing body

may pass the proposed ordinance or resolution only upon certification by the petitioners that the petition continues to meet the requirements of § 15.2-5152. If all petitioning landowners waive the right to withdraw their signatures from the petition, the local governing body may adopt the ordinance or resolution upon compliance with the provisions of subsection A and any other applicable provisions of law.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 1998, c. 188.

§ 15.2-5157.Recording in land records

The local governing body, upon approving the resolution or ordinance creating the district, shall direct that a copy of the resolution or ordinance be recorded in the land records of the circuit court for the locality in which the district is located for each parcel included in the district and be noted on the land books of the locality. For the purposes of this section, "parcel" is defined as tax map parcel.

Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587.

§ 15.2-5158.Additional powers of community development authorities

A. Each community development authority created under this article, in addition to the powers provided in Article 3 (§ 15.2-5110 et seq.) of Chapter 51 of this title, may:

1. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable governmental bodies and agencies having authority with respect to any area included therein, finance, fund, plan, establish, acquire, construct or reconstruct, enlarge, extend, equip, operate, and maintain the infrastructure improvements enumerated in the ordinance or resolution establishing the district, as necessary or desirable for development or redevelopment within or affecting the district or to meet the increased demands placed upon the locality as a result of development or redevelopment within or affecting the district, including, but not limited to:

a. Roads, bridges, parking facilities, curbs, gutters, sidewalks, traffic signals, storm water management and retention systems, gas and electric lines and street lights within or serving the district which meet or exceed the specifications of the locality in which the roads are located.

b. Parks and facilities for indoor and outdoor recreational, cultural and educational uses; entrance areas; security facilities; fencing and landscaping improvements throughout the district.

c. Fire prevention and control systems, including fire stations, water mains and plugs, fire trucks, rescue vehicles and other vehicles and equipment.

d. School buildings and related structures, which may be leased, sold or donated to the school district, for use in the educational system when authorized by the local governing body and the school board.

e. Infrastructure and recreational facilities for age-restricted active adult communities, and any other necessary infrastructure improvements as provided above, with a minimum population approved under local zoning laws of 1,000 residents. Such development may include security facilities and systems or measures which control or restrict access to such community and its improvements.

2. Issue revenue bonds of the development authority as provided in § 15.2-5125, including but not limited to refunding bonds, subject to such limitation in amount, and terms and conditions regarding capitalized interest, reserve funds, contingent funds, and investment restrictions, as may be established in the ordinance or resolution establishing the district, for all costs associated with the improvements enumerated in subdivision 1 of this subsection. Such revenue bonds shall be payable solely from revenues received by the development authority. The revenue bonds issued by a development authority shall not require the consent of the locality, except where consent is specifically required by the provisions of the resolution authorizing the collection of revenues and/or the trust agreement securing the same, and shall not be deemed to constitute a debt, liability, or obligation of any other political subdivision, and shall not impact upon the debt capacity of any other political subdivision.

3. Request annually that the locality levy and collect a special tax on taxable real property within the development authority's jurisdiction to finance the services and facilities provided by the authority. Notwithstanding the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, any such special tax imposed by the locality shall be levied upon the assessed fair market value of the taxable real property. Unless requested by every property owner within the proposed district, the rate of the special tax shall not be more than $.25 per $100 of the assessed fair market value of any taxable real estate or the assessable value of taxable leasehold property as specified by § 58.1-3203. The proceeds of the special taxes collected shall be kept in a separate account and be used only for the purposes provided in this chapter. All revenues received by the locality from such special tax shall be paid over to the development authority for its use pursuant to this chapter subject to annual appropriation. No other funds of the locality shall be loaned or paid to the development authority without the prior approval of the local governing body.

4. Provide special services, including: garbage and trash removal and disposal, street cleaning, snow removal, extra security personnel and equipment, recreational management and supervision, and grounds keeping.

5. Finance the services and facilities it provides to abutting property within the district by special assessment thereon imposed by the local governing body. All assessments pursuant to this section shall be subject to the laws pertaining to assessments under Article 2 (§ 15.2-2404 et seq.) of Chapter 24; provided that any other provision of law notwithstanding, (i) the taxes or assessments shall not exceed the full cost of the improvements, including without limitation the legal, financial and other directly attributable costs of creating the district and the planning, designing, operating and financing

of the improvements which include administration of the collection and payment of the assessments and reserve funds permitted by applicable law; (ii) the taxes or assessments may be imposed upon abutting land which is later subdivided in accordance with the terms of the ordinance forming the district, in amounts which do not exceed the peculiar benefits of the improvements to the abutting land as subdivided; and (iii) the taxes or assessments may be made subject to installment payments for up to 40 years in an amount calculated to cover principal, interest and administrative costs in connection with any financing by the authority, without a penalty for prepayment. Notwithstanding any other provision of law, any assessments made pursuant to this section may be made effective as a lien upon a specified date, by ordinance, but such assessments may not thereafter be modified in a manner inconsistent with the terms of the debt instruments financing the improvements. All assessments pursuant to this section may also be made subject to installment payments and other provisions allowed for local assessments under this section or under Article 2 of Chapter 24. All revenues received by the locality pursuant to any such special assessments which the locality elects to impose upon request of the development authority shall be paid over to the development authority for its use under this chapter, subject to annual appropriation, and may be used for no other purposes.

