

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 378

An Act to amend the Code of Virginia by adding in Title 10.1 a chapter numbered 12.1, consisting of sections numbered 10.1-1230 through 10.1-1237, and to repeal Article 4.1 (§§ 10.1-1429.1, 10.1-1429.2 and 10.1-1429.3) of Chapter 14 of Title 10.1 of the Code of Virginia and to repeal Article 4.2 (§ 10.1-1429.4) of Chapter 14 of Title 10.1 of the Code of Virginia, relating to the Brownfield Restoration and Land Renewal Act.

[H 463]

Approved April 1, 2002

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 10.1 a chapter numbered 12.1, consisting of sections numbered 10.1-1230 through 10.1-1237, as follows:

CHAPTER 12.1.

BROWNFIELD RESTORATION AND LAND RENEWAL ACT.

§ 10.1-1230. Definitions.

"Authority" means the Virginia Resources Authority.

"Bona fide prospective purchaser" means a person who acquires ownership, or proposes to acquire ownership of, real property after the release of hazardous substances occurred.

"Brownfield" means real property; the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

"Cost" as applied to any project financed under the provisions of this chapter, means the reasonable and necessary costs incurred 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; site assessments, remediation, containment, and demolition or removal of existing structures; the costs of acquisition of land and any buildings and improvements thereon, including the discharge of any obligation of the seller of such land, buildings or improvements; labor; materials, machinery and equipment; the funding of accounts and reserves that the Authority may require; the reasonable costs of financing incurred by the local government in the course of the development of the project; carrying charges incurred prior to completion of the project, and the cost of other items that the Authority determines to be reasonable and necessary.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Fund" means the Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund.

"Innocent land owner" means a person who holds any title, security interest or any other interest in a brownfield site and who acquired ownership of the real property after the release of hazardous substances occurred.

"Local government" means any county, city, town, municipal corporation, authority, district, commission, or political subdivision of the Commonwealth created by the General Assembly or otherwise created pursuant to the laws of the Commonwealth or any combination of the foregoing.

"Partnership" means the Virginia Economic Development Partnership.

"Person" means an individual, corporation, partnership, association, governmental body, municipal corporation, public service authority, or any other legal entity.

"Project" means all or any part of the following activities necessary or desirable for the restoration and redevelopment of a brownfield site: (i) environmental or cultural resource site assessments, (ii) monitoring, remediation, cleanup, or containment of property to remove hazardous substances, hazardous wastes, solid wastes or petroleum, (iii) the lawful and necessary removal of human remains, the appropriate treatment of grave sites, and the appropriate and necessary treatment of significant archaeological resources, or the stabilization or restoration of structures listed on or eligible for the Virginia Historic Landmarks Register, (iv) demolition and removal of existing structures, or other site work necessary to make a site or certain real property usable for economic development, and (v) development of a remediation and reuse plan.

§ 10.1-1231. Brownfield restoration and land renewal policy and programs.

It shall be the policy of the Commonwealth to encourage remediation and restoration of brownfields by removing barriers and providing incentives and assistance whenever possible. The Department of Environmental Quality and the Economic Development Partnership and other appropriate agencies shall establish policies and programs to implement these policies, including a Voluntary Remediation Program, the Brownfields Restoration and Redevelopment Fund, and other measures as may be appropriate.

§ 10.1-1232. Voluntary Remediation Program.

