

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 37

An Act to amend and reenact §§ 2 and 4 of the first enactment of Chapter 265 and §§ 2 and 4 of the first enactment of Chapter 408 of the Acts of Assembly of 1992, relating to the issuance of Commonwealth of Virginia Article X, Section 9 (c) Refunding Bonds, subject to the provisions of Article X, Sections 9 (a) and 9 (c) of the Constitution of Virginia; emergency.

[H 2179]

Approved March 8, 2021

Whereas, the General Assembly has enacted the Commonwealth of Virginia Article X, Section 9 (c) Refunding Bond Act of 1992 (Chapters 265 and 408 of the Acts of Assembly of 1992), authorizing the Treasury Board, by and with the consent of the Governor, to issue and sell refunding bonds of the Commonwealth, subject to the provisions and limitations set forth in such acts; and

Whereas, the General Assembly now wishes to provide on a temporary basis for the suspension of certain provisions in such acts; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. That §§ 2 and 4 of the first enactment of Chapter 265 and §§ 2 and 4 of the first enactment of Chapter 408 of the Acts of Assembly of 1992 are amended and reenacted as follows:

§ 2. The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, subject to the provisions of Sections 9 (a) and 9 (c) of Article X of the Constitution of Virginia, at one time or from time to time, refunding bonds of the Commonwealth, to be designated "Commonwealth of Virginia Article X, Section 9 (c) Refunding Bonds, Series ..," to refund any or all of the Commonwealth's then outstanding bonds issued pursuant to Article X, Section 9 (c) of the Constitution of Virginia, whether issued prior to or after the passage of this act, (the "Bonds"). The aggregate principal amount of such refunding bonds shall not exceed the *amount required to redeem or otherwise provide for the payment of the* unpaid principal of and the interest on and any redemption premium payable on the Bonds to be refunded to their date of redemption or payment, plus *amounts needed to fund capitalized or funded interest on the refunding bonds, and pay all expenses incurred in the issuance of such costs and other financing expenses of the refunding bonds.* Such refunding bonds may be issued whether or not the Bonds to be refunded are then subject to redemption; ~~provided that no such refunding bonds shall be issued unless such refunding bonds bear interest at an effective interest cost which is lower than the effective interest cost of the Bonds to be refunded, and the aggregate principal of and interest on the refunding bonds to their maturities shall be less than the aggregate principal of and interest that would have been paid or accrued on the Bonds to be refunded from the date of the refunding bonds until the original maturities of the Bonds to be refunded.~~

§ 4. The refunding bonds shall be dated, shall bear interest at such rate or rates; ~~shall mature at such time or times not later than the latest maturity date of the Bonds to be refunded,~~ and may be made redeemable before their maturity or maturities at such price or prices, all as may be determined by the Treasury Board, by and with the consent of the Governor. The principal of, premium, if any, and the interest on the refunding bonds shall be payable in lawful money of the United States of America. The Treasury Board shall determine the form of the refunding bonds, and shall fix the denomination or denominations of the refunding bonds and the place or places of payment of principal, premium, if any, and interest, which may be at the office of the State Treasurer or at any bank or trust company within or without the Commonwealth. The refunding bonds may bear interest at such rate or rates subject to inclusion in gross income for federal income tax purposes as may be determined by the Treasury Board by and with the consent of the Governor.

The refunding bonds may be issued in registered form as the Treasury Board may determine. If the refunding bonds are issued in registered form, the Treasury Board may appoint such registrars, transfer agents, or other authenticating trustees as it deems appropriate to maintain a record of the persons entitled to the refunding bonds and the interest due thereon. Refunding bonds issued in registered form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal of, premium, if any, and interest on the refunding bonds. The refunding bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth.

The Treasury Board may sell the refunding bonds in such manner, at public or private sale, and for such price as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth. The refunding bonds may be sold at par or at a premium or discount; ~~provided that the aggregate discount shall not exceed two percent of the par amount of the refunding bonds.~~

The Treasury Board shall be authorized to supplement the refunding bond proceeds from excess moneys in any debt service, sinking or comparable trust fund established pursuant to previous issues of higher educational institutions bonds so long as such excess fund moneys are not otherwise restricted by

law or by express contract with the holders of such prior bonds. These supplemental amounts shall be applied in the same manner as set forth in § 3 hereof for the application of the proceeds from the sale of such refunding bonds.

2. That, notwithstanding any maturity limitations set forth in previously enacted acts of assembly authorizing the issuance of debt pursuant to Article X, Section 9 (c) of the Constitution of Virginia, any such refunding bond may mature at such time or times not exceeding 35 years from the date or dates of the Bonds to be refunded.

3. That the provisions of this act shall expire on June 30, 2023.

4. That an emergency exists and this act is in force from its passage.