6. Fix, charge, and collect rates, fees, and charges for the use of, or the benefit derived from, the services and/or facilities provided, owned, operated, or financed by the authority benefiting property within the district. Such rates, fees, and charges may be charged to and collected by such persons and in such manner as the authority may determine from (i) any person contracting for the services or using the facilities and/or (ii) the owners, tenants, or customers of the real estate and improvements that are served by, or benefit from the use of, any such services or facilities, in such manner as shall be authorized by the authority in connection with the provision of such services or facilities.

7. Purchase development rights that will be dedicated as easements for conservation, open space or other purposes pursuant to the Open-Space Land Act (§ 10.1-1700 et seq.). For purposes of this subdivision, "development rights" means the level and quantity of development permitted by the zoning ordinance expressed in terms of housing units per acre, floor area ratio or equivalent local measure. An authority shall not use the power of condemnation to acquire development rights.

8. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable governmental bodies and agencies having authority with respect to any area included therein, finance and fund the acquisition of land within the district. All financing authority and methods provided by subsections 2, 3, 4, 5, 6, and 7 shall be permitted for the acquisition of land as provided herein.

9. Any special tax levied pursuant to subdivision 3 and any special assessment imposed pursuant to subdivision 5, whether previously or hereafter levied or imposed, constitute a lien on real estate ranking on parity with real estate taxes, and any such delinquent special tax or delinquent special assessment may be collected in accordance with the procedures set forth in Article 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1, provided that the enforcement of the lien for any special assessment

under subdivision 5 made subject to installment payments shall be limited to the installment payments due or past due at the time the lien is enforced through sale in accordance with Article 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1, and any sale to enforce payment of any delinquent taxes, assessments, or other levies shall not extinguish installment payments that are not yet due.

B. Nothing contained in this chapter shall relieve the local governing body of its general obligations to provide services and facilities to the district to the same extent as would otherwise be provided were the district not formed.

1993, c. 850, § 15.1-1250.03; 1995, c. 402; 1997, cc. 363, 587; 2000, cc. 724, 747; 2004, c. 637; 2005, c. 547; 2009, c. 473; 2015, c. 39.

§ 15.2-5159.Validation of creation of authorities; bonds issued

All proceedings heretofore taken with respect to the creation of a community development authority by any locality pursuant to this chapter are hereby presumed to be valid and all such authorities are presumed to be legally created. All proceedings heretofore taken by any community development authority with respect to the authorization, issuance, sale, execution, delivery, and repayment of bonds by any community development authority are presumed to be valid, and any such bonds so issued are presumed valid and legal obligations of such community development authority, enforceable in accordance with law.

2009, c. 473.

Winchester Parking Authority

Created

1964 Acts of Assembly, c. 221.

Amendments

1966, c. 515 (§§ 3, 7, 9, 13-a [added], 14, 17 [added])

§ 1. Short title.

This Act shall be known and may be cited as the "Winchester Parking Authority Act." (1964, c. 221)

§ 2. Declaration of public necessity.

It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the city of Winchester in the Commonwealth is necessary to the health, safety and general welfare of the public, whether residing in the municipality or traveling to, through or from such municipality in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of the municipality; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the present time a public nuisance; that such parking prevents the free circulation of traffic in, through and

from the municipality, and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions for sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided; and that the enactment of the provisions of this Act is hereby declared to be a public necessity. (1964, c. 221)

§ 3. Definitions.

As used in this Act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Authority created under the provisions of this Act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this Act to the Authority shall be given by law.

(a-1) The word "bonds" or the words "revenue bonds" shall mean revenue bonds, revenue refunding bonds or notes of the Authority issued under the provisions of this act.

(b) The word "cost" as applied to Parking Facilities or to extensions or additions thereto shall include the cost of construction or reconstruction, the cost of all labor , materials, machinery and equipment, the cost of all lands, property, rights, easements and interests acquired by the Authority for such construction or reconstruction or the operation thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during construction, and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal services, cost of plans and specifications, surveys and estimates of cost and of revenues, administrative expense and such other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof and the placing of the Parking Facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this Act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(c) The words "governing body" shall mean the board, commission, council or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.

(d) The word "municipality" shall mean the city of Winchester in the Commonwealth of Virginia.

(e) The words "Parking Facilities" shall mean and shall include lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to public use for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and busses, waiting rooms, lockers, and offices catering primarily to those using such parking

facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the construction or operation thereof; provided, however, the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles. (1964, c. 221; 1966, c. 515)

§ 4. Creation of the Authority.

(a) The governing body of the municipality may by resolution signify its determination to organize an Authority under the provisions of this Act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than 10 days prior to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereon. Such municipality shall not be required to make any other publication of such resolution under the provisions of any other law.

(b) Such resolution shall include articles of incorporation which shall set forth: (1) the name of the Authority; (2) a statement that such Authority is organized under this Act; (3) the name of the organizing municipality; and (4) the names and addresses of the first members of the Authority appointed by the organizing municipality.

(c) Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the Commonwealth of Virginia. (1964, c. 221)

§ 5. Membership of the Authority.

The Authority organized under the provisions of this Act shall consist of five members selected by the governing body of the organizing municipality who shall serve for terms expiring one, two, three, four, and five years, respectively, from the date of appointment, the term of each such member to be designated by said governing body. The successor of each member of the Authority shall be appointed for a term of five years but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Authority before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Authority.

The Authority shall select one of its members as Chairman and another as Vice-Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice-Chairman, Secretary and Treasurer shall be as provided in the by-laws of the Authority.

A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of all of the members of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all of the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. (1964, c. 221)

§ 6. General grant of powers.

