CHAPTER 399

An Act to amend and reenact §§ 3.2-3100 through 3.2-3104, 3.2-3108, 3.2-3111, and 62.1-203 of the Code of Virginia and to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 31.1, consisting of sections numbered 3.2-3112 through 3.2-3121, relating to the Tobacco Region Revitalization Commission; financial viability and feasibility study prior to disbursement; Virginia Tobacco Region Revolving Fund.

[H 2330]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-3100 through 3.2-3104, 3.2-3108, 3.2-3111, and 62.1-203 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 31.1, consisting of sections numbered 3.2-3112 through 3.2-3121, as follows:

§ 3.2-3100. Definitions.

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

"Active tobacco producer" means a person~~:~~ ~~(i)~~ actively engaged in planting, growing, harvesting, and marketing of flue-cured or burley tobacco, or who shares in the variable expenses of producing the crop~~,~~ ~~and is therefore entitled to share in the revenue derived from marketing the crop; and (ii) who produces such crop on a farm where tobacco was produced for the 1998 crop year, or any subsequent crop year upon which the Commission may determine to base indemnification payments, pursuant to a tobacco farm marketing quota or farm acreage allotment as established under the Agriculture Adjustment Act of 1938 (7 U.S.C. § 1281 et seq.)~~.

"Agreement" means the agreement or agreements between the Commonwealth, as seller of the Tobacco Assets, and the Corporation, as purchaser of the Tobacco Assets. The sale by the Commonwealth of the Tobacco Assets pursuant to any such agreement shall be a true sale and not a borrowing.

"Commission" means the Tobacco ~~Indemnification and Community~~ *Region* Revitalization Commission created pursuant to § 3.2-3101.

"Commission Allocation" means 50 percent of the annual amount received under the Master Settlement Agreement by the Commonwealth, or that would have been received but for a sale of such allocation pursuant to an agreement, between the commencing and ending dates specified in the agreement.

"Corporation" means the Tobacco Settlement Financing Corporation as created under state law.

"Endowment" means the Tobacco Indemnification and Community Revitalization Endowment established pursuant to § 3.2-3104.

"Fund" means the Tobacco Indemnification and Community Revitalization Fund established pursuant to § 3.2-3106.

"Master Settlement Agreement" means the settlement agreement and related documents between the Commonwealth and leading United States tobacco product manufacturers dated November 23, 1998, and including the Consent Decree and Final Judgment entered in the Circuit Court of the City of Richmond on February 23, 1999, Chancery Number HJ-2241-4.

"Period of sale" means the time during which a purchaser under an agreement is entitled to receive the Commission Allocation.

~~"Quota holder" means an owner of a farm on July 1, 1998, or July 1 of any subsequent crop year upon which the Commission may determine to base indemnification payments, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agriculture Adjustment Act of 1938 (7 U.S.C. § 1281 et seq.).~~

"Strategic Plan" means the strategic plan required pursuant to subsection C of § 3.2-3103.

"Tobacco Assets" means all right, title, and interest in and to the portion of the Commission Allocation that may be sold to the Corporation.

~~"Tobacco farmer" means any person who is an active tobacco producer, a quota holder, or both.~~

§ 3.2-3101. Tobacco Region Revitalization Commission created; purposes.

The Tobacco ~~Indemnification and Community~~ *Region* Revitalization Commission is created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Commission is established for the purposes of determining the appropriate recipients of moneys in the Tobacco Indemnification and Community Revitalization Fund and causing distribution of such moneys for the purposes provided in this chapter, including using moneys in the Fund to: (i) provide payments to tobacco farmers as compensation for the adverse economic effects resulting from loss of investment in specialized tobacco

equipment and barns and lost tobacco production opportunities associated with a decline in quota; and (ii) revitalize tobacco dependent communities. The Commission shall have only those powers enumerated in § 3.2-3103.

