2010 SESSION

HOUSE BILL NO. 1013 AMENDMENT IN THE NATURE OF A SUBSTITUTE (Proposed by the House Committee on Counties, Cities and Towns on February 8, 2010) Bill to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 24.3, consisting of sections numbered 15.2-2430 through 15.2-2440, relating to creation of the Virginia Infrastructure in Urban Development Areas Loan Fund. Be it enacted by the General Assembly of Virginia: 1 1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 24.3, consisting of sections numbered 15.2-2430 through 15.2-2440, as follows: CHAPTER 24.3. CHAPTER 24.3. VIRGINA INFRASTRUCTURE IN URBAN DEVELOPMENT AREAS LOAN FUND. § 15.2-2430. Definitions. As used in this chapter, 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. * Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incidemt to the accomplishment of any project. "Fund" means the Virginia first and the othen development Areas Loan Fund. "Tocal government" means any county, city, or town that has, pursuant to § 15.2-2223.1, amended its comprehensive plan to incorporate one or more urban development areas. * Project" means (i) the design and construction of transportation improvements located or to be located within an urban development area in the Commonwealth, all or part of which facility serves the citizens of the commonwealth. The term includes, without fiminition, s		10104903D
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 6 A BILL to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 24.3, consisting of sections numbered 15.2-430 through 15.2-440, relating to creation of the Virginia Infrastructure in Urban Development Areas Loan Fund. 8 ti tenacted by the General Assembly of Virginia: 1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 24.3, consisting of sections numbered 15.2-430 through 15.2-440, as follows: CHAPTER 24.3. VIRGINIA INFRASTRUCTURE IN URBAN DEVELOPMENT AREAS LOAN FUND. § 15.2-2430. Definitions. As used in this chapter, inless 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. "Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and underrafting necessary or incident to the accomplishment of any project. "Fund" means the Virginia Infrastructure in Urban Development Areas Loan Fund. "Doced government" means any county, city, or town that has, pursuant to § 15.2-2223.1, amended its comprehensive plan to incorporate one or more urban development areas. "Project" means (i) the design and construction of transportation improvements located or to be located within an urban development area in the Commowealth and (ii) any small water facility project as defined in § 62.1-228and any wastewater treatment facility located or to be located within an urban development area in the Commowealth and find any small water facility project and ground water) collection, treatment and disposal facilities; Ariange facilities; and projects; stormwater and necessary for a be located within an urban development area in the Commowealth and (ii) and any small water facility project as defined in § 62.1-228and any wastewater fincting lor at the		
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55 funds under the laws of the Commonwealth.		
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	56	§ 15.2-2433. Annual audit.
57 The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the		
 58 accounts of the Authority, and the cost of such audit services as shall be required shall be borne by the 59 Authority. The audit shall be performed at least each fiscal year, in accordance with generally accepted 		

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60 auditing standards and, accordingly, include such tests of the accounting records and such auditing procedures as are considered necessary under the circumstances. The Authority shall furnish copies of 61

62 such audit to the Governor.

§ 15.2-2434. Collection of money due Fund.

64 The Authority is empowered to collect, or to authorize others to collect on its behalf, amounts due to 65 the Fund under any loan to a local government, including, if appropriate, taking the action required by 66 § 15.2-2659 to obtain payment of any amounts in default. Proceedings to recover amounts due to the

67 Fund may be instituted by the Authority in the name of the Fund in the appropriate circuit court.

68 § 15.2-2435. Loans to local governments.

69 Except as otherwise provided in this chapter, money in the Fund shall be used solely to make loans 70 to local governments to finance or refinance the cost of any project. No loan from the Fund shall 71 exceed the total cost of the project to be financed or the outstanding principal amount of indebtedness 72 to be refinanced plus reasonable financing expenses.

The Authority shall determine the terms and conditions of any loan from the Fund, which may vary 73 74 between local governments. Each loan shall be evidenced by appropriate bonds or notes of the local 75 government payable to the Fund. The bonds or notes shall have been duly authorized by the local government and executed by its authorized legal representatives. The Authority is authorized to require 76 77 in connection with any loan from the Fund such documents, instruments, certificates, legal opinions, and 78 other information as it may deem necessary or convenient. In addition to any other terms or conditions 79 that the Authority may establish, the Authority may require, as a condition to making any loan from the 80 Fund, that the local government receiving the loan covenant perform any of the following:

