

067245700

SENATE BILL NO. 624

Offered January 13, 2006

A BILL to amend and reenact §§ 10.1-603.16 through 10.1-603.20, 10.1-603.23, 10.1-606.1, 38.2-401.1, 58.1-2501, 58.1-2508, and 62.1-203 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 10.1-603.18.1, 10.1-603.18.2, 10.1-603.22:1 through 10.1-603.22:4, and to repeal §§ 10.1-603.21 and 10.1-603.22 of the Code of Virginia, relating to the Dam Safety, Flood Prevention and Protection Assistance Fund.

Patron—Bell

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-603.16 through 10.1-603.20, 10.1-603.23, 10.1-606.1, 38.2-401.1, 58.1-2501, 58.1-2508, and 62.1-203 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 10.1-603.18.1, 10.1-603.18.2, 10.1-603.22:1 through 10.1-603.22:4 as follows:

§ 10.1-603.16. Definitions.

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

"Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.) of Title 62.1.

"Board" means the Board of Directors of the Virginia Resources Authority.

"Cost," as applied to any project financed under the provisions of this article, means the total of all costs incurred by the local government or private entity 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; hydrologic and hydraulic studies and analyses; architectural, engineering, financial, legal or other special services; mapping; the cost of acquisition of flood-prone land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements; 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 or private entity in the course of the development of the project; carrying charges incurred before placing the project in service; necessary expenses incurred in connection with placing the project in service; the funding of accounts and reserves that the Authority may require; and the cost of other items that the Authority determines to be reasonable and necessary.

"Dam owner" means the owner of the land on which a dam is situated, the holder of an easement permitting the construction of a dam and any person or entity agreeing to maintain a dam.

"Department" means the Department of Conservation and Recreation.

"Director" means the Director of the Department of Conservation and Recreation.

"Flood prevention or protection" means the construction of dams, levees, flood walls, channel improvements or diversions, local flood proofing, evacuation of flood-prone areas or land use controls which reduce or mitigate damage from flooding.

"Flood prevention or protection studies" means hydraulic and hydrologic studies of flood plains with historic and predicted floods, the assessment of flood risk and the development of strategies to prevent or mitigate damage from flooding.

"Fund" or "revolving fund" means the Dam Safety, Flood Prevention and Protection Assistance Fund.

"Local funds" means cash provided for project or study implementation that is not derived from federal or state grants or loans.

"Local public body" means any city, county, town, water authority, service authority or special taxing district "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 or laws of the Commonwealth, or any combination of any two or more of the foregoing.

"Private entities" means dam owners, whether individuals, partnerships, corporations, or other nongovernmental entities.

"Project" means the development and implementation of activities or measures performed to eliminate, prevent, reduce, or mitigate damages caused by flooding or to identify flood hazards; the design, repair, and safety modifications of a dam or impounding structure, as defined in § 10.1-604, and identified in dam safety reports generated pursuant to § 10.1-607 or 10.1-609; or the mapping and digitization of dam break inundation zones. The term includes, without limitation, the construction,

INTRODUCED

SB624

59 *modification or repair of dams, levees, flood walls, channel improvements or diversions; evacuation,*  
 60 *relocation, and retrofitting of flood-prone structures; flood warning and response systems;*  
 61 *redevelopment, acquisition, and open-space use of flood-prone areas; hydrologic and hydraulic studies*  
 62 *of floodplains with historic and predicted floods; remapping of regulated flood hazard areas; the*  
 63 *assessment of flood risks; the development of flood hazard mitigation strategies and plans, flood*  
 64 *prevention and protection studies, and matching funds for federal funds for these activities. The lands*  
 65 *involved with such projects shall be located within the Commonwealth.*

66 § 10.1-603.17. Dam Safety, Flood Prevention and Protection Assistance Fund established.

