

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 2.2-2292, 15.2-4906, 15.2-4907, and 36-29 of the Code of Virginia,*
 3 *relating to private activity bonds; public hearings.*

[S 1061]

Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That §§ 2.2-2292, 15.2-4906, 15.2-4907, and 36-29 of the Code of Virginia are amended and**
 8 **reenacted as follows:**

9 **§ 2.2-2292. Public hearing and approval.**

10 Whenever federal law requires public hearings and public approval as a prerequisite to obtaining
 11 federal tax exemption for the interest paid on private activity bonds under Section § 147(f) of the
 12 Internal Revenue Code, unless otherwise specified by federal law or regulation, the public hearing for
 13 private activity bonds of the Authority shall be conducted by the Authority and the procedure for the
 14 public hearing and public approvals shall be as follows:

15 1. For a public hearing by the Authority:

16 a. Notice of the hearing shall be published ~~once a week for two successive weeks~~ *not less than seven*
 17 *days in advance of such hearing* in a newspaper published or having general circulation in the
 18 ~~municipality~~ *locality* in which the facility to be financed is to be located ~~of intention to provide~~
 19 ~~financing for a named applicant.~~ The applicant shall pay the cost of notification. ~~The notice shall also be~~
 20 ~~mailed or otherwise delivered to the clerk of the local governing body of the municipality.~~ The notice
 21 shall specify the time and place of hearing at which persons may appear and present their views. The
 22 hearing shall be held not less than ~~six seven days~~ *not more than 21 days* after the second notice shall
 23 ~~appear in such newspaper has been published.~~ The hearing may be held at any place within the
 24 Commonwealth determined by the Board.

25 b. The notice shall contain (i) the name and address of the Authority; (ii) the name and address of
 26 the principal place of business, if any, of the applicant seeking financing; (iii) the maximum dollar
 27 amount of financing sought; and (iv) the type of business and purpose and specific location, if known,
 28 of the facility to be financed.

29 c. ~~Every~~ *The Authority may require any* request for private activity bond financing when submitted
 30 to the Authority ~~shall~~ *to be accompanied by a statement in the following form, but the absence of any*
 31 *such form shall not affect the validity of a private activity bond:*

32 Name of Applicant: _____

33 Facility: _____

34 Date: _____

35 Maximum amount of financing sought: \$ _____

36 Estimated taxable value of the facility's real property in the municipality in which it is located.
 37 \$ _____

38 Estimated taxable value of the facility's real property once constructed or expanded. \$ _____

39 Estimated real property tax per year using present tax rates on the facility's real property once
 40 constructed or expanded. \$ _____

41 Estimated personal property tax per year from property to be located in expanded or constructed
 42 facility using present tax rate. \$ _____

43 Estimated merchants' capital tax per year from property to be located in expanded or constructed
 44 facility using present tax rate. \$ _____

45 Estimated dollar value per year of goods and services that will be purchased in the Commonwealth
 46 during construction or expansion of facility. \$ _____

47 Estimated dollar value per year of goods and services that will be purchased in the Commonwealth
 48 for the operation of the facility. \$ _____

49 Estimated dollar value per year of goods and services that will be produced and sold from the
 50 facility. \$ _____

51 Estimated number of employees during construction or expansion _____

52 Estimated number of regular employees on a year round basis during operation of the facility _____

53 Average annual salary per regular employee during operation of the facility. \$ _____

54 Estimated payroll for labor during construction or expansion of the facility. \$ _____

55 If any of the above questions do not apply to the eligible business being financed, indicate by
 56 writing N/A (not applicable) on the appropriate line.

2. For public approval, the Governor is appointed by this article as the applicable elected representative within the meaning of Section § 147(f)(2)(E) of the Internal Revenue Code.

§ 15.2-4906. Public hearing and approval.

A. Whenever federal law requires public hearings and public approval as a prerequisite to obtaining federal tax exemption for the interest paid on ~~industrial development~~ *private activity* bonds, unless otherwise specified by federal law or regulation, the public hearing shall be conducted by the authority and the procedure for the public hearing and public approval shall be in accordance with this section.

B. For a public hearing by the authority, notice of the hearing shall be published ~~once a week for two successive weeks~~ *not less than seven days in advance of such hearing* in a newspaper having general circulation in the locality in which the facility to be financed is to be located ~~of intention to provide financing for a named individual or business entity~~. The applicant shall pay the cost of publication. The notice shall specify the time and place of hearing at which persons may appear and present their views. The hearing shall be held not less than ~~six~~ *seven* days ~~nor more than twenty-one~~ days after the ~~second~~ notice shall appear in such newspaper *has been published*.