A. The Virginia Waste Management Board shall promulgate regulations to allow persons who own, operate, have a security interest in or enter into a contract for the purchase of contaminated property to voluntarily remediate releases of hazardous substances, hazardous wastes, solid wastes, or petroleum. The regulations shall apply where remediation has not clearly been mandated by the United States Environmental Protection Agency, the Department 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 regulations shall provide for the following:

1. The establishment of methodologies to determine site-specific risk-based remediation standards, which shall be no more stringent than applicable or appropriate relevant federal standards for soil, groundwater and sediments, taking into consideration scientific information regarding the following: (i) protection of public health and the environment, (ii) the future industrial, commercial, residential, or other use of the property to be remediated and of surrounding properties, (iii) reasonably available and effective remediation technology and analytical quantitation technology, (iv) the availability of institutional or engineering controls that are protective of human health or the environment, and (v) natural background levels for hazardous constituents;

2. The establishment of procedures that minimize the delay and expense of the remediation, to be followed by a person volunteering to remediate a release and by the Department in processing submissions and overseeing remediation;

3. The issuance of certifications of satisfactory completion of remediation, based on then-present conditions and available information, where voluntary cleanup achieves applicable cleanup standards or where the Department determines that no further action is required;

4. Procedures to waive or expedite issuance of any permits required to initiate and complete a voluntary cleanup consistent with applicable federal law; and

5. Registration fees to be collected from persons conducting voluntary remediation to defray the actual reasonable costs of the voluntary remediation program expended at the site not to exceed the lesser of \$5,000 or one percent of the cost of the remediation.

B. Persons conducting voluntary remediations pursuant to an agreement with the Department entered into prior to the promulgation of those regulations may elect to complete the cleanup in accordance with such an agreement or the regulations.

C. Certification of satisfactory completion of remediation shall constitute immunity to an enforcement action under the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 13 (§ 10.1-1300 et seq.) of this title, or any other applicable law.

D. At the request of a person who owns, operates, holds a security interest in or contracts for the purchase of property from which the contamination to be voluntarily remediated originates, the Department is authorized to seek temporary access to private and public property not owned by such person conducting the voluntary remediation as may be reasonably necessary for such person to conduct the voluntary remediation. Such request shall include a demonstration that the person requesting access has used reasonable effort to obtain access by agreement with the property owner. Such access, if granted, shall be granted for only the minimum amount of time necessary to complete the remediation and shall be exercised in a manner that minimizes the disruption of ongoing activities and compensates for actual damages. The person requesting access shall reimburse the Commonwealth for reasonable, actual and necessary expenses incurred in seeking or obtaining access. Denial of access to the Department by a property owner creates a rebuttable presumption that such owner waives all rights, claims and causes of action against the person volunteering to perform remediation for costs, losses or damages related to the contamination as to claims for costs, losses or damages arising after the date of such denial of access to the Department. A property owner who has denied access to the Department may rebut the presumption by showing that he had good cause for the denial or that the person requesting that the Department obtain access acted in bad faith.

§ 10.1-1233. Amnesty for voluntary disclosure and restoration of brownfield sites.

The Director may, consistent with programs developed under the federal acts, provide incentives for the voluntary disclosure of brownfield sites and related information regarding potential or known contamination at that site. To the extent consistent with federal law, any person making a voluntary disclosure regarding real or potential contamination at a brownfield site shall not be assessed an administrative or civil penalty under the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), the State Air Pollution Control Law (§ 10.1-1300 et seq.), or any other applicable law. A disclosure is voluntary if it is not otherwise required by law, regulation, permit or administrative order and the person making the disclosure adopts a plan to market for redevelopment or otherwise ensure the timely remediation of the site. Immunity shall not be accorded if it is found that the person making the voluntary disclosure has acted in bad faith.

§ 10.1-1234. Limitations on liability.

A. The Director may, consistent with programs developed under the federal acts, make a determination to limit the liability of lenders, innocent purchasers or landowners, de minimis contributors or others who have grounds to claim limited responsibility for a containment or cleanup that may be required pursuant to the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), the State Air Pollution Control Law (§ 10.1-1300 et seq.), or any other applicable law.

B. A bona fide prospective purchaser shall not be held liable for a containment or cleanup that may be required at a brownfield site pursuant to the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or the State Air Pollution Control Law (§ 10.1-1300 et seq.) if (i) the person did not cause, contribute, or consent to the release or threatened release, (ii) the person is not liable or potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship or is not the result of a reorganization of a business entity that was potentially liable, (iii) the person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release, and prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substances, and (iv) the person does not impede the performance of any response action. These provisions shall not apply to sites subject to the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.).