67 The *Dam Safety, Flood Prevention and Protection Assistance Fund* is hereby established *and set*  
 68 *apart as a permanent and nonreverting fund.* The Fund shall consist of any moneys appropriated by the  
 69 General Assembly and, funds returned by localities or other public or private sources in the form of  
 70 interest and repayment of loan principal, *deposits pursuant to §§ 38.2-401.1 and 58.1-2501, all income*  
 71 *from the investment of moneys held in the Fund, and any other sums designated for deposit in the Fund*  
 72 *from any source public or private, including without limitation any federal grants, and awards or other*  
 73 *forms of assistance received by the Commonwealth that are eligible for deposit in the Fund under*  
 74 *federal law.* Any moneys remaining in the Fund at the end of the biennium including any appropriated  
 75 funds and all principal interest accrued, interest and payments shall not revert to the general fund.

76 § 10.1-603.18. Administration of the Fund.

77 The Director shall be responsible for the administration of the Fund and shall direct the distribution  
 78 of grants or loans from the Fund. The Director is authorized to promulgate regulations for the proper  
 79 administration of the Fund. Such regulations may include, but are not limited to, the establishment of  
 80 amounts, interest rates, repayment terms, consideration of the fiscal stability of the particular applicant  
 81 and all other criteria for awarding of grants or loans. The Authority shall administer and manage the  
 82 Fund, and establish the interest rates and the repayment terms of such loans as provided in this article,  
 83 in accordance with a memorandum of agreement with the Director. The Director shall, after  
 84 consultation with all interested parties, develop a guidance document governing project eligibility and  
 85 project priority criteria, and the Director, upon approval from the Virginia Soil and Water Conservation  
 86 Board, shall direct the distribution of loans from the Fund to local governments and private entities and  
 87 the distribution of grants to local governments. In order to carry out the administration and  
 88 management of the Fund, the Authority may employ officers, employees, agents, advisers and  
 89 consultants, including without limitation, attorneys, financial advisors, engineers, and other technical  
 90 advisors and public accountants, and determine their duties and compensation without the approval of  
 91 any other agency or instrumentality. The Authority may disburse from the Fund reasonable costs and  
 92 expenses incurred in the administration and management of the Fund and may establish and collect a  
 93 reasonable fee for its management services. However, any such fee shall not exceed one-eighth of one  
 94 percent of any bond par, loan or grant amount.

95 § 10.1-603.18:1. Deposit of money; expenditures; investments.

96 All money belonging to the Fund shall be deposited in an account or accounts in banks or trust  
 97 companies organized under the laws of the Commonwealth or in national banking associations located  
 98 in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth  
 99 or the United States. The money in these accounts shall be paid by check signed by the Executive  
 100 Director of the Authority or other officers or employees designated by the Board of Directors of the  
 101 Authority. All deposits of money shall, if required by the Authority, be secured in a manner determined  
 102 by the Authority to be prudent, and all banks, trust companies, and savings institutions are authorized to  
 103 give security for the deposits. Money in the Fund shall not be commingled with other money of the  
 104 Authority. Money in the Fund not needed for immediate use or disbursement may be invested or  
 105 reinvested by the Authority in obligations or securities that are considered lawful investments for public  
 106 funds under the laws of the Commonwealth.

107 § 10.1-603.18:2. Collection of money due Fund.

108 The Authority is empowered to collect, or to authorize others to collect on its behalf, amounts due to  
 109 the Fund under any loan to a local government or private entity, including, if appropriate, taking the  
 110 action required by § 15.2-2659 or 62.1-216.1 to obtain payment of any amounts in default. Proceedings  
 111 to recover amounts due to the Fund may be instituted by the Authority in the name of the Fund in the  
 112 appropriate circuit court.

113 § 10.1-603.19. Purposes for which Fund is to be used; Authority to set terms and conditions of loans.