1. Establish and collect rents, rates, fees, and charges to produce revenue sufficient to pay all or a 81 specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of the 82 83 project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the 84 principal and premium, if any, and interest on the loan from the Fund to the local government; and (iii) 85 any amounts necessary to create and maintain any required reserve, including any rate stabilization 86 fund deemed necessary or appropriate by the Authority to offset the need, in whole or in part, for future 87 increases in rents, rates, fees, or charges;

88 2. Levy and collect ad valorem taxes on all property within the jurisdiction of the local government 89 subject to local taxation sufficient to pay the principal and premium, if any, and interest on the loan 90 from the Fund to the local government;

91 3. Create and maintain a special fund or funds for the payment of the principal and premium, if any, 92 and interest on the loan from the Fund to the local government and any other amounts becoming due 93 under any agreement entered into in connection with the loan, or for the operation, maintenance, repair, 94 or replacement of the project or any portions thereof or other property of the local government, and 95 deposit into any fund or funds amounts sufficient to make any payments on the loan as they become due 96 and payable; 97

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

98 5. Perform other acts, including the conveyance of, or the granting of liens on or security interests 99 in, real and personal property, together with all rights, title and interest therein, to the Fund, or to take 100 other actions as may be deemed necessary or desirable by the Authority to secure payment of the 101 principal and premium, if any, and interest on the loan from the Fund to the local government and to 102 provide for the remedies of the Fund in the event of any default by the local government in the payment 103 of the loan, including, without limitation, any of the following:

a. The procurement of insurance, guarantees, letters of credit, and other forms of collateral, security, 104 liquidity arrangements or credit supports for the loan from any source, public or private, and the 105 106 payment therefor of premiums, fees, or other charges;

b. The combination of one or more projects, or the combination of one or more projects with one or 107 108 more other undertakings, facilities, utilities, or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities, and systems 109 110 to secure the loan from the Fund to the local government made in connection with such combination or any part or parts thereof; 111 112

c. The maintenance, replacement, renewal, and repair of the project; and

d. The procurement of casualty and liability insurance.

114 All local governments borrowing money from the Fund are authorized to perform any acts, take any action, adopt any proceedings, and make and carry out any contracts that are contemplated by this 115 116 chapter. Such contracts need not be identical among all local governments, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Fund. 117

Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the 118 Authority may consent to and approve any modification in the terms of any loan to any local 119 120 government subject to the guidelines adopted by the Board.

121 § 15.2-2436. Prioritization of loans. 122 In approving loans, the Authority shall give preference to loans for projects that will serve two or 123 more local governments to encourage regional cooperation.

124 § 15.2-2437. Pledge of loans to secure bonds of Authority.

125 The Authority is empowered at any time and from time to time to transfer from the Fund to banks or 126 trust companies designated by the Authority any or all assets of the Fund to be held in trust as security 127 for the payment of the principal and premium, if any, and interest on any or all of the bonds (as defined 128 in § 62.1-199) of the Authority. The interests of the Fund in any obligations so transferred shall be 129 subordinate to the rights of the trustee under the pledge. To the extent funds are not available from 130 other sources pledged for such purpose, any payments of principal and interest received on the assets 131 transferred or held in trust may be applied by the trustee thereof to the payment of the principal and 132 premium, if any, and interest on such bonds of the Authority to which the obligations have been 133 pledged, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or 134 all of such assets and apply the net proceeds from the sale to the payment of the principal and 135 premium, if any, and interest on such bonds of the Authority. Any assets of the Fund transferred in trust as set forth above and any payments of principal, interest, or earnings received thereon shall remain 136 137 part of the Fund but shall be subject to the pledge to secure the bonds of the Authority and shall be 138 held by the trustee to which they are pledged until no longer required for such purpose by the terms of 139 the pledge. On or before January 10 each year, the Authority shall transfer, or shall cause the trustee to 140 transfer, to the Fund any assets transferred or held in trust as set forth above that are no longer 141 required to be held in trust pursuant to the terms of the pledge.

142 § 15.2-2438. Sale of loans.

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

147 § 15.2-2439. Powers of the Authority.

148 The Authority is authorized to do any act necessary or convenient to the exercise of the powers 149 granted in this chapter or reasonably implied thereby.

150 § 15.2-2440. Liberal construction of chapter.

151 The provisions of this chapter shall be liberally construed to the end that its beneficial purposes may **152** be effectuated. Insofar as the provisions of this chapter are inconsistent with the provisions of any other

153 law, general, special, or local, the provisions of this chapter shall be controlling.