

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to authorize the Treasury Board to issue bonds pursuant to Article X, Section 9 (c) of the Constitution of Virginia in an amount up to \$16,000,000 plus financing costs to finance a new parking deck in the City of Richmond.

[H 1604]

Approved

Whereas, Article X, Section 9 (c) of the Constitution of Virginia provides that the General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees, or other charges and the full faith and credit of the Commonwealth of Virginia, provided that such debt is created for specific revenue-producing capital projects, including their enlargement or improvement, at, among others, agencies and institutions of higher learning of the Commonwealth; and

Whereas, in accordance with Article X, Section 9 (c) of the Constitution of Virginia, the Governor has certified in writing, filed with the Auditor of Public Accounts, his opinion that the anticipated net revenues of the capital project identified below to be pledged to the payment of the principal of and the interest on that portion of such debt issued for each such project will be sufficient to meet such payments as the same become due and to provide such reserves as may be required by law and that each of the capital projects complies with the requirements of Article X, Section 9 (c) of the Constitution of Virginia; now, therefore,

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

**1. § 1. Title.**

*This act shall be known and may be cited as the "Commonwealth of Virginia Parking Facilities Bond Act of 2009."*

**§ 2. Authorization of bonds and BANs.**

*The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Parking Facilities Bonds, Series .....", in an aggregate principal amount not exceeding \$16,000,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest, and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving, and equipping revenue-producing capital projects of the Commonwealth as follows:*

Institution	Project Title	Amount
Department of General Services	7th & Franklin New 1,000 Vehicle Parking Structure	\$16,000,000
Total		\$16,000,000

**§ 3. Application of proceeds.**

*The proceeds, including any premium, of bonds and BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs) shall be deposited in a special capital outlay fund in the state treasury and, together with the investment income thereon, shall be disbursed by the State Treasurer for paying costs of acquisition, construction, renovation, enlargement, improvement, and equipping of the authorized capital projects, including financing costs. The proceeds of (a) bonds the issuance of which has been anticipated by BANs, (b) refunding bonds, and (c) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.*

**§ 4. Details, sale of bonds and BANs.**

*Bonds and BANs shall be dated, and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or, when authorized by the*

57 Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on bonds  
 58 and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be  
 59 certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract  
 60 for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to  
 61 maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated  
 62 form may be issued under a system of book entry for recording the ownership and transfer of ownership  
 63 of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the authorized  
 64 denomination or denominations of the bonds and the place or places of payment of certificated bonds  
 65 and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or  
 66 without the Commonwealth. Bonds shall mature at such time or times not exceeding 30 years from their  
 67 date or dates and BANs shall mature at such time or times not exceeding five years from their date or  
 68 dates.

69 The Treasury Board may sell bonds and BANs in such manner, by competitive bidding, negotiated  
 70 sale, or private placement, and for such price or within such price parameters as it may determine, by  
 71 and with the consent of the Governor, to be in the best interest of the Commonwealth.

72 In the discretion of the Treasury Board, bonds and BANs may be issued at one time or from time to  
 73 time, and may be sold and issued at the same time with other general obligation bonds and BANs,  
 74 respectively, of the Commonwealth authorized pursuant to Article X, Section 9 (a) (3), (b), and (c) of  
 75 the Constitution of Virginia, as separate issues or as a combined issue, designated "Commonwealth of  
 76 Virginia General Obligation Bonds/Bond Anticipation Notes, Series .....".

77 § 5. Execution of bonds and BANs.

78 Certificated bonds and BANs shall be signed on behalf of the Commonwealth by the Governor and  
 79 by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the  
 80 Commonwealth or a facsimile thereof. If the bonds or BANs bear the facsimile signature of the State  
 81 Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine  
 82 or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any  
 83 officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer  
 84 before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all  
 85 purposes the same as if such officer had remained in office until such delivery, and any bond or BAN  
 86 may bear the facsimile signature of, or may be signed by, such persons as at the actual time of  
 87 execution are the proper officers to sign such bond or BAN although, at the date of such bond or BAN,  
 88 such persons may not have been such officers.

89 § 6. Sources for payment of expenses.

90 All expenses incurred under this act shall be paid from the proceeds of bonds or BANs, from  
 91 payments made by the agency for which the capital projects was authorized in § 2 hereof, or from any  
 92 other available funds as the Treasury Board shall determine.

93 § 7. Revenues.

94 The Department of General Services is hereby authorized (i) to fix, revise, charge, and collect rates,  
 95 fees, and charges for or in connection with the use, occupancy, and services of the capital project  
 96 mentioned above or the system of which such capital project is a part and (ii) to pledge to the portion  
 97 of the bonds or BANs issued for such capital project the net revenues resulting from such rates, fees,  
 98 and charges and remaining after payment of the expenses of operating the project or system, as the case  
 99 may be. The Department of General Services is further authorized to create debt service and sinking  
 100 funds for the payments of the principal of, premium, if any, and interest on the bonds and other reserves  
 101 required by any agency of the United States of America purchasing the bonds or any portion thereof.