114 A. The Director is authorized to make grants or loans to any ~~city, county, town, water authority,~~  
 115 ~~service authority or taxing district~~ local government for the purpose of assisting the local public body  
 116 government in the development and implementation of flood prevention or protection projects, or for  
 117 flood prevention or protection studies. Grants or loans from the Fund for flood prevention or protection  
 118 projects, or for flood prevention or protection studies may match, but shall not exceed, the amount of  
 119 contribution derived from local funds. No grant or loan award for flood prevention or protection  
 120 projects, or for flood prevention or protection studies, individually or in combination for a single project,

121 shall exceed 25 percent of the unencumbered balance of the fund as determined at the beginning of the  
122 fiscal year.

123 B. The Director is authorized to expend from the Fund up to \$50,000 annually, but no more than 10  
124 percent of the Fund's balance, which shall be utilized as for cost share with federal agencies in flood  
125 protection studies of statewide or regional significance.

126 C. The Director is also authorized, in order to protect public safety and welfare, to make grants or  
127 loans to local public bodies governments owning dams and to make loans to private owners private  
128 entities for the design, repair and the safety modifications of dams identified in safety reports generated  
129 pursuant to § 10.1-607 or 10.1-609, and to make grants for the mapping and digitization of dam break  
130 inundation zones. The Director shall develop grant and loan guidelines for the funds awarded under this  
131 subsection.

132 D. The total amount of expenditures for grants in any fiscal year shall not exceed 50% of the total  
133 amount collected in interest or income from the investment of moneys in the Fund from the previous  
134 fiscal year as determined at the beginning of the fiscal year.

135 E. Any grants made from the Fund shall require a 50% project match by the local government  
136 applicant. Any loans made from the Fund shall require a minimum of a 10% project match by the  
137 applicant.

138 F. Except as otherwise provided in this article, money in the Fund shall be used solely to make loans  
139 or grants to local governments, or loans to private entities to finance or refinance the cost of a project.  
140 The local government or private entity to which loans or grants are made, the purposes of the loan or  
141 grant, the required match for the specific loan or grant, and the amount of each loan or grant, shall be  
142 designated in writing by the Director to the Authority. No loan or grant from the Fund shall exceed the  
143 total cost of the project to be financed or the outstanding principal amount of the indebtedness to be  
144 refinanced plus reasonable financing expenses. Loans may also be from the Fund, at the Director's  
145 discretion, to a local government that has developed a low-interest loan program to provide loans or  
146 other incentives to facilitate the correction of dam or impounding structure deficiencies, as required by  
147 the Department, provided that the moneys are to be used only for the program and that the dams or  
148 impounding structures to be repaired or upgraded are owned by private entities.

149 G. Except as otherwise provided in this article, the Authority shall determine the interest rate and  
150 terms and conditions of any loan from the Fund, which may vary between different loans and between  
151 local governments and private entities to finance or refinance the cost of a project. Each loan shall be  
152 evidenced by appropriate bonds or notes of the local government or by the appropriate debt instrument  
153 for private entities payable to the Fund. Private entities shall duly authorize an appropriate debt  
154 instrument and execute same by their authorized legal representatives. The bonds or notes shall have  
155 been duly authorized by the local government and executed by its authorized legal representatives. The  
156 Authority may require in connection with any loan from the Fund such documents, instruments,  
157 certificates, legal opinions, covenants, conditions, and other information as it may deem necessary or  
158 convenient to further the purpose of the loan. In addition to any other terms or conditions that the  
159 Authority may establish, the Authority may require, as a condition to making any loan from the Fund,  
160 that the local government or private entity receiving the loan covenant to perform any of the following:

161 1. Establish and collect rents, rates, fees, and charges to produce revenue sufficient to pay all or a  
162 specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of the  
163 project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the  
164 principal of, premium, if any, and interest on the loan from the Fund; and (iii) any amounts necessary  
165 to create and maintain any required reserve, including any rate stabilization fund deemed necessary or  
166 appropriate by the Authority to offset the need, in whole or part, for future increases in rents, rates,  
167 fees, or charges;