§ 3.2-3102. Membership; terms; vacancies; compensation and expenses; chairman; chairman's executive summary.

A. The Commission shall be composed of ~~31~~ *28* members as follows:

1. Six members of the House of Delegates appointed by the Speaker of the House of Delegates;

2. Four members of the Senate appointed by the Senate Committee on Rules;

3. The Secretary of Commerce and Trade or his designee;

4. The Secretary of Finance or his designee;

5. The Secretary of Agriculture and Forestry or his designee;

6. ~~Three~~ *Five* nonlegislative citizen members who shall be active flue-cured *or burley* tobacco producers ~~appointed by the Governor. Of the active flue-cured tobacco producers, two shall be~~ *or active farmers* appointed by the Governor from a list of ~~six~~ *seven* persons provided by the members of the General Assembly appointed to the Commission. *Three of the tobacco producers or active farmers shall reside in the Southside region and two shall reside in the Southwest region*;

7. ~~Three nonlegislative citizen members who shall be active burley tobacco producers appointed by the Governor. Of the active burley tobacco producers, one member shall be appointed by the Governor from a list of three persons provided by the members of the General Assembly appointed to the Commission;~~

~~8.~~ One nonlegislative citizen member who shall be a representative of the Virginia Farm Bureau Federation appointed by the Governor from a list of at least three persons provided by Virginia Farm Bureau Federation; and

~~9. Eleven~~ *8. Nine* members shall be nonlegislative citizens appointed by the Governor. Of the ~~11~~ *nine* nonlegislative citizen members, three shall be appointed by the Governor from a list of ~~nine~~ *six* provided by the members of the General Assembly appointed to the Commission.

With the exception of the Secretary of Commerce and Trade or his designee, the Secretary of Finance or his designee and the Secretary of Agriculture and Forestry or his designee, all members of the Commission shall reside in the Southside and Southwest regions of the Commonwealth and shall be subject to confirmation by the General Assembly. To the extent feasible, appointments representing the Southside and Southwest regions shall be proportional to the tobacco quota production of each region. *Thirteen of the 28 members shall have experience in business, economic development, investment banking, finance, or education.*

Except as otherwise provided herein, all appointments shall be for terms of four years each. Legislative members, the Secretary of Commerce and Trade, the Secretary of Finance, and the Secretary of Agriculture and Forestry or his designee shall serve terms coincident with their terms of office. No nonlegislative citizen member shall be eligible to serve more than two successive four-year terms. After expiration of a term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

~~The initial appointments of the active flue-cured tobacco producers, the active burley tobacco producers, and other nonlegislative citizen members shall be as follows: one active flue-cured tobacco producer, one active burley tobacco producer and four nonlegislative citizen members shall be appointed for terms of two years; one active flue-cured tobacco producer, one active burley tobacco producer and four nonlegislative citizen members shall be appointed for terms of three years; and one active flue-cured tobacco producer, one active burley tobacco producer and three nonlegislative citizen members shall be appointed for terms of four years. Thereafter all appointments shall be for terms of four years.~~

B. The Commission shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Commission. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Commission. The meetings of the Commission shall be held on the call of the chairman or whenever the majority of the members so request. A majority of members of the Commission serving at any one time shall constitute a quorum for the transaction of business.

C. Legislative members of the Commission shall receive such compensation as is set forth in § 30-19.12, and nonlegislative members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such compensation and expenses shall be paid from the Fund.

D. Members and employees of the Commission shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set

forth therein.

E. Except as otherwise provided in this chapter, members and employees of the Commission shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

F. The chairman of the Commission shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 3.2-3103. Powers and duties of the Tobacco Region Revitalization Commission.

