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HOUSE BILL NO. 108

Offered January 13, 2016

Prefiled December 15, 2015

A BILL to amend and reenact §§ 15.2-4901 and 15.2-4905 of the Code of Virginia, relating to industrial development authorities; airports.

Patron—Farrell

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

**1. That §§ 15.2-4901 and 15.2-4905 of the Code of Virginia are amended and reenacted as follows:
§ 15.2-4901. Purpose of chapter.**

It is the intent of the legislature by the passage of this chapter to authorize the creation of industrial development authorities by the localities in the Commonwealth so that such authorities may acquire, own, lease, and dispose of properties and make loans to the end that such authorities may be able to promote industry and develop trade by inducing manufacturing, industrial, governmental, nonprofit and commercial enterprises and institutions of higher education to locate in or remain in the Commonwealth and further the use of its agricultural products and natural resources, and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience or prosperity. Such authority shall not itself be authorized to operate any such manufacturing, industrial, nonprofit or commercial enterprise or any facility of an institution of higher education.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to pollution control facilities to the end that such authorities may protect and promote the health of the inhabitants of the Commonwealth and the conservation, protection and improvement of its natural resources by exercising such powers for the control or abatement of land, sewer, water, air, noise and general environmental pollution derived from the operation of any industrial or medical facility and to vest such authorities with all powers that may be necessary to enable them to accomplish such purpose, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience or prosperity.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to medical facilities and facilities for the residence or care of the aged to the end that such authorities may protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement and improvement of medical facilities and facilities for the residence or care of the aged in order to provide modern and efficient medical services to the inhabitants of the Commonwealth and care of the aged of the Commonwealth in accordance with their special needs and also by assisting in the refinancing of medical facilities and facilities for the residence or care of the aged owned and operated by organizations which are exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code of 1954, as amended, in order to reduce the costs to residents of the Commonwealth of utilizing such facilities and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health and welfare. It is not intended hereby that any such authority shall itself be authorized to operate any such medical facility or facility for the residence or care of the aged.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for use by organizations (other than institutions organized and operated exclusively for religious purposes) which are described in § 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which are exempt from federal income taxation pursuant to § 501(a) of the Internal Revenue Code of 1954, as amended, to the end that such authorities may protect or promote the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of such facilities of the aforesaid entities and organizations in order to provide operations, recreational, activity centers, and other facilities for the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be

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59 exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their safety,
60 health, welfare, convenience or prosperity. It is not intended hereby that any such authority shall itself
61 be authorized to operate any such facility.

62 It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to
63 industrial development authorities the powers contained herein with respect to facilities for private,
64 accredited and nonprofit institutions of collegiate education in the Commonwealth whose primary
65 purpose is to provide collegiate or graduate education and not to provide religious training or theological
66 education to the end that such authorities may protect and promote the health and welfare of the
67 inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion,
68 enlargement, and improvement of facilities of aforesaid institutions in order to provide improved
69 educational facilities for the use of the inhabitants of the Commonwealth and to vest such authorities
70 with all powers that may be necessary to enable them to accomplish such purposes, which powers shall
71 be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their
72 health, welfare, convenience or prosperity. It is not intended hereby that any such authority shall itself
73 be authorized to operate any such educational facility.

74 It is the further intent of the legislature and shall be the policy of the Commonwealth to grant
75 industrial development authorities the powers contained herein with respect to facilities for a locality, the
76 Commonwealth and its agencies, and governmental and nonprofit organizations and to vest such
77 authorities with all powers that may be necessary to enable them to accomplish such purposes, which
78 powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion
79 of their health, welfare, convenience or prosperity.

80 It is further the intent of the legislature and shall be the policy of the Commonwealth to grant to
81 industrial development authorities the powers contained herein with respect to facilities for museums and
82 historical education, demonstration and interpretation, together with any and all buildings, structures or
83 other facilities necessary or desirable in connection with the foregoing, for use by nonprofit
84 organizations in order to promote tourism and economic development in the Commonwealth, to promote
85 the knowledge of and appreciation by the citizens of the Commonwealth of the historical and cultural
86 development and heritage of the Commonwealth and the United States and to promote thereby their
87 health, welfare, convenience and prosperity. It is not intended hereby that any such authority shall itself
88 be authorized to operate any such facility.

89 It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to
90 industrial development authorities the powers contained herein with respect to facilities devoted to the
91 staging of equine events and activities (other than racing) for use by governmental or nonprofit,
92 nonreligious organizations and operated by such governmental or nonprofit, nonreligious organizations in
93 order to promote the equine industry and equine-related activities (other than racing) which are integral
94 to the Commonwealth's economy and heritage and to promote thereby the safety, health, welfare,
95 convenience, and prosperity of the inhabitants of the Commonwealth.