168 2. With respect to local governments, levy and collect ad valorem taxes on all property within the  
169 jurisdiction of the local government subject to local taxation sufficient to pay the principal of and  
170 premium, if any, and interest on the loan from the Fund to the local government;

171 3. Create and maintain a special fund or funds for the payment of the principal of, premium, if any,  
172 and interest on the loan from the Fund and any other amounts becoming due under any agreement  
173 entered into in connection with the loan, or for the operation, maintenance, repair, or replacement of  
174 the project or any portions thereof or other property of the borrower, and deposit into any fund or  
175 funds amounts sufficient to make any payments on the loan as they become due and payable;

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

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

181 a. The conveyance of, or the granting of liens on or security interests in, real and personal property,

182 together with all rights, title and interest therein;

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

186 *c. The combination of one or more projects, or the combination of one or more projects with one or*  
 187 *more other undertakings, facilities, utilities, or systems, for the purpose of operations and financing, and*  
 188 *the pledging of the revenues from such combined projects, undertakings, facilities, utilities and systems*  
 189 *to secure the loan from the Fund borrower made in connection with such combination or any part or*  
 190 *parts thereof;*

191 *d. The maintenance, replacement, renewal, and repair of the project; and*

192 *e. The procurement of casualty and liability insurance.*

193 6. Obtain a review of the accounting and internal controls from the Auditor of Public Accounts or  
 194 his legally authorized representatives, as applicable. The Authority may request additional reviews at  
 195 any time during the term of the loan. In addition, anyone receiving a report in accordance with  
 196 § 10.1-603.23 may request an additional review as set forth in this section; and

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

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

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

207 § 10.1-603.20. Condition for making loans or grants.

208 A. The Director may authorize a loan or grant for flood prevention or protection projects, or for  
 209 flood prevention or protection studies under the provisions of § 10.1-603.19 only when the following  
 210 conditions exist:

211 1. An application for the loan or grant has been submitted by ~~the~~ *an* applicant in the manner and  
 212 form specified by the Director, setting forth the amount of the loan or grant requested, and the use to  
 213 which the loan or grant will be applied. The application shall describe in detail (i) the area to be studied  
 214 or protected, including the population and the value of property to be protected, historic flooding data  
 215 and hydrologic studies projecting flood frequency; (ii) the estimated cost-benefit ratio of the project; (iii)  
 216 the ability of the locality to provide its share of the cost; (iv) the administration of local flood plain  
 217 management regulations; and (v) other necessary information to establish project or study priority.

218 2. The local ~~public body~~ *government* agrees and furnishes assurance, satisfactory to the Director, that  
 219 it will satisfactorily maintain any structure financed, in whole or in part, through the loans or grants  
 220 provided under this article.

221 3. ~~The purpose for which the loan or grant is sought is one described in § 10.1-603.19.~~

222 4. If the requested loan or grant is sought to acquire land, the Director shall require satisfactory  
 223 evidence prior to acting on the request that the local ~~public body~~ *government* will acquire the land if the  
 224 loan or grant is made.

225 ~~54.~~ A local ~~public body~~ *government* is eligible to receive a grant once every five years, provided that  
 226 it has a flood mitigation plan approved by the Director and has demonstrated satisfactory evidence of  
 227 plan implementation. Lacking an approved plan the local ~~public body~~ *government* is eligible for a grant  
 228 once every ten years.

229 65. [Repealed.]

230 B. ~~In addition to the condition for making loans established under this article, the Director may~~  
 231 ~~require of a local public body such covenants and conditions as the Director deems necessary or~~  
 232 ~~expedient to further the purpose of the loan.~~

233 C. The Director may consent to and approve any modification in the terms of any loan to any local  
 234 ~~public body~~ *subject to the regulations promulgated* *The Director shall develop guidance criteria for*  
 235 *making loans and grants for dam safety repair projects. Priority shall be given to making loans for high*  
 236 *hazard dams.*

237 § 10.1-603.22:1. Pledge of loans to secure bonds of Authority.