The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such Authority is hereby authorized and empowered:

(a) to adopt by-laws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to maintain an office at such place or places as it may designate;

(d) to sue and be sued in its own name, plead and be impleaded;

(e) to construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of the organizing municipality;

(f) to issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;

(g) to issue revenue refunding bonds of the Authority as hereinafter provided;

(h) to fix and revise from time to time and to charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time regulations in respect of the use, operation and occupancy of such parking facilities or part thereof;

(i) to acquire in the name of the Authority by gift, or purchase, any lands or rights in lands and interest therein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facilities;

(j) to lease all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this Act; provided, however, that no enterprise involving the sale or dispensing of any product or commodity used in or for the servicing of motor vehicles shall be conducted on any space thereon;

(k) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act, including a trust agreement or trust

agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this Act;

(l) to do all acts and things necessary or convenient to carry out the powers granted by this Act; and

(m) nothing in this Act shall be construed as authorizing the Authority or any lessee to furnish or dispense at, or in connection with, any parking lot or area authorized by this Act, any product or service other than parking of vehicles. (1964, c. 221)

§ 7. Revenue bonds.

The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving, extending or enlarging any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates not exceeding six per centum (6%) per annum, as may be deter- mined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Act or any recitals in any bonds issued under the provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per centum (6%) per annum, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this Act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this Act.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth or of any municipality or other political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or of any municipality or other political subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds. (1964, c. 221; 1966, c. 515)

§ 8. Revenues.

The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by any parking facilities or parts thereof owned or operated by the Authority. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all times (a) to pay the cost of maintaining, repairing and operating the parking facilities or parts thereof owned or operated by the Authority, including reserves for such purposes, and (b) to pay the principal of and the

interest on all bonds issued by the Authority under the provisions of this Act as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the Authority may enter into contracts relating to use of the services and facilities of the parking facilities on such terms as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms. (1964, c. 221)

§ 9. Trust agreement.

In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received. In connection with the issuance of such bonds or in order to secure the payment thereof, the Authority shall have power under such agreement to mortgage all or any part of its property, real or personal, then owned or thereafter required, to vest in the trustee thereunder the right to foreclose such mortgage and to provide the terms and conditions upon which such trustee or the holders of bonds or any proportion thereof may exercise the right of foreclosure. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, If any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this Act otherwise provided, the Authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any parking facilities or part thereof to such officer, board or depositary as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this Act shall be valid and binding from the time when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledges without any physical delivery thereof or further

action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. (1964, c. 221; 1966, c. 515)

§ 10. Trust funds.

All moneys received pursuant to the authority of this Act shall be deemed to be trust funds, to be held and applied solely as provided in this Act. Any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this Act and the resolution authorizing the issuance of bonds or trust agreement securing such bonds may provide. (1964, c. 221)

§ 11. Remedies.

Any holder of revenue bonds issued under the provisions of this Act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this Act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of rates, rentals, fees and charges for the use of or for the services and facilities furnished by any Parking Facilities. (1964, c. 221)

§ 12. Exemption from taxation.

As adequate off-street Parking Facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this Act to effect such purposes constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this Act constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this Act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this Act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the Commonwealth. (1964, c. 221)

§ 13. Revenue refunding bonds.

The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (a) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued

or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions or enlargements of any parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the foregoing provisions of this Act in so far as the same may be applicable. (1964, c. 221)

§ 13-a. Competing parking facilities.
So long as any bonds issued under the provisions of this act are outstanding, the municipality shall not construct, operate or maintain any parking facilities competing with parking facilities of the Authority. (1966, c. 515)

§ 14. Contributions.
The municipality is hereby authorized to make contributions or advances to an Authority which it organizes under the provisions of this Act, from any available moneys for any purpose of the Authority, including payment of principal and interest on its bonds. The municipality is hereby further authorized to enter into agreements with the Authority obligating the municipality to pay to the Authority any part or all of the receipts from the operation of on-street parking meters and making such covenants as may be deemed necessary or desirable to assure the successful and profitable operation of the on-street parking meters for so long as any bonds of the Authority remain outstanding. (1964, c. 221; 1966, c. 515)

§ 15. Actions taken by Authority.
Any action taken by the Authority under the provisions of this Act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately and need not be published or posted. (1964, c. 221)

§ 16. Additional method.
This Act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds. (1964, c. 221)

§ 17. Construction.
This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof. (1966, c. 515)

Winchester Regional Airport Authority

Created
1987 Acts of Assembly, c. 687.

Amendments
1995, cc. 258, 338 (§ 5)

§ 1. Short title.
This act shall be known and may be cited as the Winchester Regional Airport Authority Act. (1987, c. 687)

§ 2. Creation; public purpose.
If the governing bodies of the Counties of Clarke, Frederick, Shenandoah and Warren and the City of Winchester by resolution declare that there is a need for an airport authority to be created for the purpose of establishing or operating an airport for such participating political subdivisions, and that they should unite in its formation, an airport authority to be known as the Winchester Regional Airport Authority shall thereupon exist for such participating counties and city and shall exercise its powers and functions as prescribed herein. The region for which such Authority shall exist shall be coterminous with the boundaries of the participating political subdivisions.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the Winchester Regional Airport Authority, such authority shall be conclusively deemed to have been created as a body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such counties and city declaring that there is a need for such authority and that they should unite in its formation. A copy of such resolution duly certified by the clerks of the counties and city by which it is adopted shall be admissible as evidence in any suit, action or proceedings. Any political subdivision of the Commonwealth, all or part of which is located within sixty miles of an Authority facility, is authorized to join such Authority pursuant to the terms and conditions of this act.