96 It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to
97 industrial development authorities the powers contained herein with respect to acquiring, developing,
98 owning and operating an industrial park and any utilities that are intended primarily to serve the park
99 and to issue bonds for such purposes. The bonds may be secured by revenues generated by the industrial
100 park or the utilities being financed or by any other funds of the authority. *As used in this Chapter,*
101 *"industrial park" includes an industrial airpark.*

102 It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to
103 industrial development authorities created by one or more municipalities whose housing authorities have
104 not been activated as provided by §§ 36-4 and 36-4.1, in addition to the powers previously or hereafter
105 granted in this chapter, the powers contained herein with respect to facilities used primarily for single or
106 multi-family residences in order to promote safe and affordable housing in the Commonwealth and to
107 benefit thereby the safety, health, welfare and prosperity of the inhabitants of the Commonwealth. It is
108 not intended hereby that any such authority shall itself be authorized to operate any such facility or
109 exercise any powers of eminent domain set forth in § 36-27.

110 In any instance in this chapter where an industrial development authority may issue bonds through its
111 authority to finance, the authority may also refinance such bonds.

112 This chapter shall be liberally construed in conformity with these intentions.

113 **§ 15.2-4905. Powers of authority.**

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

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

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

119 3. To enter into contracts; however, any written contract of the authority shall contain provisions
120 addressing the issue of whether attorney's fees shall be recoverable by the prevailing party in the event

121 the contract is subject to litigation;

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

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

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

135 7. To issue its bonds for the purpose of carrying out any of its powers including specifically, but
136 without intending to limit any power conferred by this section or this chapter, the issuance of bonds to
137 provide long-term financing of any pollution control facility, whether any such facility was constructed
138 prior to or after the enactment hereof or the receipt of a commitment from an authority to undertake
139 financing pursuant hereto, unless the major part of the proceeds of such bonds will be used to redeem
140 any prior long-term financing of such facility other than financings pursuant to this chapter or any
141 similar law;

142 8. As security for the payment of the principal of and interest on any bonds so issued and any
143 agreements made in connection therewith, to mortgage and pledge any or all of its facilities or any part
144 or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues therefrom or
145 from any part thereof or from any loans made by the authority;

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

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

152 11. To appoint an industrial advisory committee or similar committee or committees to advise the
153 authority, consisting of such number of persons as it may deem advisable. Such persons may be
154 compensated such amount per regular, special, or committee meeting as may be approved by the
155 appointing authority, not to exceed \$50 per meeting day, and may be reimbursed for necessary traveling
156 and other expenses incurred while on the business of the authority;

157 12. To borrow money and to accept contributions, grants and other financial assistance from the
158 United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political
159 subdivision, agency, or public instrumentality of the Commonwealth, for or in aid of the construction,
160 acquisition, ownership, maintenance or repair of the authority facilities, for the payment of principal of
161 any bond of the authority, interest thereon, or other cost incident thereto, or in order to make loans in
162 furtherance of the purposes of this chapter of such money, contributions, grants, and other financial
163 assistance, and to this end the authority shall have the power to comply with such conditions and to
164 execute such agreements, trust indentures, and other legal instruments as may be necessary, convenient
165 or desirable and to agree to such terms and conditions as may be imposed; and

166 13. To make loans or grants to any person, partnership, association, corporation, business, or
167 governmental entity in furtherance of the purposes of this chapter including for the purposes of
168 promoting economic development, provided that such loans or grants shall be made only from revenues
169 of the authority which have not been pledged or assigned for the payment of any of the authority's
170 bonds, and to enter into such contracts, instruments, and agreements as may be expedient to provide for
171 such loans and any security therefor. An authority may also be permitted to forgive loans or other
172 obligations if it is deemed to further economic development. The word "revenues" as used in this
173 subdivision includes contributions, grants and other financial assistance, as set out in subdivision 12.

174 The authority shall not have power to operate any facility as a business other than as lessor and shall
175 not have the power to operate any single or multi-family housing facilities. However, the authority shall
176 have the power to apply for, establish, operate, and maintain a foreign-trade zone, in accordance with
177 the provisions of Chapter 14 (§ 62.1-159 et seq.) of Title 62.1, *or any airport facility located within or*
178 *adjoining an industrial park.* Any meeting held by the board of directors at which formal action is taken
179 shall be open to the public.

180 If a locality has created an industrial development authority pursuant to this chapter or any other
181 provision of law, no other such authority, not created by such locality, shall finance facilities, except

182 pollution control facilities, within the boundaries of such locality, unless the governing body of such
183 locality in which the facilities are located or are proposed to be located, concurs with the inducement
184 resolution adopted by the authority, and shows such concurrence in a duly adopted resolution.
185 Notwithstanding the foregoing, nothing contained herein shall be deemed to invalidate or otherwise
186 impair any existing financing by an authority or the financing of any facilities for which application has
187 been made to an authority prior to July 1, 1981.