238 *The Authority is empowered at any time and from time to time to pledge, assign, or transfer from the*  
 239 *Fund to banks or trust companies designated by the Authority any or all of the assets of the Fund to be*  
 240 *held in trust as security for the payment of the principal of, premium, if any, and interest on any or all*  
 241 *of the bonds, as defined in § 62.1-199, issued to finance any project. The interests of the Fund in any*  
 242 *assets so transferred shall be subordinate to the rights of the trustee under the pledge, assignment, or*  
 243 *transfer. To the extent funds are not available from other sources pledged for such purpose, any of the*

244 *assets or payments of principal and interest received on the assets pledged, assigned, or transferred or*  
 245 *held in trust may be applied by the trustee thereof to the payment of the principal of, premium, if any,*  
 246 *and interest on such bonds of the Authority secured thereby, and, if such payments are insufficient for*  
 247 *such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from*  
 248 *the sale to the payment of the principal of, premium, if any, and interest on such bonds of the Authority.*  
 249 *Any assets of the Fund pledged, assigned, or transferred in trust as set forth above and any payments of*  
 250 *principal, interest, or earnings received thereon shall remain part of the Fund but shall be subject to*  
 251 *the pledge, assignment, or transfer to secure the bonds of the Authority and shall be held by the trustee*  
 252 *to which they are pledged, assigned, or transferred until no longer required for such purpose by the*  
 253 *terms of the pledge, assignment or transfer.*

254 § 10.1-603.22:2. *Sale of Loans.*

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

259 § 10.1-603.22:3. *Powers of the Authority.*

260 *The Authority is authorized to do any act necessary or convenient to the exercise of the powers*  
 261 *granted in this article or reasonably implied thereby.*

262 § 10.1-603.22:4. *Liberal construction of article.*

263 *The provisions of this article shall be liberally construed to the end that its beneficial purposes may*  
 264 *be effectuated. Insofar as the provisions of this article are inconsistent with the provisions of any other*  
 265 *law, general, special or local, the provisions of this article shall be controlling.*

266 § 10.1-603.23. *Record of application for grants or loans and action taken.*

267 *A record of each application for a grant or loan pursuant to § 10.1-603.19 and the action taken*  
 268 *thereon shall be open to public inspection at the office of the Department and shall be presented to the*  
 269 *Governor and members of the legislature prior to budgetary sessions of the General Assembly. The*  
 270 *Authority shall report annually to the General Assembly and the Governor on the Fund and the*  
 271 *administration of all grants and loans made from the Fund.*

272 § 10.1-606.1. *Authority for localities to map inundation zones.*

273 *A. Any county, city, or town may map inundation zones and is encouraged to incorporate such*  
 274 *information into its zoning and subdivision ordinances. Such localities may regulate or limit future*  
 275 *development in these areas. However, in no event shall this section be interpreted to supersede or*  
 276 *conflict with the authority granted to the Department of Mines, Minerals and Energy for the regulation*  
 277 *of mineral extraction activities in the Commonwealth as set out in Title 45.1.*

278 *B. The Director may utilize grant funding available from the Dam Safety, Flood Prevention and*  
 279 *Protection Assistance Fund and other available sources of funding to assist localities in the development*  
 280 *of these maps, provided the localities contribute a local match. The highest priority for awarding funds*  
 281 *shall be placed on assisting with the mapping of the highest class of dams.*

282 *C. Such maps shall be made available by the locality to the dam owner and the public. All properties*  
 283 *identified within the inundation zone shall be incorporated into the dam safety emergency action plan of*  
 284 *that dam so as to ensure the proper notification of persons downstream and other affected persons or*  
 285 *property owners in the event of a flood hazard or the impending failure of the impounding structure.*