It is hereby declared that the ownership and operation by the Authority of modern and efficient air transportation and related facilities and the exercise of powers conferred by this act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. It is also declared that contract obligations of a city or town to provide payments over a period of more than one year to the Authority shall be excluded from existing indebtedness of such city or town for purposes of calculating debt limit pursuant to Section 10 (a) of Article VII of the Constitution of Virginia. It is further declared that the Authority is a regional entity of government by or on behalf of which debt may be contracted by or on behalf of any county pursuant to Section 10 (b) of Article VII of the Constitution of Virginia. (1987, c. 687)

§ 3. Definitions.

As used in this act the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means this Winchester Regional Airport Authority Act. "Authority" means the Winchester Regional Airport Authority created by this act.

"Bonds" means any bonds, notes, debentures, or other evidence of financial indebtedness issued by this Authority pursuant to this act.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all airports, terminals, runways, hangars, loading facilities, repair shops, parking areas, facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies and airlines, and industrial and commercial facilities, purchased, constructed or otherwise acquired or operated by the Authority pursuant to the provisions of this act. Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, avigation rights, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto. "Participating political subdivision" means any of the Counties of Clarke, Frederick, Shenandoah or Warren or the City of Winchester or any other political subdivision which may join or has joined the Authority pursuant to §§ 4 and 5 of this act.

"Political subdivision" means a county, municipality or other public body of this Commonwealth.

"Board of Directors" means the governing body of the Authority. Winchester Regional Airport means the airport facilities located east of U.S. Route 522 and south of U.S. Route 50 in Frederick County, approximately three miles from the City of Winchester, and any other facilities necessary, incidental, or convenient to the operation of the facilities. (1987, c. 687)

§ 4. Participating political subdivision.

Prior to becoming a participating political subdivision, each political subdivision shall enter into a contract with the authority and other participating political subdivisions setting forth the financial contribution to be made by such political subdivision to the Authority.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any other political subdivision. (1987, c. 687)

§ 5. Appointment and tenure of a Board of Directors.

The powers of the Authority shall be vested in the directors thereof in office from time to time. The governing body of each participating political subdivision shall appoint the number of directors, who may be members of the appointing governing body, set forth opposite its name below:

City of Winchester	2
County of Frederick	4
Each other participating political subdivision	1

The initial Board of Directors shall be appointed for the following terms: City of Winchester: one member for one year, one member for four years; Frederick County: one member for two years, one member for three years; Clarke County: two years, if any; Shenandoah County: three years, if any; Warren County: four years, if any. One member of the two additional members for Frederick County shall be appointed for an initial term of one year, and the other additional member for Frederick County for an initial term of three years. Thereafter, each director shall be appointed for a four-year term or until his successor is appointed and qualified. No member of the Board of Directors may be an employee of a participating political subdivision. Directors appointed by additional participating political subdivisions or directors appointed by existing political subdivisions shall also be appointed for four-year terms. The governing body of each political subdivision shall be empowered to remove at any time, without cause, any director appointed by it and appoint a successor director to fill the unexpired portion of the removed director's term.

Each director may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performan of his duties. (1987, c. 687; 1995, cc. 258, 338)

§ 6. Organization.

A majority of the directors in office shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws. Special meetings of the Authority may be called by any director or the Executive Director upon at least forty-eight hours' written notice to each director served personally or left at his usual place of business or residence.

The Board of Directors shall annually elect a chairman and a vice-chairman from their membership, a secretary and a treasurer or a secretary-treasurer from their membership or not as they deem appropriate, and such other officers as they may deem appropriate. The Board of Directors may appoint an executive director, who shall not be a director, who shall exercise such powers and duties as may be delegated to him by the Board of Directors, including powers and duties involving the exercise of discretion.

The Board of Directors may make and from time to time amend and repeal bylaws, not inconsistent with this act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The Board of Directors may appoint such committees as they may deem advisable and fix the duties and responsibilities of such committees. (1987, c. 687)

§ 7. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including, for purposes of illustration, the following:

1. To sue and be sued in its own name;

2. To have perpetual succession;

3. To adopt a corporate seal and alter the same at its pleasure;

4. To maintain offices at such places as it may designate in the City of Winchester or the County of Frederick;

5. To acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate any airport, air landing fields, structures, avigation facilities and other property incidental thereto within the territorial limits of the participating political subdivisions subject to the limitation that such power shall be limited to such items as may be necessary for the operation of the Winchester Regional Airport;

6. To construct, install, maintain and operate facilities for the servicing and storage of aircraft and for the accommodation of cargo, freight, mail, express, etc., and for the accommodation and comfort of air travelers, and for lease or sale to industrial or commercial users, and to purchase and sell equipment and supplies incidental to the operation of its airport facilities;

7. To grant to others the privilege to operate for profit concessions, leases, and franchises, including but not limited to the sale of airplanes, fuel, parts and equipment, maintenance of aircraft, the accommodation and comfort of persons using its facilities and the providing of ground transportation and parking facilities for such persons, and such concessions, leases and franchises shall be exclusive or limited when deemed by the Authority necessary to further the public safety, improve the quality of air service, avoid duplication of service or conserve airport property and the airport operation;

8. To determine fees, rates, and charges for the use of its facilities;

9. To apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, this Commonwealth and political subdivisions, agencies and instrumentalities thereof, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the Authority's facilities or for the payment of principal of any indebtedness of the Authority,

interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

10. To establish, operate and maintain a foreign trade zone and otherwise to expedite and encourage foreign commerce;

11. To appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

12. To contract with a participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 14 hereof, accounting services, including the annual independent audit required by § 24 hereof, procurement of goods and services, and to act as fiscal agent for the Authority. In the event of a contract for a participating political subdivision to act as fiscal agent, the Authority's employees shall be compensated, shall receive the same benefits, including pensions, and shall be subject to the personnel rules of said subdivision;