A. The Commission shall have the power and duty to:

1. Adopt, use, and alter at will an official seal;

2. Make bylaws for the management and regulation of its affairs;

3. Maintain an office at such place or places within the Commonwealth as it may designate;

4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Commission, absolutely or in trust, for the purposes for which the Commission is created;

5. Determine how moneys in the Fund are to be distributed ~~and to authorize~~*;*

6. Authorize grants, loans, or other distributions of moneys in the Fund for the purposes set forth in this chapter;

7. For each economic development grant or award, including a grant from the Tobacco Region Opportunity Fund, require a dollar-for-dollar match from non-Commission sources. Performance bonds shall be considered acceptable matching payment. No more than 25 percent of the match shall be in-kind. However, a match of less than 50 percent may be considered by a two-thirds majority vote of the Commission;

8. Adopt policies governing the Tobacco Region Opportunity Fund, including a repayment policy. The Commission shall apply the policies consistently;

9. Enter into a contractual or employment agreement with a financial viability manager (the Manager). The management agreement shall require the Manager to provide a written financial viability and feasibility report to the Commission as to the financial propriety of certain loans, grants, or other distributions of money made for the revitalization of a tobacco-dependent locality as proposed in accordance with the Commission's strategic objectives. The Commission shall not make any loan, except a loan made through the Virginia Tobacco Region Revolving Fund created in Chapter 31.1 (§ 3.2-3112 et seq.); grant; or other distribution of money until the Manager has provided the Commission with a written recommendation as to the financial viability and feasibility of the proposed distribution of funds. However, nothing in this section shall eliminate consideration of strategic economic initiatives;

~~6.~~ *10.* Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

~~7.~~ *11.* Invest its funds as provided in this chapter or permitted by applicable law; and

~~8.~~ *12.* Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied, including use of whatever lawful means may be necessary and appropriate to recover any payments wrongfully made from the Fund.

B. The Commission shall undertake studies and gather information and data in order to determine: (i) the economic consequences of the reduction in or elimination of quota for tobacco growers; (ii) the potential for alternative cash crops; and (iii) any other matters the Commission believes will affect tobacco growers in the Commonwealth.

C. *The Commission shall at least biennially develop a strategic plan containing specific priorities, measureable goals, and quantifiable outcomes. In developing the Strategic Plan, the Commission shall solicit input from local and regional economic developers, the Virginia Department of Agriculture and Consumer Services, the Virginia Economic Development Partnership, the Virginia Department of Housing and Community Development, the Virginia Tourism Authority, the Virginia Resources Authority, and the Center for Rural Virginia. The Strategic Plan shall state how each Fund award is consistent with the Commission's achievement of measurable goals and outcomes and its advancement of the specific priorities of the Strategic Plan. The Strategic Plan shall also state how awards from the Fund are projected to affect key economic indicators of employment, income, educational attainment, amount of Virginia-grown agricultural and forestal products used by the project, and return on investment.*

D. The Commission shall develop a publicly available online database of all Commission awards, listing for each project the project's goals, the means by which the project fits into the Strategic Plan, the project's expected and achieved outcomes, and the total amount of funding the Commission has awarded to the project through any prior grants.

E. The Commission shall submit a report annually to the Governor and the General Assembly.

§ 3.2-3104. Tobacco Indemnification and Community Revitalization Endowment.

A. There is hereby established in the state treasury a special fund to be designated the "Tobacco Indemnification and Community Revitalization Endowment." The Endowment shall receive any proceeds from any sale of all or any portion of the Commission Allocation, and any gifts, grants and