287 § 38.2-401.1. *Dam Safety, Flood Prevention and Protection Assistance Fund assessment.*

288 *The Commission shall annually assess against all licensed insurance companies doing business in this*  
 289 *Commonwealth by writing any type of flood insurance an assessment in the amount of one percent of*  
 290 *the total direct gross premium income for such insurance. Such assessment shall be apportioned,*  
 291 *assessed, and paid as prescribed by § 38.2-403. In any year in which a company has no direct gross*  
 292 *premium income from flood insurance or in which its direct gross premium income from flood*  
 293 *insurance is insufficient to produce at the rate of assessment prescribed by law an amount equal to or in*  
 294 *excess of \$100, there shall be so apportioned and assessed against such company a contribution of \$100.*  
 295 *One hundred percent of the total amount collected annually pursuant to this section shall be paid into*  
 296 *the Dam Safety, Flood Prevention and Protection Assistance Fund established per § 10.1-603.17. The*  
 297 *assessment established by this section shall not apply to premium income for policies written pursuant to*  
 298 *the National Flood Insurance Act of 1968 or for policies providing comprehensive motor vehicle*  
 299 *insurance coverage.*

300 § 58.1-2501. *Levy of license tax.*

301 *A. For the privilege of doing business in the Commonwealth, there is hereby levied on every*  
 302 *insurance company defined in § 38.2-100 which issues policies or contracts for any kind of insurance*  
 303 *classified and defined in §§ 38.2-102 through 38.2-134 and on every corporation which issues*  
 304 *subscription contracts for any kind of plan classified and defined in §§ 38.2-4201 and 38.2-4501, an*

305 annual license tax as follows:

306 1. For any kind of insurance classified and defined in §§ 38.2-109 through 38.2-134 or Chapters 44  
307 (§ 38.2-4400 et seq.) and 61 (§ 38.2-6100 et seq.) of Title 38.2, except workers' compensation insurance  
308 on which a premium tax is imposed under the provisions of § 65.2-1000, such company shall pay a tax  
309 of two and three-fourths percent of its subscriber fee income or direct gross premium income on such  
310 insurance for each taxable year through 1988. For taxable year 1989 and each taxable year thereafter,  
311 such company shall pay a tax of two and one-fourth percent of its subscriber fee income or direct gross  
312 premium income on such insurance. *All tax revenue generated as a result of flood insurance premiums*  
313 *associated with the National Flood Insurance Program's flood insurance sales shall be deposited*  
314 *annually to the Dam Safety, Flood Prevention and Protection Assistance Fund established pursuant to*  
315 *§ 10.1-603.17.*

316 2. For policies or contracts for life insurance as defined in § 38.2-102, such company shall pay a tax  
317 of two and one-fourth percent of its direct gross premium income on such insurance. However, with  
318 respect to premiums paid for additional benefits in the event of death, dismemberment or loss of sight  
319 by accident or accidental means, or to provide a special surrender value, special benefit or an annuity in  
320 the event of total and permanent disability, the rate of tax shall be two and three-fourths percent for  
321 each taxable year beginning January 1, 1987, through December 31, 1988, and two and one-fourth  
322 percent for taxable year beginning January 1, 1989, and each taxable year thereafter.

323 3. For policies or contracts providing industrial sick benefit insurance as defined in § 38.2-3544, such  
324 company shall pay a tax of one percent of its direct gross premium income on such insurance. No  
325 company, however, doing business on the legal reserve plan, shall be required to pay any licenses, fees  
326 or other taxes in excess of those required by this section on such part of its business as is industrial sick  
327 benefit insurance as defined in § 38.2-3544; but any such company doing business on the legal reserve  
328 plan shall pay on all industrial sick benefit policies or contracts on which the sick benefit portion has  
329 been cancelled as provided in § 38.2-3546, or which provide a greater death benefit than \$250 or a  
330 greater weekly indemnity than \$10, and on all other life, accident and sickness insurance, the same  
331 license or other taxes as are required by this section.