13. To establish personnel rules;

14. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

15. Subject to the provisions of any deed or deeds from the City of Winchester to the Authority and any agreement or agreements among or between the Authority and any participating political subdivision, to sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein, if such disposition is in the public interest and in furtherance of the purposes of this act or if such property is not necessary for the purposes of the Authority;

16. To make, assume and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

17. a. To borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

b. The total indebtedness of the Authority at no time shall exceed the amount of $500,000, in principal, whether by purchase of encumbered property, direct loan, bonded indebtedness, or debt in any other form except as agreed to by each participating political subdivision by

resolution of the governing body thereof, in which case the total amount of indebtedness shall be expressed in the resolution of each such governing body;

c. Notwithstanding any other provision of law, no interest or right in the real property conveyed, in any form, to the Authority by a participating political subdivision, shall be conveyed, pledged, or otherwise transferred by the Authority for the purpose of obtaining or securing any indebtedness, nor shall any such property be encumbered by the Authority unless and until such subdivision has approved the nature of, terms of, and amount of such conveyance, pledge, transfer or encumbrance, by resolution of the governing body of said subdivision;

18. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. To pay pensions and establish pension plans, pension trusts, and other compensation plans for any of its employees;

20. To purchase and maintain insurance or to provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such; and

21. To do all things necessary or convenient to the purposes of this act. However, the powers of the Authority expressed in this act shall be limited to those powers necessary for the operation of the Winchester Regional Airport. To that end, property acquired, owned, or conveyed to the Authority, contracts entered into, financial assistance, indebtedness, rules and regulations adopted by the Authority and any other actions thereof may only pertain to said airport.

The grant of regulatory authority by this act, including regulations that displace, eliminate or limit competition by or among persons or entities, is based on the policy of the Commonwealth to provide for the safe, adequate, economical and efficient provision of air transportation and related facilities and services to the public. (1987, c. 687)

§ 8. Name of airport.

The name of the airport operated by the Authority within the boundaries of Frederick County shall be Winchester Regional Airport. The name of the airport may be changed upon approval of the governing bodies of the participating political subdivisions. (1987, c. 687)

§ 9. Rules and regulations.

The Authority shall have the power to adopt, amend, and repeal rules and regulations for the use, maintenance and operation of its facilities and governing the conduct of persons and organizations using its facilities.

Unless the Authority shall by unanimous vote of the Board of Directors determine that an emergency exists, the Authority shall, prior to the adoption of any rule or regulation or alteration, amendment or modification thereof:

1. Make such rule, regulation, alteration, amendment or modification in convenient form available for public inspection in the office of the Authority for at least ten days; and

2. Post in a public place a notice declaring the Board of Directors' intention to consider adopting such rule, regulation, alteration, amendment or modification and informing the public that the Authority will at a public meeting consider the adoption of such rule or regulation or such alterations, amendment, or modification, on a day and at a time to be specified in the notice, after the expiration of at least ten days from the first day of the posting of the notice thereof. The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations relating to: (i) traffic, including but not limited to motor vehicle speed limits and the location of and payment of public parking; (ii) access to Authority facilities, including but not limited to solicitation, handbilling, and picketing; and (iii) aircraft operation and maintenance shall have the force of law, as shall any other rule or regulation of the Authority which shall contain a determination by the Authority that it is necessary to accord the same the force and effect of law in the interest of the public safety. However, with respect to motor vehicle traffic rules and regulations, the Authority shall obtain the approval of the traffic engineer or comparable official of the political subdivision in which such rules or regulations are to be enforced. The violation of any rule or regulation of the Authority relating to motor vehicle traffic shall be tried and punished in the same manner as if it had been committed on the public roads of the participating political subdivision in which such violation occurred. All other violations of the rules and regulations having the force of law shall be punishable as misdemeanors.

All ordinances, rules and regulations duly adopted for the regulation, administration and operation of Winchester Regional Airport, in force at the effective date of this act shall remain in full force insofar as they or any part thereof are not inconsistent with the provisions of this act until amended or repealed in accordance with this act. (1987, c. 687)

§ 10. Police powers.

Authority employees meeting the minimum requirements of the Department of Criminal Justice Services shall be given special police power by the circuit court of any participating political subdivision. The authority conferred upon such special policemen shall be exercised only upon Authority facilities located within such participating political subdivision, and shall be in all terms consistent with the requirements of Chapter 3 of Title 15.1 of the Code of Virginia.

Such special policemen shall have all powers vested in police officers under Chapter 3 of Title 15.1 of the Code of Virginia and shall be responsible upon Authority facilities for enforcing Authority rules and regulations and all other applicable statutes, ordinances, rules, and regulations of the United States of America and agencies and instrumentalities thereof and this Commonwealth and political subdivisions, agencies and instrumentalities thereof.

Such special policemen may issue summons to appear, or arrest on view or on information without warrant as permitted by law, and conduct before any court of competent jurisdiction any person violating any rule or regulation of the Authority or other applicable statute, ordinance, rule or regulation.

For the purpose of enforcing such statutes, ordinances, rules and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the participating political subdivision wherein the offense was committed shall have jurisdiction to try a person charged with the violating of any such statutes, ordinances, rules or regulations. (1987, c. 687)

§ 11. Eminent domain.