C. An innocent land owner who holds title, security interest or any other interest in a brownfield site shall not be held liable for a containment or cleanup that may be required at a brownfield site pursuant to the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or the State Air Pollution Control Law (§ 10.1-1300 et seq.) if (i) the person did not cause, contribute, or consent to the release or threatened release, (ii) the person is not liable or potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship or is not the result of a reorganization of a business entity that was potentially liable, (iii) the person made all appropriate inquiries into the previous uses of the facility in accordance with generally accepted good commercial and customary standards and practices, including those established by federal law, (iv) the person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release, and prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substances, and (v) the person does not impede the performance of any response action and if either (a) at the time the person acquired the interest, he did not know and had no reason to know that any hazardous substances had been or were likely to have been disposed of on, in, or at the site, or (b) the person is a government entity that acquired the site by escheat or through other involuntary transfer or acquisition. These provisions shall not apply to sites subject to the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.).

D. A person that owns real property that is contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a hazardous substance from real property that is not owned by that person shall not be considered liable for a containment or cleanup that may be required pursuant to the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or the State Air Pollution Control Law (§ 10.1-1300 et seq.) if the person did not cause, contribute, or consent to the release or threatened release, the person is not liable or potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship or is not the result of a reorganization of a business entity that was potentially liable, and if such person provides full cooperation, assistance and access to persons that are authorized to conduct response actions at the facility from which there has been a release.

E. The provisions of this section shall not otherwise limit the authority of the Department, the State Water Control Board, the Virginia Waste Management Board, or the State Air Pollution Control Board to require any person responsible for the contamination or pollution to contain or clean up sites where solid or hazardous waste or other substances have been improperly managed.

§ 10.1-1235. Limitation on liability at remediated properties under the jurisdiction of the Comprehensive Environmental Response, Compensation and Liability Act.

A. Any person not otherwise liable under state law or regulation, who acquires any title, security interest, or any other interest in property located in the Commonwealth listed on the National Priorities List under the jurisdiction of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. § 9601 et seq.), after the property has been remediated to the satisfaction of the Administrator of the United States Environmental Protection Agency, shall not be subject to civil enforcement or remediation action under this chapter, Chapter 13 (§ 10.1-1300 et seq.) of this title, the State Water Control Law (§ 62.1-44.2 et seq.), or any other applicable state law, or to private civil suit, related to contamination that was the subject of the satisfactory remediation, existing at or immediately contiguous to the property prior to the person acquiring title, security interest, or any other interest in such property.

B. Any person who acquires any title, security interest, or other interest in property from a person described in subsection A shall not be subject to enforcement or remediation actions or private civil

suits to the same extent as the person provided in subsection A.

C. A person who holds title, a security interest, or any other interest in property prior to the property being acquired by a person described in subsection A shall not be relieved of any liability or responsibility by reacquiring title, a security interest, or any other interest in the property.

D. The provisions of this chapter shall not be construed to limit the statutory or regulatory authority of any state agency or to limit the liability or responsibility of any person when the activities of that person alter the remediation referred to in subsection A. The provisions of this section shall not modify the liability, if any, of a person who holds title, a security interest, or any other interest in property prior to satisfactory remediation or the liability of a person who acquires the property after satisfactory remediation for damage caused by contaminants not included in the remediation.

§ 10.1-1236. Access to abandoned brownfield sites.

A. Any local government or agency of the Commonwealth may apply to the appropriate circuit court for access to an abandoned brownfield site in order to investigate contamination, to abate any hazard caused by the improper management of substances within the jurisdiction of the Board, or to remediate the site. The petition shall include (i) a demonstration that all reasonable efforts have been made to locate the owner, operator or other responsible party and (ii) a plan approved by the Director and which is consistent with applicable state and federal laws and regulations. The approval or disapproval of a plan shall not be considered a case decision as defined by § 2.2-4001.