The notice shall contain: (i) the name and address of the authority; (ii) the name and address (principal place of business, if any) of the party seeking financing; (iii) the maximum dollar amount of financing sought; and (iv) the type of business and purpose and specific location, if known, of the facility to be financed.

If after the hearing has been held the authority approves the financing, a reasonably detailed summary of the comments expressed at the hearing shall be conveyed promptly to the locality's governing body together with the recommendation of the authority.

C. For public approval, the governing body of the locality on behalf of which the bonds of the authority are issued shall ~~within sixty calendar days from~~ *no more than one year after* the public hearing held by the authority either approve or disapprove financing of any facility recommended by the authority.

Action of the governing body shall be by a majority of a quorum set out in a resolution. Such vote shall be recorded and disclose how each member voted.

In case of a joint authority the approval required by the governing body of the locality shall be that governing body of the area where the facility will be located, if permitted by federal law or regulation.

The provisions of this section shall not apply to bonds, notes or other obligations issued pursuant to hearings held and governmental approvals obtained prior to the effective date of this act in compliance with federal law or regulation.

§ 15.2-4907. Fiscal impact statement.

~~Every~~ *An authority may require any request for industrial development (facility) private activity bond* financing when submitted to the ~~governing body of the locality for approval shall~~ *authority to be* accompanied by a statement in the following form, ~~but the absence of any such form shall not affect the validity of a private activity bond:~~

Date _____

(Name of Applicant) _____

(Facility) _____

1. Maximum amount of financing sought \$ _____
2. Estimated taxable value of the facility's real property to be constructed in the locality \$ _____
3. Estimated real property tax per year using present tax rates \$ _____
4. Estimated personal property tax per year using present tax rates \$ _____
5. Estimated merchants' capital tax per year using present tax rates \$ _____
6. a. Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality \$ _____
- b. Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality \$ _____
- c. Estimated dollar value per year of services that will be purchased from Virginia companies within the locality \$ _____
- d. Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality \$ _____
7. Estimated number of regular employees on year round basis \$ _____
8. Average annual salary per employee \$ _____

Signature _____

Authority Chairman _____

Name of Authority _____

120 If one or more of the above questions do not apply to the facility indicate by writing N/A (not
121 applicable) on the appropriate line.

122 The provisions of this section shall not apply to bonds, notes or other obligations issued pursuant to
123 hearings held and governmental approvals obtained prior to the effective date of this act in compliance
124 with federal law or regulation.

125 **§ 36-29. Power to issue bonds; liability in general.**

126 An authority shall have power to issue bonds from time to time in its discretion, for any of its
127 corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of
128 paying or retiring bonds previously issued by it or for the purpose of refunding loans made by another
129 entity if such loans could have been made by the authority. An authority may issue such types of bonds
130 as it may determine, including (without limiting the generality of the foregoing):

131 (a) Bonds on which the principal and interest are payable:

132 (1) Exclusively from the income and revenues of the housing project financed with the proceeds of
133 such bonds; or

134 (2) Exclusively from the income and revenues of certain designated housing projects whether or not
135 they are financed in whole or in part with the proceeds of such bonds; or

136 (3) From its revenues generally.

137 (b) Bonds on which the principal is payable solely from annual contributions or grants received from
138 the federal government or received from any other source, public or private.

139 Any such bonds may be additionally secured by a pledge of any grant or contributions from the
140 federal government or other source, or a pledge of any income or revenues of the authority, or a
141 mortgage of any housing project, projects or other property of the authority.

142 Neither the commissioners of an authority nor any person executing the bonds shall be liable
143 personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an
144 authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the
145 county, the Commonwealth or any political subdivision thereof (other than the authority) and neither the
146 city or the county, nor the Commonwealth or any political subdivision thereof (other than the authority)
147 shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or
148 properties other than those of the authority. The bonds shall not constitute an indebtedness within the
149 meaning of any constitutional or statutory debt limitation or restriction.

150 *Whenever federal law requires public hearings and public approval as a prerequisite to obtaining*
151 *federal tax exemption for the interest paid on private activity bonds authorized by this section, unless*
152 *otherwise specified by federal law or regulation, the public hearing shall be conducted by the authority*
153 *and the procedure for the public hearing and public approval shall be consistent with the procedures set*
154 *forth in § 15.2-4906.*

155 *An authority may require any application for private activity bond financing when submitted to the*
156 *authority to be accompanied by a statement in the form set forth in § 15.2-4907, but the absence of any*
157 *such form shall not affect the validity of a private activity bond.*