The Authority is hereby granted full power to exercise the right of eminent domain within the participating political subdivisions in the acquisition of any lands, easements, privileges or other property interests which are necessary for airport purposes, including, where necessary to provide unobstructed air space for the landing and taking off of aircraft utilizing its airport, avigation easements over lands or water outside the boundaries of its airport, even though such avigation easement may be either inconsistent with the continued use of such land for the same purposes for which it had been used prior to such acquisition, or inconsistent with the maintenance, preservation and renewal of any structure or any tree or other vegetation standing or growing on said land at the time of such acquisition. Proceedings for the acquisition of such land, easements and privileges by condemnation may be instituted and conducted in the name of the Authority in accordance with Title 25 of the Code of Virginia. (1987, c. 687)

§ 12. Reports.

The Authority shall keep minutes of its proceedings, which minutes shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. (1987, c. 687)

§ 13. Procurement.

All contracts that the Authority may let for construction or materials shall be subject to the Virginia Public Procurement Act (§§ 11-35 et seq.), of the Code of Virginia. (1987, c. 687)

§ 14. Deposit and investment of funds.

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act. All moneys of the Authority shall be deposited as soon as practicable in a separate account or accounts in one or more banks or trust companies organized under the laws of the Commonwealth or national banking associations having their principal offices in the Commonwealth. Such deposits shall be continuously secured in accordance with the Virginia Security for Public Deposits Act.

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities which are considered lawful investments for fiduciaries. (1987, c. 687)

§ 15. Authority to issue bonds.

The Authority shall have power and is hereby authorized to issue bonds from time to time in its discretion for any of its purposes, including the payment of all or any part of the cost of any of its facilities and the refunding of any bonds previously issued by it.

The Authority shall not issue bonds unless and until the maximum amount of such issue and the general purposes thereof have been approved by the governing body of each participating political subdivision. Subject to the foregoing, bonds may be issued under this act notwithstanding any debt or other limitation prescribed in any other statute and without obtaining the consent of any city, town, or county government or any commission, board, bureau, or agency of the Commonwealth or of any of the foregoing, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act.

The Authority may issue such types of bonds as it may determine, specifically bonds payable as to principal and interest: (i) from its revenues generally; (ii) exclusively from the income and revenues of a particular project; or (iii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part from the proceeds of such bonds. Subject to the limitations set forth in § 7 of this act, any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth or any political subdivision, agency or instrumentality thereof, any federal agency or any unit, private corporation, copartnership, association, or individual, as such participating political subdivision, or other entities may be authorized to make under general law or by pledge of any income or revenues of the Authority, or where such mortgage has been approved by the participating political subdivisions, a mortgage of any facilities of the Authority.

Bonds of the Authority shall be authorized by resolution and may be issued in one or more series, shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates as may be determined by the Authority, and may be made

redeemable before maturity at the option of the Authority at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the conversion and reconversion into coupon bonds of any bonds registered as to both principal and interest and vice versa. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. (1987, c. 687)

§ 16. Resolution or trust indenture to secure bonds.

In connection with the issuance of bonds and in order to secure the payment of such bonds, the Authority shall have power:

1. To pledge by resolution, trust indenture, or other agreement, all or any part of its fees, rents, or revenues;

2. To covenant to impose and maintain such schedule of fees, rents and charges as will produce funds sufficient to pay operating costs and debt service;

3. To covenant against pledging all or any part of its fees, rents, and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

4. To provide for the release of fees, rents, and revenues from any pledge and to reserve rights and powers in the fees, rents and revenues which are subject to a pledge;

5. To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or facilities of the Authority or any part thereof or with respect to limitations on its right to undertake additional projects;

6. To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

7. To covenant as to what other, or additional, debt may be incurred by it;

8. To provide for the terms, forms, registration, exchange, execution, and authentication of bonds;

9. To provide for the replacement of lost, destroyed, or mutilated bonds;

10. To covenant as to the use of any or all of its property, real or personal, subject to the continued use of such property for airport purposes;

11. To create or to authorize the creation of special funds in which there may be segregated: (i) the proceeds of any loan or grant; (ii) all of the fees, rents and revenues of any facility or facilities or parts thereof; (iii) any moneys held for the payment of the costs of operation and maintenance of any such facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (iv) any moneys held for the payment of the principal and interest on its bonds or the sums due under its leases or as reserve for such payments; and (v) any moneys held for any other reserve or contingencies; and to covenant as to the use and disposal of the moneys held in such funds;

12. To redeem its bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

13. To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

14. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

15. To covenant as to the maintenance of its facilities, the insurance to be carried thereon and the use and disposition of insurance moneys;

16. To vest in a bondholder the right, in the event of the failure of the Authority to observe or perform any covenant on its part to be kept or performed, to cure any such default, and, subject to the limitation on total indebtedness expressed in this act, to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the Authority with such interest, security and priority as may be provided in any trust indenture, lease or contract of the Authority with reference thereto;

17. To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

18. To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition or obligation;

19. To covenant to surrender possession of all or any part of any facility or facilities acquired or constructed from bond proceeds, the revenues from which have been pledged upon the happening of any event of default, as defined in the contract, and to vest in a bondholder the right without judicial proceeding to take possession and to use, operate, manage, and control such facility or any part thereof, and to collect and receive all fees, rents, and revenues arising therefrom in the same manner as the Authority itself might do and to dispose of the moneys collected in accordance with the agreement of the Authority with such obligee, subject to the continued use of such facilities for airport purposes;

20. To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the bondholders or any proportion of them may enforce any such covenant;

21. To make covenants other than and in addition to the covenants herein expressly authorized, of like or different character;

22. To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as any purchaser of the bonds of the Authority may reasonably require; and

23. To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the Authority which tend to make the bonds more marketable; notwithstanding that such covenant, acts or things may not be enumerated herein, it being the intention hereof to give the Authority power to do all things in the issuance of bonds, and in the provisions for their security that are not inconsistent with the Constitution of the Commonwealth or this act. (1987, c. 687)

§ 17. Fees, rents and charges.