contributions that are specifically designated for inclusion in such Endowment. No part of the Endowment, neither corpus nor income, or interest thereon, shall revert to the general fund of the state treasury. The Endowment shall be under the management and control of the Treasury Board, and the Treasury Board shall have such powers and authority as may be necessary to exercise such management and control consistent with the provisions of this section. The income of the Endowment shall be paid out, not less than annually, to the Fund. In addition, up to ~~10~~ *six* percent of the corpus of the Endowment shall be paid to the Fund annually upon request of the Commission, *by majority vote,* to the Treasury Board. Upon two-thirds vote of the Commission, up to ~~15~~ *10* percent of the corpus of the Endowment shall be so paid. *Upon three-fourths vote of the Commission, up to 15 percent of the corpus of the Endowment shall be so paid.* No use of proceeds shall be made that would cause bonds issued on a tax-exempt basis to be deemed taxable. For purposes of this section, "income" of the Endowment means at the time of determination the lesser of the available cash in, or the realized investment income for the applicable period of, the Endowment, and "corpus" of the Endowment means at the time of determination the sum of the proceeds from the sale of all or any portion of the Commission Allocation, any gifts, grants, and contributions that have been credited to such Endowment, and any income not appropriated and withdrawn from the Endowment prior to June 30 of each year, less withdrawals from the corpus. Determinations by the Treasury Board, or the State Treasurer on behalf of the Treasury Board, as to the amount of income or the amount of the corpus shall be conclusive.

B. The Treasury Board shall serve as trustee of the Endowment and the corpus and income of the Endowment shall be withdrawn and credited to the Fund by order of the Treasury Board as provided in subsection A. The State Treasurer shall be custodian of the funds credited to the Endowment. The Treasury Board shall have full power to invest and reinvest funds credited to the Endowment in accordance with the provisions of the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.) and, in addition, as otherwise provided by law. The Treasury Board may borrow money in such amounts as may be necessary whenever in its judgment it would be more advantageous to borrow money than to sell securities held for the Fund. Any debt so incurred may be evidenced by notes duly authorized by resolution of the Treasury Board, such notes to be retired no later than the end of the biennium in which such debt is incurred. The Treasury Board may commingle, for purposes of investment, the corpus of the Endowment provided that it shall appropriately account for the investments credited to the Endowment. The Treasury Board may hire independent investment advisors and managers as it deems appropriate to assist with investing the Endowment. The expenses of making and disposing of investments, such as brokerage commissions, legal expenses related to a particular transaction, investment advisory and management fees and expenses, transfer taxes, and other customary transactional expenses shall be payable out of the income of the Endowment.

Not less than annually and more frequently if so desired by the Commission or requested by the Treasury Board, the Commission shall provide to the Treasury Board schedules of anticipated disbursements from the Fund for the current and succeeding fiscal year, and the Treasury Board shall, to the extent practicable, take into account such schedules and changes thereto in scheduling maturities and redemptions of its investments of the Endowment.

§ 3.2-3108. Distribution of Fund.

A. The Fund shall be distributed by the Commission for the following purposes:

1. ~~The compensation of Virginia tobacco farmers for the decline or elimination of the tobacco quota based on averaging the basic burley and flue-cured quota as allocated by the USDA for the crop years 1995 through 1998.~~

~~To the extent quota holders in Virginia are not otherwise compensated by a national tobacco community trust fund or a federal tobacco loss assistance program that is based on substantially the same distribution criteria established by the Commission for indemnification payments and to the extent moneys are available in the Fund, the Fund shall be used to compensate quota holders in an amount equal to the total lost asset value in quota incurred annually by such quota holders.~~

~~To the extent active tobacco producers in Virginia are not otherwise compensated by a national tobacco community trust fund or a federal tobacco loss assistance program that is based on substantially the same distribution criteria established by the Commission for indemnification payments and to the extent moneys are available in the Fund, the Fund shall be used to compensate active tobacco producers for the economic loss resulting from any annual quota reduction.~~

~~For the purposes of this section, the total asset loss value in quota and economic losses for tobacco farmers in Virginia shall be estimated to be $1.2 billion.~~

~~The Commission may establish criteria for determining economic loss resulting from any annual quota reduction, including any similar criteria established pursuant to the creation of a national tobacco community trust fund;~~

~~2.~~ The stimulation of economic growth and development in tobacco-dependent communities in an equitable manner throughout the ~~southside~~ *Southside* and ~~southwest~~ *Southwest* regions of the Commonwealth, to assist such communities in reducing their dependency on, or finding alternative uses for, tobacco and tobacco-related business; and

~~3.~~ *2.* Scientific research performed at one of the Commonwealth's National Cancer

Institute-designated research institutes designed to advance the treatment and prevention of cancers that directly impact the citizens of tobacco-dependent communities throughout the ~~southside~~ *Southside* and ~~southwest~~ *Southwest* regions of the Commonwealth.

