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HOUSE BILL NO. 2061

Offered January 12, 2005

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A BILL to amend and reenact § 2.2-2285 of the Code of Virginia and to repeal Chapter 22.1 (§§ 59.1-284.1 through 59.1-284.6) of Title 59.1 of the Code of Virginia, relating to the Virginia Economic Development Revolving Fund, and to transfer assets to an eligible community development financial institution.

Patrons—Landes and Jones, D.C.; Senators: Hawkins and Reynolds

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-2285 of the Code of Virginia is amended and reenacted as follows:**

§ 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;

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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 and the Virginia Economic Development Revolving Fund in Chapter 22.1 (§ 59.1-284.1 et seq.) of Title 59.1;

23. Create and establish such funds and accounts as may be necessary or desirable for its purposes; and

24. Take any action necessary or convenient for the exercise of the powers granted by this article or reasonably implied from them.

2. Chapter 22.1 (§§ 59.1-284.1 through 59.1-284.6) of Title 59.1 of the Code of Virginia is repealed.

3. That the Secretary of Commerce and Trade is hereby authorized to approve the transfer of the assets and associated records of the Virginia Economic Development Revolving Fund established under the provisions of Chapter 22.1 (§ 59.1-284.1 et seq.) of Title 59.1 of the Code of Virginia, from the Small Business Financing Authority to an eligible qualifying community development financial institution ("CDFI"). An eligible qualifying CDFI shall be a community development bank or community development credit union that the Secretary of Commerce and Trade finds is (i) established to conduct business legally within the Commonwealth; (ii) subject to oversight by federal or state financial institution or insurance regulatory agencies, as appropriate; and (iii) eligible for certification by the U.S. Department of Treasury as a community development financial institution. The transferred funds shall be used for the purpose of providing a portion of the initial capitalization of the community development bank or community development credit union that is designated as the eligible qualifying CDFI. The community development bank or community development credit union is intended to be a source of targeted lending and investment with the capacity to provide a high degree of leveraging for economic development and housing activities within distressed communities throughout the Commonwealth. These activities may include mortgage financing for first-time buyers, financing for needed community facilities, commercial loans and investments to start or expand small businesses, loans to rehabilitate rental housing, and financial services needed by low-income households and local businesses. The CDFI may also provide services that help ensure that credit is used effectively, such as technical assistance to small businesses and credit counseling to consumers.