332 4. For subscription contracts for any kind of plan classified and defined in § 38.2-4201 or  
333 § 38.2-4501, such corporation shall pay a tax of two and one-fourth percent of its direct gross subscriber  
334 fee income derived from subscription contracts issued to primary small groups as defined in § 38.2-3431  
335 and three-fourths of one percent of its direct gross subscriber fee income derived from other subscription  
336 contracts for taxable year 1997. For each taxable year thereafter, such corporation shall pay a tax of  
337 three-fourths of one percent of its direct gross subscriber fee income derived from subscription contracts  
338 issued to individuals and from open enrollment contracts as defined in § 38.2-4216.1, and two and  
339 one-fourth percent of its direct gross subscriber fee income derived from other subscription contracts.  
340 The declaration of estimated tax pursuant to this subsection shall commence on or before April 15,  
341 1988.

342 B. Notwithstanding any other provisions of this section, any domestic insurance company doing  
343 business solely in the Commonwealth which is purely mutual, has no capital stock and is not designed  
344 to accumulate profits for the benefit of or pay dividends to its members, and any domestic insurance  
345 company doing business solely in the Commonwealth, with a capital stock not exceeding \$25,000 and  
346 which pays losses with assessments against its policyholders or members, shall pay an annual license tax  
347 of one percent of its direct gross premium income.

348 § 58.1-2508. Taxes applicable to insurance companies.

349 A. The real estate and tangible personal property, situated or located in the Commonwealth, of every  
350 such company and every fraternal benefit society transacting insurance in the Commonwealth shall be  
351 listed and assessed on the land and property books of the commissioner of the revenue in the same  
352 manner as other real estate and tangible personal property are assessed, and shall be taxed at the same  
353 rates as other like property is taxed.

354 B. The license tax provided in this chapter, the tax on real estate and tangible personal property  
355 provided for in subsection A, the fee assessed by the Commission for the administration of the insurance  
356 laws pursuant to Chapter 4 (§ 38.2-400 et seq.) of Title 38.2, the fee assessed by the Commission for  
357 the Fire Programs Fund pursuant to § 38.2-401, the fee assessed by the Commission for the *Dam Safety,*  
358 *Flood Prevention and Protection Assistance Fund* pursuant to § 38.2-401.1, the fee assessed by the  
359 Commission to fund the program to reduce losses from motor vehicle thefts pursuant to § 38.2-414, the  
360 fee assessed by the Commission to fund the program to reduce losses from insurance fraud pursuant to  
361 § 38.2-415, and the retaliatory amounts assessed by the Commission pursuant to § 38.2-1026 shall be in  
362 lieu of all fees, licenses, taxes and levies whatsoever, state, county, city or town; however, nothing in  
363 this section shall be construed to exempt insurance companies from the tax levied in Chapter 6  
364 (§ 58.1-600 et seq.) of this title. No additional fee or license tax shall be applicable to an agent of an  
365 insurance company other than the annual license fee on agents required pursuant to Article 3  
366 (§ 38.2-1819 et seq.) of Chapter 18 of Title 38.2.

367 § 62.1-203. Powers of Authority.

368 The Authority is granted all powers necessary or appropriate to carry out and to effectuate its  
369 purposes, including the following:

370 1. To have perpetual succession as a public body corporate and as a political subdivision of the  
371 Commonwealth;

372 2. To adopt, amend and repeal bylaws, and rules and regulations, not inconsistent with this chapter  
373 for the administration and regulation of its affairs and to carry into effect the powers and purposes of  
374 the Authority and the conduct of its business;

375 3. To sue and be sued in its own name;

376 4. To have an official seal and alter it at will although the failure to affix this seal shall not affect  
377 the validity of any instrument executed on behalf of the Authority;