B. The Commission may require that as a condition of receiving any grant or loan incentive that is based on employment goals, a recipient company must provide copies of employer quarterly payroll reports provided to the Virginia Employment Commission to verify the employment status of any position included in the employment goal.

The Commission shall require that each project have an accountability matrix. For an economic development program, the matrix shall be based on return on investment, jobs, wages, and capital investment. For a scholarship program, the matrix shall be based on attainment of bachelor's degrees, credentials, or jobs. For a health care program, the matrix shall be based on health care outcomes. For an agriculture or forestry program, the matrix shall be based on jobs, capital investment, amount of Virginia-grown agricultural and forestal products used by the project, projected impact on agricultural and forestal producers, and a return on investment analysis.

The Commission shall require each applicant to provide with its application (i) baseline figures, (ii) explicit and quantified outcome expectations, (iii) the method used to calculate outcome expectations, (iv) details on the timing of the expected outcomes, and (v) a specific link to economic revitalization and the Strategic Plan.

The Commission shall require that as a condition of receiving any grant or loan incentive each project (a) demonstrate how it will address low employment levels, per capita income, educational attainment, or other workforce indicators; (b) be consistent with the Strategic Plan; and (c) receive a written recommendation as to its financial viability and feasibility from the Manager pursuant to subdivision A 9 of § 3.2-3103.

§ 3.2-3111. Confidentiality of information.

A. The Commission shall hold in confidence the personal and financial information supplied to it, or maintained by it, concerning tobacco farmers, including names, addresses, and payment information. The Commission may require any tobacco farmer or other applicant for payments from the Fund to provide his social security or taxpayer identification number.

B. Notwithstanding the foregoing, personal and financial information supplied to or maintained by the Commission relating to tobacco farmers may be used, exchanged, and disclosed at the Commission's discretion as may be necessary or appropriate to make payments under, administer, or enforce this chapter and related state and federal laws, any other state or federal tobacco indemnification or loss assistance program, or a national tobacco community trust fund.

C. Nothing in this section shall prohibit the Commission, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information or the sum of money received by a particular recipient.

D. Personal and financial information supplied by or maintained on persons or entities applying for or receiving distributions from the Fund for economic growth and development, as well as specific information relating to the amount and identity of recipients of such distributions, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The provisions of that Act applicable to records or meetings of the Virginia Economic Development Partnership or other state or local economic development entities shall apply mutatis mutandis to the Commission *and the Manager selected pursuant to subdivision A 9 of § 3.2-3103*.

E. The provisions of this section shall also apply to any department, agency, institution, political subdivision, or employee of the Commonwealth or a political subdivision that receives personal or financial information from the Commission in order to process checks for payments from the Fund or to assist the Commission with the administration and enforcement of this chapter.

PART D.

TOBACCO ~~INDEMNIFICATION AND COMMUNITY~~ *REGION* REVITALIZATION COMMISSION *AND VIRGINIA TOBACCO REGION REVOLVING FUND.*

CHAPTER 31.1.

VIRGINIA TOBACCO REGION REVOLVING FUND.

§ 3.2-3112. 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.

"Commission" means the Tobacco Region Revitalization Commission created pursuant to § 3.2-3101.

"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 incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning, and feasibility studies, surveys, plans, and specifications; architectural, engineering, financial, legal, or other special services; the cost of acquisition of 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 in the course of the development of the project; carrying charges incurred before the project is placed in service; interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed 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.