102 § 8. Investments and contracts.

103 A. Pending the application of the proceeds of the bonds or BANs (including refunding bonds and  
 104 BANs) to the purpose for which they have been authorized and the application of funds set aside for the  
 105 purpose to the payment of bonds or BANs, they may be invested by the State Treasurer in securities that  
 106 are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the  
 107 case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of  
 108 bonds or any BANs, such interest shall become a part of the principal of the bonds or any BANs and  
 109 shall be used in the same manner as required for principal of the bonds or BANs.

110 B. The Commonwealth may enter into any contract or other arrangement that is determined to be  
 111 necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by  
 112 bonds, BANs, or investments, in whole or in part, on the interest rate, cash flow, or other basis desired  
 113 by the Commonwealth. Such contract or other arrangement may include, without limitation, contracts  
 114 commonly known as interest rate swap agreements and futures or contracts providing for payments  
 115 based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into  
 116 by the Commonwealth in connection with, or incidental to, entering into, or maintaining, any (i)  
 117 agreement that secures bonds or BANs or (ii) investment, or contract providing for investment,

118 otherwise authorized by law. These contracts and arrangements may contain such payment, security,  
 119 default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due  
 120 consideration to the creditworthiness of the counterparty or other obligated party, including any rating  
 121 by any nationally recognized rating agency, and any other criteria as may be appropriate. The  
 122 determinations referred to in this subsection may be made by the Treasury Board or any public funds  
 123 manager with professional investment capabilities duly authorized by the Treasury Board to make such  
 124 determinations.

125 C. Any money set aside and pledged to secure payments of bonds, BANs, or any of the contracts  
 126 entered into pursuant to this section may be invested in accordance with subsection A and may be  
 127 pledged to and used to service any of the contracts or other arrangements entered into pursuant to  
 128 subsection B.

129 § 9. Security for bonds and BANs.

130 The net revenues of the project set forth above and the full faith and credit of the Commonwealth  
 131 are hereby irrevocably pledged for the payment of the principal of and the interest on bonds and BANs  
 132 (unless the Treasury Board, by and with the consent of the Governor, shall provide otherwise) issued  
 133 under this act. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii)  
 134 refunding bonds, and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal  
 135 of and interest and any premium on the BANs or bonds to be paid or redeemed thereby. In the event the  
 136 net revenues pledged to the payment of the bonds or BANs are insufficient in any fiscal year for the  
 137 timely payment of the principal of, premium, if any, and interest on the bonds or BANs, where the full  
 138 faith and credit of the Commonwealth have been pledged, the General Assembly shall appropriate a sum  
 139 sufficient therefor or the Governor shall direct payment therefor from the general fund revenues of the  
 140 Commonwealth.

141 § 10. Exemption of interest from tax.

142 The bonds and BANs issued under the provisions of this act, their transfer, and the income  
 143 therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from  
 144 taxation by the Commonwealth and by any county, city, or town or other political subdivision thereof.  
 145 The Treasury Board is authorized to take or refrain from taking any and all actions and to covenant to  
 146 such effect and to require the Department of General Services to do and to covenant likewise, to the  
 147 extent that, in the judgment of the Treasury Board, it is appropriate in order that interest on the bonds  
 148 and BANs may be exempt from federal income tax. Alternatively, interest on bonds and BANs may be  
 149 made subject to inclusion in gross income of the holders thereof for federal income tax purposes.

150 § 11. Refunding bonds and BANs.

151 The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one  
 152 time or from time to time, refunding bonds and BANs of the Commonwealth, to refund any or all of the  
 153 bonds and BANs, respectively, issued under this act or otherwise authorized pursuant to Article X,  
 154 Section 9 (c) of the Constitution of Virginia. Refunding bonds and BANs may be issued in a principal  
 155 amount up to the amount necessary to pay at maturity or redeem the bonds and BANs to be refunded  
 156 and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and  
 157 BANs may be issued whether or not the obligations to be refunded are then subject to redemption.

158 § 12. Defeasance.

159 Any bond or BAN for which cash or direct obligations of the United States of America shall have  
 160 been set aside in escrow with the State Treasurer or a bank or trust company, within or without the  
 161 Commonwealth, shall be deemed no longer outstanding under the applicable authorizing instrument, this  
 162 act, and Article X, Section 9 (b) or (c), as the case may be, of the Constitution of Virginia.

163 § 13. Severability.

164 The provisions of this act or the application thereof to any person or circumstances that are held  
 165 invalid shall not affect the validity of other provisions or applications of this act that can be given effect  
 166 without the invalid provisions or applications.

167 **2. That an emergency exists and this act is in force from its passage.**