B. Any person, local government, or agency of the Commonwealth not otherwise liable under federal or state law or regulation who performs any investigative, abatement or remediation activities pursuant to this section shall not become subject to civil enforcement or remediation action under Chapter 14 (§ 10.1-1400 et seq.) of this title or other applicable state laws or to private civil suits related to contamination not caused by its investigative, abatement or remediation activities.

C. This section shall not in any way limit the authority of the Virginia Waste Management Board, Director, or Department otherwise created by Chapter 14 (§ 10.1-1400 et seq.) of this title.

§ 10.1-1237. Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund established; uses.

A. There is hereby created and set apart a special, permanent, perpetual and nonreverting fund to be known as the Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund for the purposes of promoting the restoration and redevelopment of brownfield sites and to address environmental problems or obstacles to reuse so that these sites can be effectively marketed to new economic development prospects. The Fund shall consist of sums appropriated to the Fund by the General Assembly, all receipts by the Fund from loans made by it, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private, including any federal grants, awards or other forms of financial assistance received by the Commonwealth.

B. The Authority shall administer and manage the Fund and establish the interest rates and repayment terms of such loans in accordance with a memorandum of agreement with the Partnership. The Partnership shall direct the distribution of loans or grants from the Fund to particular recipients based upon guidelines developed for this purpose. With approval from the Partnership, the Authority may disperse monies from the Fund for the payment of reasonable and necessary costs and expenses incurred in the administration and management of the Fund. The Authority may establish and collect a reasonable fee on outstanding loans for its management services.

C. All money belonging to the Fund 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 and signed by the Executive Director of the Authority or other officers or employees designated by the Board of Directors of 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. Money in the Fund shall not be commingled with other money of the Authority. Money in the Fund not needed for immediate use or disbursement may be invested or reinvested by the Authority in obligations or securities that are considered lawful investments for public funds under the laws of the Commonwealth. Expenditures and disbursements from the Fund shall be made by the Authority upon written request signed by the Executive Director of the Virginia Economic Development Partnership.

D. The Authority is empowered to collect, or to authorize others to collect on its behalf, amounts due to the Fund under any loan including, if appropriate, taking the action required by § 15.2-2659 to obtain payment of any amounts in default. Proceedings to recover amounts due to the Fund may be instituted by the Authority in the name of the Fund in the appropriate circuit court.

E. The Partnership may approve grants to local governments for the purposes of promoting the restoration and redevelopment of brownfield sites and to address real environmental problems or obstacles to reuse so that these sites can be effectively marketed to new economic development prospects. The grants may be used to pay the reasonable and necessary costs associated with the

restoration and redevelopment of a brownfield site for (i) environmental and cultural resource site assessments, (ii) remediation of a contaminated property to remove hazardous substances, hazardous wastes, or solid wastes, (iii) the necessary removal of human remains, the appropriate treatment of grave sites, and the appropriate and necessary treatment of significant archaeological resources, or the stabilization or restoration of structures listed on or eligible for the Virginia Historic Landmarks Register, (iv) demolition and removal of existing structures, or other site work necessary to make a site or certain real property usable for new economic development, and (v) development of a remediation and reuse plan. The Partnership may establish such terms and conditions as it deems appropriate and shall evaluate each grant request in accordance with the guidelines developed for this purpose. The Authority shall disburse grants from the Fund in accordance with a written request from the Partnership.