"Endowment" means the Tobacco Indemnification and Community Revitalization Endowment as established in § 3.2-3104.

"Fund" means the Virginia Tobacco Region Revolving Fund created by this chapter.

"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 of Virginia or laws of the Commonwealth, or any combination of any two or more of the foregoing, located in any of the tobacco-dependent communities in the Southside and Southwest regions of Virginia.

"Project" means the same as that term is defined in § 62.1-199.

§ 3.2-3113. Creation and management of Virginia Tobacco Region Revolving Fund.

A. There shall be set apart as a permanent and perpetual fund, to be known as the Virginia Tobacco Region Revolving Fund, with a sum of up to $50 million made available from (i) the corpus of the taxable portion of the Endowment paid to the Fund per request from the Commission within the limits imposed pursuant to § 3.2-3104, (ii) sums, if any, appropriated to the Fund by the General Assembly, (iii) all receipts by the Fund from loans made by it to local governments, (iv) all income from the investment of moneys held in the Fund, and (v) any other sums designated for deposit to the Fund from any source public or private, including, without limitation, any federal grants, awards, or other forms of assistance received by the Commonwealth that are eligible for deposit therein under federal law. Transfers from the Endowment to the Fund shall occur as required for loan disbursements.

B. The Authority shall administer and manage the Fund and establish the interest rates and repayment terms of such loans as are provided for by this chapter in accordance with a memorandum of agreement with the Commission. In order to carry out the administration and management of the Fund, the Authority, in consultation with the Commission, is granted the power to employ officers, employees, agents, advisers, and consultants, including, without limitation, attorneys, financial advisers, engineers and other technical advisers, and public accountants, and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation without the approval of any other agency or instrumentality. The Authority may disburse from the Fund the reasonable costs and expenses it incurs in the administration and management of the Fund and a reasonable fee to be approved by the Commission for its management services, but the Authority shall not charge its ordinary expenses to the Fund or the Commission. The Department of the Treasury, as the party holding the Endowment, shall be a party to the memorandum of agreement. Under all circumstances, the Commission shall select the projects eligible for the loans.

C. The Commission shall direct the distribution of loans from the Fund to particular local governments. Consistent with this chapter, the Commission shall, after consultation with all interested parties, develop a guidance document governing project eligibility and project priority criteria.

§ 3.2-3114. Deposit of money; expenditures; investments.

A. All money belonging to the Fund shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations located in the Commonwealth, or savings institutions located in the Commonwealth and organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check signed by the Executive Director of the Authority or another officer or employee designated by the Board of Directors of the Authority. All deposits of money shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies, and savings institutions are authorized to give security for the deposits.

B. Money in the Fund shall not be commingled with other money of the Authority. Money in the Fund not needed for immediate use or disbursement may be invested or reinvested by the Authority in obligations or securities that are considered lawful investments for public funds under the laws of the Commonwealth, including the Local Government Investment Pool Act (§ 2.2-4600 et seq.).

§ 3.2-3115. Collection of money due the Fund.

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

§ 3.2-3116. Loans to local governments.

A. Except as otherwise provided in this chapter, money in the Fund shall be used solely to make

loans to local governments to finance or refinance the cost of any project that has an identifiable revenue stream from which the loan proceeds may be repaid. The local government to which a loan is to be made, the purpose of the loan, the amount of the loan, and the associated identifiable revenue stream shall be designated in writing by the Commission to the Authority following consultation with the Authority. No loan from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of the indebtedness to be refinanced plus reasonable financing expenses.

B. Except as otherwise provided in this chapter, the Authority shall determine the interest rate and terms and conditions of any loan from the Fund, which may vary between local governments. Each loan shall be evidenced by appropriate bonds or notes of the local 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 in connection with any loan from the Fund such documents, instruments, certificates, legal opinions, and other information as it may deem necessary or convenient.