The Authority is hereby authorized to and shall fix, revise, charge, and collect fees, rents and other charges for the use and services of any facilities. Such fees, rents, and other charges shall be so fixed and adjusted as to provide a fund sufficient with other revenues to pay the cost of maintaining, repairing, and operating the facilities and the principal and any interest on its bonds as the same shall become due and payable, including reserves therefor. Such fees, rents, and charges shall not be

subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth or any participating political subdivision. The fees, rents, and other charges received by the Authority, except such part thereof as may be necessary to pay the cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in any resolution authorizing the issuance of such bonds or in any trust indenture or agreement securing the same, shall to the extent necessary, be set aside at such regular intervals as may be provided in any such resolution or trust indenture or agreement in a sinking fund or sinking funds pledged to, and charged with, the payment and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of such bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. So long as any of its bonds are outstanding, the fees, rents, and charges so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture or agreement. (1987, c. 687)

§ 18. Credit of Commonwealth and political subdivisions not pledged.

The bonds of the Authority shall not be a debt of the Commonwealth or any political subdivision thereof, other than the Authority, and neither the Commonwealth nor any political subdivision thereof, other than the Authority, shall be liable thereon, nor shall such bonds be payable out of any funds or properties other than those of the Authority. All bonds of the Authority shall contain on the face thereof a statement to such effect. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. (1987, c. 687)

§ 19. Directors and persons executing bonds not liable thereon.

Neither the Board of Directors nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof. (1987, c. 687)

§ 20. Remedies of bondholder.

Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement, may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this act or under such trust indenture agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this act or by such trust indenture or agreement or resolution to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collection of fees, rents

and other charges. Any resolution authorizing the issuance of the Authority's bonds or trust indenture or agreement securing the same may limit or abrogate the individual right of action by the holders of such bonds or coupons appertaining thereto. (1987, c. 687)

§ 21. Taxation.

The exercise of the powers granted by this act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience and prosperity, and as the operation and maintenance of any project which the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act and the bonds issued under the provisions of this act, their transfer and the income therefrom including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof. Persons, firms, partnerships, associations, corporations and organizations leasing property of the Authority or doing business on property of the Authority shall be subject to and liable for payment of all applicable taxes of the political subdivision in which such leased property lies or in which business is conducted, including, but not limited to, any leasehold tax on real property and taxes on tangible personal property and machinery and tools, taxes for admission, taxes on hotel and motel rooms, taxes on the sale of tobacco products, taxes on the sale of meals and beverages, privilege taxes and local general retail sales and use taxes, taxes to be paid on licenses in respect to any business, profession, vocation or calling and taxes upon consumers of gas, electricity, telephone and other public utility services. (1987, c. 687)

§ 22. Bonds as legal investments.

Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1987, c. 687)

§ 23. Appropriation by political subdivision.

Any participating political subdivision, or other political subdivision of the Commonwealth all or a part of which is located within sixty miles of an Authority facility, is authorized to provide services, to donate real or personal property and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including general obligation bonds, in the manner provided in

the Public Finance Act or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority. The Authority may agree to assume, or reimburse a participating political subdivision for any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority. With the consent of the governing body of the participating political subdivision, any such agreement may be made subordinate to the Authority's indebtedness to others. (1987, c. 687)

§ 24. Authority budget.

A. The Authority shall annually prepare and submit to the participating political subdivisions (i) a proposed operating budget showing its estimated general fund revenues and expenses on an accrual basis for the forthcoming fiscal year, and if such estimated expenses exceed such estimated revenues, the portion of the deficit proposed to be borne by each participating political subdivision, and (ii) a proposed capital budget showing its estimated expenditures for such fiscal year for assets costing more than $20,000 (or such higher amount as the Authority and the participating political subdivisions may determine) and having an estimated useful life of twenty years or more and the source of funds for such expenditures, including any amount requested from the participating political subdivisions. No depreciation shall be included in the Authority's operating budget with respect to assets purchased by the Authority with funds appropriated to it for such purpose by a participating political subdivision and, for this determination, it shall be assumed that any appropriation so made is for the purchase of assets set forth in the applicable Authority budget to the extent such purchase price is included in the approved budget. Assets purchased by the Authority with bond proceeds shall be depreciated over the term of the bond issue in proportion to the maturities, including sinking fund installments, of the bond issue.

B. If the governing body of a participating political subdivision shall approve the Authority's proposed operating budget, it shall appropriate to the Authority such political subdivision's portion of such budget.

C. If the governing body of a participating political subdivision shall approve the Authority's proposed capital budget, it shall appropriate to the Authority such participating political subdivision's portion of the expenditures set forth therein. Any such appropriation may be reduced by the participating political subdivision's proportionate share of any grant funds received by the Authority for the purchase of assets included in the Authority's approved capital budget in excess of the grant funds shown in such capital budget as a source of funds for such expenditure, unless prohibited by the basic provider of the grant funds.

D. The Authority may expend any and all moneys within its control without obtaining the approval of the participating political subdivisions, but, except as otherwise provided in this act with respect to contracts and agreements between the Authority and any political subdivision, the Authority shall not

commit any participating political subdivision in an amount in excess of that appropriated to the Authority by the governing body of such political subdivision.