F. The Authority may make loans to local governments, public authorities, corporations and partnerships to finance or refinance the cost of any brownfield restoration or remediation project for the purposes of promoting the restoration and redevelopment of brownfield sites and to address real environmental problems or obstacles to reuse so that these sites can be effectively marketed to economic development prospects. The loans shall be used to pay the reasonable and necessary costs related to the restoration and redevelopment of a brownfield site for (i) environmental and cultural resource site assessments, (ii) remediation of a contaminated property to remove hazardous substances, hazardous wastes, or solid wastes, (iii) the necessary removal of human remains, the appropriate treatment of grave sites, and the appropriate and necessary treatment of significant archaeological resources, or the stabilization or restoration of structures listed on or eligible for the Virginia Historic Landmarks Register, (iv) demolition and removal of existing structures, or other site work necessary to make a site or certain real property usable for new economic development, and (v) development of a remediation and reuse plan.

The Partnership shall designate in writing the recipient of each loan, the purposes of the loan, and the amount of each such loan. No loan from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of the indebtedness to be refinanced plus reasonable financing expenses.

G. Except as otherwise provided in this chapter, the Authority shall determine the interest rate and terms and conditions of any loan from the Fund, which may vary between local governments. Each loan shall be evidenced by appropriate bonds or notes of the local government payable to the Fund. The bonds or notes shall have been duly authorized by the local government and executed by its authorized legal representatives. The Authority is authorized to require in connection with any loan from the Fund such documents, instruments, certificates, legal opinions and other information as it may deem necessary or convenient. In addition to any other terms or conditions that the Authority may establish, the Authority may require, as a condition to making any loan from the Fund, that the local government receiving the loan covenant perform any of the following:

1. Establish and collect rents, rates, fees, taxes, and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of the project, (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal of, premium, if any, and interest on the loan from the Fund to the local government, and (iii) any amounts necessary to create and maintain any required reserve.

2. Levy and collect ad valorem taxes on all property within the jurisdiction of the local government subject to local taxation sufficient to pay the principal of and premium, if any, and interest on the loan from the Fund to the local government.

3. Create and maintain a special fund or funds for the payment of the principal of, premium, if any, and interest on the loan from the Fund to the local government and any other amounts becoming due under any agreement entered into in connection with the loan, or 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 on the loan as they become due and payable.

4. Create and maintain other special funds as required by the Authority.

5. Perform other acts otherwise permitted by applicable law to secure payment of the principal of, premium, if any, and interest on the loan from the Fund to the local government and to provide for the remedies of the Fund in the event of any default by the local government in the payment of the loan, including, without limitation, any of the following:

- a. The conveyance of, or the granting of liens on or security interests in, real and personal property, together with all rights, title and interest therein, to the Fund;

- b. The procurement of insurance, guarantees, letters of credit and other forms of collateral, security, liquidity arrangements or credit supports for the loan from any source, public or private, and the payment therefor of premiums, fees, or other charges;

- c. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, for the purpose of financing, and the pledging of the revenues from such combined projects and undertakings to secure the loan from the Fund to the local government made in connection with such combination or any part or parts thereof;

- d. The maintenance, replacement, renewal, and repair of the project; and
- e. The procurement of casualty and liability insurance.

6. Obtain a review of the accounting and the internal controls from the Auditor of Public Accounts or his legally authorized representatives. The Authority may request additional reviews at any time during the term of the loan.

7. Directly offer, pledge, and consent to the Authority to take action pursuant to § 62.1-216.1 to obtain payment of any amounts in default.

H. All local governments borrowing money from the Fund are authorized to perform any acts, take any action, adopt any proceedings and make and carry out any contracts that are contemplated by this chapter. Such contracts need not be identical among all local governments, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Fund.

I. Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the Authority may consent to and approve any modification in the terms of any loan to any local government.

J. The Partnership, through its Director, shall have the authority to access and release moneys in the Fund for purposes of this section as long as the disbursement does not exceed the balance of the Fund. If the Partnership, through its Director, requests a disbursement in an amount exceeding the current Fund balance, the disbursement shall require the written approval of the Governor. Disbursements from the Fund may be made for the purposes outlined in this section, including, but not limited to, personnel, administrative and equipment costs and expenses directly incurred by the Partnership or the Authority, or by any other agency or political subdivision acting at the direction of the Partnership.