C. In addition to any other terms or conditions that the Authority may establish, the Authority may require, as a condition to making any loan from the Fund, that the local government receiving the loan covenant to perform any of the following:

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

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

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

4. Perform other acts otherwise permitted by applicable law to secure payment of the principal of, premium, if any, and interest on the loan from the Fund to the local government and to provide for the remedies of the Fund in the event of any default by the local government in the payment 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, liquidity arrangements, or credit supports for the loan from any source, public or private, and the 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 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 to secure the loan from the Fund to the local government made in connection with such combination or any part or parts thereof;

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

d. The procurement of casualty and liability insurance.

5. Obtain a review of the accounting and the internal controls from the Auditor of Public Accounts or his legally authorized representative. The Authority may request additional reviews at any time during the term of the loan. In addition, anyone receiving a report in accordance with § 3.2-3109 may request an additional review as set forth in this section.

D. Any local government borrowing money from the Fund is authorized to perform any acts, take any actions, adopt any proceedings, and make and carry out any contracts that are contemplated by this 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 government and the Fund.

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

§ 3.2-3117. Pledge of loans to secure bonds of the Authority.

A. The Authority is empowered at any time and from time to time to pledge, assign, or transfer from the Fund to banks or trust companies designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of the principal of, premium, if any, and interest on any or all of the bonds, as defined in § 62.1-199, issued to finance any project located in the tobacco-dependent communities in the Southside and Southwest regions of Virginia. The interests of the Fund in any assets so transferred shall be subordinate to the rights of the trustee under the pledge, assignment, or transfer.

B. To the extent funds are not available from other sources pledged for such purpose, any of the

assets or payments of principal and interest received on the assets pledged, assigned, or transferred or held in trust may be applied by the trustee thereof to the payment of the principal of, premium, if any, and interest on such bonds of the Authority secured thereby, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from the sale to the payment of the principal of, premium, if any, and interest on such bonds of the Authority.

C. Any assets of the Fund pledged, assigned, or transferred in trust as set forth in this section and any payments of principal, interest, or earnings received thereon shall remain part of the Fund but shall be subject to the pledge, assignment, or transfer to secure the bonds of the Authority and shall be held by the trustee to which they are pledged, assigned, or transferred until no longer required for such purpose by the terms of the pledge, assignment, or transfer.

§ 3.2-3118. Sale of loans.

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

§ 3.2-3119. Powers of the Authority.

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

§ 3.2-3120. Report to the General Assembly and the Governor.

The Commission, in conjunction with the Authority, shall report annually to the General Assembly and the Governor on all loans made from the Fund.

§ 3.2-3121. Liberal construction of chapter.

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

§ 62.1-203. Powers of Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. To enter into contracts or agreements for the servicing and processing of local obligations owned

by the Authority;

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

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

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

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

19. To pledge as security for the payment of any or all bonds of the Authority, all or any part of the Capital Reserve Fund or other reserve fund or account transferred to a trustee for such purpose from the Water Facilities Revolving Fund pursuant to § 62.1-231, from the Water Supply Revolving Fund pursuant to § 62.1-240, from the Virginia Solid Waste or Recycling Revolving Fund pursuant to § 62.1-241.9, from the Virginia Airports Revolving Fund pursuant to § 5.1-30.6, ~~or~~ from the Dam Safety, Flood Prevention and Protection Assistance Fund pursuant to § 10.1-603.17*, or from the Virginia Tobacco Region Revolving Fund pursuant to § 3.2-3117. Notwithstanding the foregoing, any such transfer from the Virginia Tobacco Region Revolving Fund may be pledged to secure only those bonds of the Authority issued to finance or refinance projects located in the tobacco-dependent communities in the Southside and Southwest regions of Virginia*.

2. That the three Commission members serving as of July 1, 2015, whose seats are eliminated by the reduction in the size of the Commission may serve the remainder of their unexpired terms.