E. If at any time during any fiscal year it shall appear that the cash disbursements of the Authority will exceed its cash receipts for such fiscal year, including amounts appropriated to it by the participating political subdivisions, the Authority may request supplemental appropriations from the participating political subdivisions and any other political subdivision. (1987, c. 687)

§ 25. Allocation of deficit; denial of voting privileges.

A. Any deficit budgeted by the Authority in any fiscal year, i.e., any excess of its estimated general fund expenses over its estimated general fund revenues, and the cost of any budgeted capital expenditures in excess of the amount shown as available therefor, as shown on the Authority's operating and capital budgets approved by the participating political subdivisions, shall be allocated among the participating political subdivisions in the following manner:

1. During the five fiscal years beginning July 1, 1987, the County of Frederick and the City of Winchester shall each contribute half of the amount budgeted annually by the Authority for capital expenditures in excess of the amounts shown as available therefor after subtracting from such amount the annual contribution of the other participating political subdivisions.

2. No later than the fifth fiscal year, the participating political subdivisions shall evaluate the division of capital contributions made by each such subdivision and shall agree as to the division of such contributions for the fiscal year beginning July 1, 1992, and thereafter.

3. In the event the appropriation of any participating political subdivision is insufficient to pay its portion of the deficit incurred in any fiscal year, the allocation of any deficit for any succeeding fiscal year shall take into account the cumulative deficiency attributable to such participating political subdivision; however, no participating political subdivision shall be required to pay the Authority in any fiscal year any amount in excess of that appropriated to the Authority by the governing body of such participating political subdivision.

B. Any participating political subdivision not contributing its proportionate share of any deficit as determined by the Authority pursuant to § 25 of this act, either of the Authority's operating budget or capital budget in accordance with a schedule established by the Authority, shall automatically be denied voting privileges. The denial of voting privileges shall terminate upon the delivery of its proportionate share by such political subdivision. (1987, c. 687)

§ 26. Contracts with political subdivisions.

The Authority is authorized to enter into contracts with any one or more political subdivisions, which contracts may restrict the powers of the Authority otherwise granted by this act. Any participating political subdivision, or other political subdivision of the Commonwealth all or part of which is located within sixty miles of an Authority facility, is authorized to enter into contracts with the Authority,

pursuant to which the Authority undertakes to provide the facilities and render the services specified therein. Any such contract or agreement may provide that the political subdivision will make payments to the Authority based on the services rendered by the Authority to the residents of such political subdivision, determined in such reasonable manner as the Authority and the political subdivision may mutually agree. Each political subdivision entering into such a service contract with the Authority is authorized to do everything necessary or proper to carry out and perform such contract and to provide for the payment or discharge of any obligation thereunder by the same means and in the same manner as any other of its obligations. (1987, c. 687)

§ 27. Retirement benefits for certain employees formerly employed by a participating political subdivision.

When a local political subdivision joins the Authority, any employee of such local political subdivision who then becomes an employee of the Authority, if such employee is a member of a local retirement system, may elect to and may continue to be eligible to remain a member of such local retirement system in lieu of becoming a member of any retirement system with which the Authority may affiliate. Such election to remain a member of a local retirement system shall be made in writing within 120 days of such employee's political subdivision becoming a member of the Authority. In such event, service of such employee with the Authority shall be creditable as service with the participating political subdivision and shall be pursuant to all duly adopted ordinances and rules and regulations governing such retirement system. Any employee so electing shall not be entitled to any benefit under the Authority's retirement system, and the Authority shall pay the employer share of benefits provided the Authority's employees by such political subdivision. Nothing herein shall apply to any health and accident insurance plan or to the Federal Old Age and Survivors Insurance System. (1987, c. 687)

§ 28. Dissolution of Authority.

Whenever it shall appear to the Authority, or to any participating political subdivision that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply

to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the Supreme Court of Virginia. (1987, c. 687)

§ 29. Agreement with Commonwealth and participating political subdivisions.

The Commonwealth and, by participating in the Authority, each participating political subdivision pledge to and agree with the holders of any bonds issued by the Authority that neither the Commonwealth nor any participating political subdivision will limit or alter the rights hereunder vested in the Authority to fulfill the terms of any agreements made with said holders or in any way impair the rights and remedies of said holders until such bonds are fully met and discharged. The Authority is authorized to include this pledge and agreement in any contract with the holders of the Authority's bonds. (1987, c. 687)

§ 30. Liberal construction.

Neither this act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the Authority might otherwise have under any laws of this Commonwealth, and this act is cumulative to any such powers. This act does and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds, notes or other obligations. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is expressly provided in this act. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this act. (1987, c. 687)

§ 31. Application of local ordinances, service charges and taxes upon leaseholds.

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia, or exempt any lessee of any of the Authority's property from any tax imposed upon his leasehold interest in such property or upon the receipts derived therefrom. (1987, c. 687)

§ 32. Existing contracts, leases, franchises, etc., not impaired.

No provisions of this act shall relieve, impair or affect any right, duty, liability or obligation arising out of any contract, concession, lease or franchise now in existence except to the extent that such contract, concession, lease or franchise may permit. Notwithstanding the foregoing provisions of this section, the Authority may renegotiate, renew, extend the term of or otherwise modify at any time any contract, concession, lease or franchise now in existence in such manner and on such terms and

conditions as it may deem appropriate, provided that the operator of or under any said contract, concession, lease or franchise consents to said renegotiation, renewal, extension or modification. (1987, c. 687)