The Authority is empowered at any time and from time to time to pledge, assign or transfer from the Fund to banks or trust companies designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of the principal of, premium, if any, and interest on any or all of the bonds, as defined in § 62.1-199, issued to finance any project. The interests of the Fund in any assets so transferred shall be subordinate to the rights of the trustee under the pledge, assignment or transfer. To the extent funds are not available from other sources pledged for such purpose, any of the assets or payments of principal and interest received on the assets pledged, assigned or transferred or held in trust may be applied by the trustee thereof to the payment of the principal of, premium, if any, and interest on such bonds of the Authority secured thereby, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from the sale to the payment of the principal of, premium, if any, and interest on such bonds of the Authority. Any assets of the Fund pledged, assigned or transferred in trust as set forth above and any payments of principal, interest or earnings received thereon shall remain part of the Fund but shall be subject to the pledge, assignment or transfer to secure the bonds of the Authority and shall be held by the trustee to which they are pledged, assigned or transferred until no longer required for such purpose by the terms of the pledge, assignment or transfer.

K. The Authority is empowered at any time and from time to time to sell, upon such terms and conditions as the Authority shall deem appropriate, any loan, or interest therein, made pursuant to this chapter. The net proceeds of sale remaining after the payment of the costs and expenses of the sale shall be designated for deposit to, and become part of, the Fund.

L. The Authority may, with the approval of the Partnership, pledge, assign or transfer from the Fund to banks or trust companies designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of the principal of, premium, if any, and interest on any or all of the bonds, as defined in § 62.1-199, issued to finance any project. The interests of the Fund in any assets so transferred shall be subordinate to the rights of the trustee under the pledge, assignment or transfer. To the extent funds are not available from other sources pledged for such purpose, any of the assets or payments of principal and interest received on the assets pledged, assigned or transferred or held in trust may be applied by the trustee thereof to the payment of the principal of, premium, if any, and interest on such bonds of the Authority secured thereby, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from the sale to the payment of the principal of, premium, if any, and interest on such bonds of the Authority. Any assets of the Fund pledged, assigned or transferred in trust as set forth above and any payments of principal, interest or earnings received thereon shall remain part of the Fund but shall be subject to the pledge, assignment or transfer to secure the bonds of the Authority and shall be held by the trustee to which they are pledged, assigned or transferred until no longer required for such purpose by the terms of the pledge, assignment or transfer.

M. The Partnership, in consultation with the Department of Environmental Quality, shall develop guidance governing the use of the Fund and including criteria for project eligibility that considers the extent to which a grant or loan will facilitate the use or reuse of existing infrastructure, the extent to which a grant or loan will meet the needs of a community that has limited ability to draw on other funding sources because of the small size or low income of the community, the potential for redevelopment of the site, the economic and environmental benefits to the surrounding community, and the extent of the perceived or real environmental contamination at the site. The guidelines shall include

a requirement for a one-to-one match by the recipient of any grant made by or from the Fund.

2. That Article 4.1 (§§ 10.1-1429.1, 10.1-1429.2 and 10.1-1429.3) of Chapter 14 of Title 10.1 of the Code of Virginia is repealed and that Article 4.2 (§ 10.1-1429.4) of Chapter 14 of Title 10.1 of the Code of Virginia is repealed.

3. That regulations promulgated by the Virginia Waste Management Board pursuant to § 10.1-1429.1 shall remain in effect until amended or repealed.

4. That any certificates of satisfactory completion issued by the Virginia Waste Management Board pursuant to § 10.1-1429.1 shall remain in effect unless rescinded by the Board.

5. That the Department of Environmental Quality shall evaluate options for providing low-cost insurance against third-party claims arising out of environmental contamination from brownfield sites. This report shall be submitted to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources no later than November 1, 2002.