

VIRGINIA ACTS OF ASSEMBLY -- 2007 RECONVENED SESSION

CHAPTER 864

An Act to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 55.2, consisting of sections numbered 15.2-5516 through 15.2-5522, relating to Tourism Financing Development Authority.

[H 2230]

Approved April 4, 2007

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 55.2, consisting of sections numbered 15.2-5516 through 15.2-5522, as follows:

CHAPTER 55.2.

TOURISM FINANCING DEVELOPMENT AUTHORITY ACT.

§ 15.2-5516. Short title.

This chapter shall be known and may be cited as the "Tourism Financing Development Authority Act."

§ 15.2-5517. One or more localities may create authority.

The governing body of a locality may by ordinance or resolution, or the governing bodies of two or more localities may by concurrent ordinances or resolutions or by agreement, create a tourism financing development authority for the purpose of supporting tourism infrastructure in localities. The name of the authority shall contain the word "authority." The authority shall be a public body politic and corporate. Any such locality that levies a transient occupancy tax pursuant to § 58.1-3819 shall designate any excess over two percent to be used for purposes of the authority except such revenues that are otherwise encumbered by the locality.

§ 15.2-5518. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records.

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. If the authority is created by two or more localities, the members of the board shall be appointed as agreed upon by the localities. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms; and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies, which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

D. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

§ 15.2-5519. Powers of authority.

The authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at its pleasure;

3. To enter into contracts;

4. To acquire, whether by purchase, exchange, gift, lease or otherwise, and to improve, maintain, equip, and furnish one or more authority facilities including all real and personal properties that the board of directors of the authority may deem necessary in connection therewith and regardless of whether any such facilities shall then be in existence;

5. To lease to others any or all of its facilities and to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, a provision that the lessee thereof shall have options to renew such lease or to purchase any or all of the leased facilities, or that upon payment of all of the indebtedness of the authority it may lease or convey any or all of its facilities to the lessee thereof with or without consideration;

6. To sell, exchange, donate, and convey any or all of its facilities or properties whenever its board of directors shall find any such action to be in furtherance of the purposes for which the authority was organized;

7. To employ and pay compensation to such employees and agents, including attorneys and real estate brokers whether engaged by the authority or otherwise, as the board of directors shall deem necessary in carrying on the business of the authority;

8. To exercise all powers expressly given the authority by the governing body of the locality that established the authority and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the authority's affairs;

9. To accept contributions, grants, and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth, for or in aid of the construction, acquisition, ownership, maintenance, or repair of the authority facilities; or in order to make loans in furtherance of the purposes of this chapter of such contributions, grants, and other financial assistance, and to this end the authority shall have the power to comply with such conditions and to execute such agreements, trust indentures, and other legal instruments as may be necessary, convenient, or desirable and to agree to such terms and conditions as may be imposed;

10. To make loans or grants to any person, partnership, association, corporation, business, or governmental entity in furtherance of the purposes of this chapter including for the purposes of promoting economic development, and to enter into such contracts, instruments, and agreements as may be expedient to provide for such loans and any security therefor. An authority may also be permitted to forgive loans or other obligations if it is deemed to further economic development. The word "revenues" as used in this subdivision includes contributions, grants, and other financial assistance, as set out in subdivision 9; and

11. To establish a revolving loan fund or loan guarantee program to help carry out its powers and promote establishment of tourism infrastructure.

§ 15.2-5520. Liability of authority.

All expenses incurred in carrying out the provisions of this chapter shall be payable solely from the funds of the authority and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which moneys shall be available to the authority.

§ 15.2-5521. Dissolution of authority; disposition of property.

Whenever the board of directors of the authority by resolution determines that the purposes for which the authority was formed have been substantially complied with, the then members of the board of directors of the authority shall thereupon execute and file for record with the governing body of the locality that created the authority, a resolution declaring such facts. If the governing body of the locality that created the authority is of the opinion that the facts stated in the authority's resolution are true and that the authority should be dissolved, it shall so resolve and the authority shall stand dissolved. Upon such dissolution, the title to all funds and properties owned by the authority at the time of such dissolution shall vest in the locality creating the authority and possession of such funds and properties shall forthwith be delivered to such locality.

§ 15.2-5522. Powers, etc., severable; provisions of chapter controlling over other statutes and charters.

The powers granted and the duties imposed in this chapter are independent and severable. If any one or more sections, subsections, sentences, or parts of any of this chapter are adjudged unconstitutional or invalid, such adjudication shall not affect, impair, or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid. Any provision of this chapter that is found to be in conflict with any other statute or charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict.