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HOUSE BILL NO. 1413

Offered January 11, 2023

Prefiled December 6, 2022

A BILL to amend and reenact §§ 15.2-4901 and 15.2-4902 of the Code of Virginia, relating to industrial development authorities; safe and affordable housing; activation status of housing authority.

Patron—Marshall

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

- 1. That §§ 15.2-4901 and 15.2-4902 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 accredited
64 nonprofit private institutions of higher education in the Commonwealth whose primary purpose is to
65 provide collegiate or graduate education and not to provide religious training or theological education to
66 the end that such authorities may protect and promote the health and welfare of the inhabitants of the
67 Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, and
68 improvement of facilities of aforesaid institutions in order to provide improved educational facilities for
69 the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be
70 necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit
71 of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience, or
72 prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such
73 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.

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

109 It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to
110 industrial development authorities, in addition to the powers previously or hereafter granted herein, the
111 power to make grants associated with the construction of affordable housing in order to promote safe
112 and affordable housing in the Commonwealth and to benefit thereby the safety, health, welfare, and
113 prosperity of the inhabitants of the Commonwealth.

114 It is the further intent of the legislature and shall be the policy of the Commonwealth to grant
115 industrial development authorities the powers contained herein with respect to public school buildings
116 and facilities to promote the safety, health, welfare, convenience, and prosperity of the school children
117 of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement,
118 improvement, financing, and refinancing of such facilities of school boards in order to provide for the
119 modernization of public school buildings or facilities pursuant to Article 3 (§ 22.1-141.1 et seq.) of
120 Chapter 9 of Title 22.1.

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 facilitating and supporting landowner access to carbon markets through aggregation of landowners to reach a size that attracts the investment of private capital. Such aggregation provides landowners of various size tracts of land enhanced opportunities to access capital and benefits that support and enhance the agriculture and forest industries for the health, welfare, convenience and prosperity of the inhabitants of the Commonwealth.

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

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

§ 15.2-4902. Definitions.

Wherever used in this chapter, unless a different meaning clearly appears in the context:

"Authority" means any political subdivision, a body politic and corporate, created, organized and operated pursuant to the provisions of this chapter, or if the authority is abolished, the board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Authority facilities" or "facilities" means any or all (i) medical (including, but not limited to, office and treatment facilities), pollution control or industrial facilities; (ii) facilities for the residence or care of the aged; (iii) multi-state regional or national headquarters offices or operations centers; (iv) facilities for private, accredited and nonprofit institutions of collegiate, elementary, or secondary education in the Commonwealth whose primary purpose is to provide collegiate, elementary, secondary, or graduate education and not to provide religious training or theological education, such facilities being for use as academic or administration buildings or any other structure or application usual and customary to a college, elementary or secondary school campus other than chapels and their like; (v) parking facilities, including parking structures; (vi) facilities for use as office space by nonprofit, nonreligious organizations; (vii) facilities for museums and historical education, demonstration and interpretation, together with buildings, structures or other facilities necessary or desirable in connection with the foregoing, for use by nonprofit organizations; (viii) facilities for use by an organization (other than an organization organized and operated exclusively for religious purposes) which is described in § 501(c) (3) of the Internal Revenue Code of 1986, as amended, and which is exempt from federal income taxation pursuant to § 501 (a) of such Internal Revenue Code; (ix) facilities for use by a locality, the Commonwealth and its agencies, or other governmental organizations, provided that any such facilities owned by a locality, the Commonwealth or its agencies or other public bodies subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not be exempt from competitive procurement requirements, under the exception granted in subsection B of § 2.2-4344; (x) facilities devoted to the staging of equine events and activities (other than racing events); however, such facilities must be owned by a governmental or nonprofit, nonreligious organization and operated by any such governmental or nonprofit, nonreligious organization; (xi) facilities for commercial enterprises that are not enterprise zone facilities (as defined in § 1394 (b) of the Internal Revenue Code of 1986, as amended) now existing or hereafter acquired, constructed or installed by or for the authority pursuant to the terms of this chapter; however, facilities for commercial enterprise that are not enterprise zone facilities but which are taxable authority facilities shall constitute authority facilities only if the interest on any bonds issued to finance such facilities is not exempt from federal income taxation; (xii) enterprise zone facilities; and (xiii) facilities used primarily for single or ~~multi-family~~ multifamily residences. ~~Clause (xiii) applies only to industrial development authorities created by one or more localities whose housing authorities have not been activated as provided by §§ 36-4 and 36-4.1.~~ Any facility may be located within or outside or partly within or outside the locality creating the authority. Any facility may consist of or include any or all buildings, improvements, additions, extensions, replacements, machinery or equipment, and may also include appurtenances, lands, rights in land, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, acquired, constructed, or installed by or on behalf of the authority. A pollution control facility shall include any facility acquired, constructed or installed or any expenditure made, including the reconstruction, modernization or modification of any existing building, improvement, addition, extension, replacement, machinery or equipment, and which is designed to further the control or abatement of land, sewer, water, air, noise or general environmental pollution derived from the operation of any industrial or medical facility. Any facility may be constructed on or installed in or upon lands, structures, rights-of-way, easements, air rights, franchises or other property rights or interests whether owned by the authority or others.

"Bonds" or "revenue bonds" embraces notes, bonds and other obligations authorized to be issued by the authority pursuant to the provisions of this chapter.

"Cost" means, as applied to authority facilities, the cost of construction; the cost of acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interests; the cost of

182 demolishing, removing or relocating any buildings or structures on lands acquired, including the cost of
183 acquiring any lands to which such buildings or structures may be moved or relocated; the cost of all
184 labor, materials, machinery and equipment; financing charges and interest on all bonds prior to and
185 during construction and, if deemed advisable by the authority, for a period not exceeding one year after
186 completion of such construction; cost of engineering, financial and legal services, plans, specifications,
187 studies, surveys, estimates of cost and of revenues, and other expenses necessary or incident to
188 determining the feasibility or practicability of constructing the authority facilities; administrative
189 expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions
190 and improvements; and such other expenses as may be necessary or incident to the construction of the
191 authority facilities, the financing of such construction and the placing of the authority facilities in
192 operation. Any obligation or expense incurred by the Commonwealth or any agency thereof, with the
193 approval of the authority, for studies, surveys, borings, preparation of plans and specifications or other
194 work or materials in connection with the construction of the authority facilities may be regarded as a
195 part of the cost of the authority facilities and may be reimbursed to the Commonwealth or any agency
196 thereof out of the proceeds of the bonds issued for such authority facilities as hereinafter authorized.

197 "Enterprise" means any industry for manufacturing, processing, assembling, storing, warehousing,
198 distributing, or selling any products of agriculture, mining, or industry and for research and development
199 or scientific laboratories, including, but not limited to, the practice of medicine and all other activities
200 related thereto or for such other businesses or activities as will be in the furtherance of the public
201 purposes of this chapter.

202 "Loans" means any loans made by the authority in furtherance of the purposes of this chapter from
203 the proceeds of the issuance and sale of the authority's bonds and from any of its revenues or other
204 moneys available to it as provided herein.

205 "Revenues" means any or all fees, rates, rentals and receipts collected by, payable to or otherwise
206 derived by the authority from, and all other moneys and income of whatsoever kind or character
207 collected by, payable to or otherwise derived by the authority in connection with the ownership, leasing
208 or sale of the authority facilities or in connection with any loans made by the authority under this
209 chapter.

210 "Taxable authority facilities" means any private or commercial golf course, country club, massage
211 parlor, tennis club, skating facility (including roller skating, skateboard and ice skating), racquet sports
212 facility, suntan facility, race track, or facility the primary purpose of which is one of the following: (i)
213 retail food and beverage services (excluding grocery stores), (ii) automobile sales and service, (iii)
214 recreation or entertainment, or (iv) banks, savings and loan institutions or mortgage loan companies. The
215 foregoing sentence notwithstanding, no facility financed as an enterprise zone facility using tax-exempt
216 "enterprise zone facility bonds" (as such term is used in § 1394 of the Internal Revenue Code) shall
217 constitute a taxable authority facility.

218 "Trust indenture" means any trust agreement or mortgage under which bonds authorized pursuant to
219 this chapter may be secured.