

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 643

*An Act to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 54.1, consisting of sections numbered 15.2-5431.1 through 15.2-5431.37, relating to the Virginia Wireless Service Authorities Act.*

[H 2164]

Approved March 18, 2003

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

**1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 54.1, consisting of sections numbered 15.2-5431.1 through 15.2-5431.37, as follows:**

### CHAPTER 54.1.

#### VIRGINIA WIRELESS SERVICE AUTHORITIES ACT.

§ 15.2-5431.1. *Title of chapter; construction.*

*This chapter shall be known and may be cited as the "Virginia Wireless Service Authorities Act." This chapter shall constitute full and complete authority for the doing of the acts herein authorized, and shall be liberally construed to effect the purposes of the chapter.*

§ 15.2-5431.2. *Definitions.*

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

*"Authority" means an authority created under the provisions 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" 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; 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.*

*"Project" means any system of facilities for provision of qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56.*

§ 15.2-5431.3. *Creation of authority.*

*The governing body of a locality may by resolution create an authority, the name of which shall contain the word "authority." The authority shall be a public body politic and corporate. The resolution creating the authority shall not be adopted or approved until a public hearing has been held on the question of its adoption or approval.*

§ 15.2-5431.4. *Resolution creating authority to include articles of incorporation.*

*A. The 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 the locality creating the authority 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, which shall be to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56.*

§ 15.2-5431.5. *Advertisement of resolution and notice of hearing.*

*The governing body of the locality shall cause to be advertised at least one time in a newspaper of general circulation in such locality a copy of the resolution creating the authority, or a descriptive summary of the resolution and a reference to the place within the locality where a copy of the resolution can be obtained, and notice of the day, not less than 30 days after publication of the advertisement, on which a public hearing will be held on the resolution.*

§ 15.2-5431.6. *Hearing; referendum.*

*If at the hearing, in the judgment of the governing body of the 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. If 10 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.

*§ 15.2-5431.7. Filing articles of incorporation.*

After adoption or approval of a resolution creating an authority, the governing body of the locality shall file with the State Corporation Commission the authority's articles of incorporation.

*§ 15.2-5431.8. Issuance of certificate or charter.*

The State Corporation Commission shall issue a certificate of incorporation or charter to the authority if it finds that the articles of incorporation conform to law. 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.

*§ 15.2-5431.9. Dissolution of authority.*

A. Whenever the board of an authority determines that the purposes for which it was created have been completed or are impractical or impossible 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 a resolution declaring such facts. If the governing body adopts a resolution concurring in such declaration and finding that the authority should be dissolved, they shall file appropriate articles of dissolution with the State Corporation Commission.

B. Notwithstanding the provisions of subdivision 1 of § 15.2-5432.11, 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.

*§ 15.2-5431.10. Members of authority board; chief administrative or executive officer.*

A. The powers of each authority created by the governing body of a 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 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 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.

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 locality that created the authority 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 that created the authority, and shall be reimbursed for any actual expenses necessarily incurred in the performance of their duties.

D. 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.

*§ 15.2-5431.11. 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 subdivision creating 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, construct, reconstruct, improve, enlarge, operate or extend any project;

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 project;*

8. 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. The political subdivision creating the authority may lend, advance or give money to such authority;

9. Fix, charge and collect rates, fees and charges for the use of or for the services furnished by or for the benefit from any project operated by the authority. Such rates, fees, rents and charges shall be charged to and collected from any person contracting for the services or the lessee or tenant who uses or occupies any real estate that is served by or benefits from any such project. Connection and service fees established by an 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; and

10. 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 service fees, rents or charges imposed by an authority.

§ 15.2-5431.12. 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, on such terms and conditions as the authority may approve. 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 subscriber thereof services provided by the authority and for the enforcement of delinquent charges for such services and facilities. The provisions of the contract and of any resolution of the governing body 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 resolution enacted pursuant thereto, shall be for the benefit of the bondholders.

§ 15.2-5431.13. 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.

§ 15.2-5431.14. 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 project. 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 the locality 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 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 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.

§ 15.2-5431.15. Time for contesting validity of proposed bond issue; when bonds presumed valid.

A. For a period of 30 days after the date of the filing with the circuit court having jurisdiction over the locality creating the authority, 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 such project, the pledge of the revenues of therefrom, or any combination of any thereof. If such contest is not given within the 30-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.

B. 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.

**§ 15.2-5431.16. Proceeds of bonds.**

The proceeds of bonds issued pursuant to § 15.2-5431.14 shall be used solely for the payment of the cost of the project or projects 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.