378 5. To maintain an office at any place within the Commonwealth which it designates;

379 6. To make and execute contracts and all other instruments and agreements necessary or convenient  
380 for the performance of its duties and the exercise of its powers and functions under this chapter;

381 7. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any  
382 part of its properties and assets;

383 8. To employ officers, employees, agents, advisers and consultants, including without limitations,  
384 attorneys, financial advisers, engineers and other technical advisers and public accountants and, the  
385 provisions of any other law to the contrary notwithstanding, to determine their duties and compensation  
386 without the approval of any other agency or instrumentality;

387 9. To procure insurance, in amounts and from insurers of its choice, or provide self-insurance,  
388 against any loss, cost, or expense in connection with its property, assets or activities, including insurance  
389 or self-insurance against liability for its acts or the acts of its directors, employees or agents and for the  
390 indemnification of the members of its Board of Directors and its employees and agents;

391 10. To procure credit enhancements from any public or private entities, including any department,  
392 agency or instrumentality of the United States of America or the Commonwealth, for the payment of  
393 any bonds issued by the Authority, including the power to pay premiums or fees on any such credit  
394 enhancements;

395 11. To receive and accept from any source aid, grants and contributions of money, property, labor or  
396 other things of value to be held, used and applied to carry out the purposes of this chapter subject to the  
397 conditions upon which the aid, grants or contributions are made;

398 12. To enter into agreements with any department, agency or instrumentality of the United States of  
399 America or, the Commonwealth, the District of Columbia or any adjoining state for the purpose of  
400 planning, regulating and providing for the financing of any projects;

401 13. To collect, or to authorize the trustee under any trust indenture securing any bonds or any other  
402 fiduciary to collect, amounts due under any local obligations owned or credit enhanced by the Authority,  
403 including taking the action required by § 15.2-2659 or § 62.1-216.1 to obtain payment of any sums in  
404 default;

405 14. To enter into contracts or agreements for the servicing and processing of local obligations owned  
406 by the Authority;

407 15. To invest or reinvest its funds as provided in this chapter or permitted by applicable law;

408 16. Unless restricted under any agreement with holders of bonds, to consent to any modification with  
409 respect to the rate of interest, time and payment of any installment of principal or interest, or any other  
410 term of any local obligations owned by the Authority;

411 17. To establish and revise, amend and repeal, and to charge and collect, fees and charges in  
412 connection with any activities or services of the Authority;

413 18. To do any act necessary or convenient to the exercise of the powers granted or reasonably  
414 implied by this chapter; and

415 19. To pledge as security for the payment of any or all bonds of the Authority, all or any part of the  
416 Capital Reserve Fund or *other reserve fund or account* transferred to a trustee for such purpose from the  
417 Water Facilities Revolving Fund pursuant to § 62.1-231~~0~~, from the Water Supply Revolving Fund  
418 pursuant to § 62.1-240~~0~~, from the Virginia Solid Waste or Recycling Revolving Fund pursuant to  
419 § 62.1-241.9~~0~~, from the Virginia Airports Revolving Fund pursuant to § 5.1-30.6, or from the Dam  
420 Safety, Flood Prevention and Protection Assistance Fund pursuant to § 10.1-603.17.

421 **2. That §§ 10.1-603.21 and 10.1-603.22 of the Code of Virginia are repealed.**

422 **3. That the Department of Conservation and Recreation shall repeal through an exempt action the**  
423 **Flood Prevention and Protection Assistance Fund Regulations (4 VAC 5-50-10 et seq.).**

424 **4. That upon the effective date of this act, the Department of Accounts, with the concurrence of**  
425 **the Department of Conservation and Recreation, may transfer the Dam Safety, Flood Prevention**  
426 **and Protection Assistance Fund and its unobligated balance to the Virginia Resources Authority to**  
427 **be administered and managed in accordance with this act.**