**§ 15.2-5431.17. Interim receipts and temporary bonds; bonds mutilated, lost or destroyed.**

A. 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.

B. 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.

**§ 15.2-5431.18. 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 that are specifically required by this chapter.

**§ 15.2-5431.19. 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.

**§ 15.2-5431.20. Bonds not debts of Commonwealth or participating political subdivision.**

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 or locality. 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.

**§ 15.2-5431.21. Exemption from taxation.**

No authority shall be required to pay any taxes or assessments upon any project 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.

**§ 15.2-5431.22. 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 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.

*§ 15.2-5431.23. 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.

*§ 15.2-5431.24. Contracts concerning interest rates, currency, cash flow and other basis.*

A. Any authority may enter into any contract that 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 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 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.

*§ 15.2-5431.25. 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 a project or any portion thereof and for the services furnished or to be furnished by the authority, 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 project 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. No rates, fees or charges shall be fixed under subsection A until after a public hearing at which all of the users of such 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 at least 60 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 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.

C. A copy of the schedule or schedules of the final rates, fees and charges fixed in accordance with subsection B shall be kept on file in the office of the clerk or secretary of the governing body of the locality, 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 B. 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 B.

D. 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.

*§ 15.2-5431.26. 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 any person who subscribes 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 30 days after due, the authority may at the expiration of such period disconnect the premises from the 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.*

*§ 15.2-5431.27. Lien for charges.*

*A. There shall be a lien upon real estate for the amount of any fees other charges by an authority to the owner or lessee or tenant of the real estate for the use and services of any system of the authority by or in connection with the real estate from the time when the fees, rents or charges are due, and for the interest which may accrue thereon. Such lien shall be superior to the interest of any owner, lessee or tenant of the real estate and rank on a parity with liens for unpaid real estate taxes. An authority may contract with a locality to collect amounts due on properly recorded liens in the same manner as unpaid real estate taxes due the locality. A lien for delinquent rates or charges applicable to three or fewer delinquent billing periods not exceeding 30 days each may be placed by an authority if the authority or its billing and collection agent (i) has 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 the real estate if the lessee or tenant fails to pay any fees, rents or other charges when due for services rendered to the lessee or tenant; (ii) has mailed to the owner of the real estate a duplicate copy of the final bill rendered to the lessee or tenant at the time of rendering the final bill to such lessee or tenant; and (iii) employs the same collection efforts and practices to collect amounts due the authority 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.*

*B. The lien shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien until the amount of such fees, rents and charges is entered in a judgment lien book in the office where deeds may be recorded in the locality in which the real estate or a part thereof is located. The clerk in whose office deeds may be recorded shall make and index the entries therein upon certification by the authority, for which he shall be entitled to a fee of \$2 per entry, to be paid by the authority and added to the amount of the lien. The authority shall give the owner of the real estate notice in writing that it has made such certification to the clerk.*

*C. The lien on any real estate may be discharged by the payment to the authority of the total lien amount, and the interest which has accrued to the date of the payment. The authority shall deliver a certificate thereof to the person making the payment. Upon presentation of such certificate, the clerk having the record of the lien shall mark the entry of the lien satisfied, for which he shall be entitled to a fee of \$1.*

*§ 15.2-5431.28. 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.*

*§ 15.2-5431.29. 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.*

*§ 15.2-5431.30. 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 project or the improvement, extension, addition or reconstruction thereof, and (ii) refunding outstanding revenue bonds of the authority which have been issued under the provisions of this chapter, 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.

*§ 15.2-5431.31. 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.

*§ 15.2-5431.32. 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.

*§ 15.2-5431.33. 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.

*§ 15.2-5431.34. Use of state land.*

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 project; 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 Commonwealth Transportation Commissioner.

*§ 15.2-5431.35. Powers of localities 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 systems or facilities for the provision of qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56;
2. Contract, jointly or severally, with any authority for the provision of qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56;
3. Contract with any authority for terminating any service furnished by the authority to any premises that is connected to the 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 the authority within the time or times specified in such contract; and
4. In any instance in which a locality makes rights-of-way, poles, conduits or other permanent distribution facilities available to the authority, the authority shall make these facilities available to private providers of communications services in a nondiscriminatory basis unless the facilities have insufficient capacity for such access and additional capacity cannot reasonably be added to the facilities.

*§ 15.2-5431.36. Liability of members or officers.*

No member of any authority or officer of any governing body of locality 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.

*§ 15.2-5431.37. 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 the 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 that 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.*