

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 740

An Act to amend and reenact §§ 15.1-1320, 15.1-1324, 15.1-1329, 15.1-1332, 15.1-1333, 15.1-1334 and 15.1-1340 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.1-1339.1, relating to development of former federal areas.

[H 1216]

Approved April 6, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.1-1320, 15.1-1324, 15.1-1329, 15.1-1332, 15.1-1333, 15.1-1334 and 15.1-1340 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.1-1339.1 as follows:

§ 15.1-1320. Declaration of policy.

This legislation is enacted to provide for the acquisition by political subdivisions of areas which have been or may hereafter be occupied as United States government military installations and which are disposed of by the United States government. The industrial and economic development of counties, cities and towns included in or adjacent to such military installations and the tax revenues of the Commonwealth will be seriously affected by the manner in which such areas are returned to nonmilitary uses and to the tax rolls, no provision having been made therefor. The proper development of such areas industrially and otherwise is required so that local governments may derive revenues with which to render necessary services to their citizens and so that industrial development; *job creation; and housing, recreational, commercial, educational and other economic and social development* may be fostered and stimulated to prevent the creation of blighted areas in the Commonwealth with resultant injury to all. The creation by this chapter and operation of such authorities hereunder are governmental functions of the gravest concern to the Commonwealth and the need for this enactment being a matter of legislative policy such need is hereby declared as a matter of legislative determination.

§ 15.1-1324. Board of commissioners; appointment of director, agents and employees.

All powers, rights and duties conferred by this chapter, or other provisions of law, upon an authority created hereunder shall be exercised by a board of commissioners of that authority, hereinafter referred to as board or board of commissioners. The board shall consist of seven members to be appointed by the Governor, of whom at least five shall be residents of the counties in which the authority is located. The members shall serve for terms of six years each, the initial appointment to be two members for terms of six years, two members for terms of five years, two members for terms of four years and one member for a term of three years, and subsequent appointments to be made for terms of six years, except appointments to fill vacancies which shall be made for the unexpired term. Members shall receive from the authority their *necessary travel and business expenses and per diem of fifteen dollars for each day spent while* on business of the board. Each commissioner shall before entering on his duties take and subscribe the oath prescribed by § 49-1.

The board shall appoint the chief executive officer of the authority, who shall not be a member thereof, to be known as the director of that authority, hereinafter referred to as director, and whose compensation shall be paid by the authority in the amount determined by the board. The board shall employ or retain such other agents or employees subordinate to the director as may be necessary, including persons with special qualifications, and shall determine which such agents or employees shall be bonded and the amount of such bonds. The director and other agents and employees so appointed shall serve at the pleasure of the board, which shall fix their compensation and prescribe their duties.

The board shall elect from its membership a chairman, vice-chairman, a secretary and a treasurer, or secretary-treasurer, and shall prescribe their powers and duties. Four members shall constitute a quorum of the board for the purpose of conducting its business and exercising its powers and for all other purposes. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection. It shall keep suitable records of all of its financial transactions and shall arrange to have the same audited annually.

§ 15.1-1329. Powers of authorities generally.

An authority shall have the following powers:

(a) 1. To sue and be sued; to adopt and use a common seal and to alter the same as may be deemed expedient; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with law, to carry into effect the powers and purposes of the authority.

(b) 2. To foster and stimulate the industrial, *social and other economic* development of its area of operation, *including without limitation development for industrial, employment, housing, commercial,*

recreational, educational and other public purposes; to prepare and carry out plans and projects to accomplish such objectives; to provide for the construction, reconstruction, improvement, alteration, maintenance, removal, equipping or repair of any buildings or structures or land of any kind; to sell, lease or rent to others or to develop, operate or manage with others in a joint venture or other partnering arrangement, on such terms as it may deem proper and which are consistent with the provisions of § 15.1-1338 hereinafter set forth, any lands, dwellings, houses, accommodations, structures, buildings, facilities, or appurtenances embraced within its area of operations; to establish, collect and revise the rents charged and terms and conditions of occupancy thereof; to terminate any such lease or rental obligation upon the failure of the lessee or renter to comply with any of the obligations thereof; to arrange or contract for the furnishing by any person or agency, public or private, of works, services, privileges or facilities in connection with any activity in which the authority may engage; to acquire, own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, easement, dedication or otherwise any real or personal property or any interest therein; to sell, lease, exchange, transfer, assign, or pledge any real or personal property or any interest therein; to dedicate, make a gift of, or lease for a nominal amount, any real or personal property or any interest therein to the Commonwealth, or the counties, cities and towns or agencies, public or private, within the area of operation or adjacent to such authority, jointly or severally, for public use or benefit, such as, but not limited to, game preserves, playgrounds, park and recreational areas and facilities, hospitals, clinics, schools and airports; to acquire, lease, maintain, alter, operate, improve, expand, sell or otherwise dispose of on-site utility and infrastructure systems or sell any excess service capacity for off-site use; to acquire, lease, construct, maintain and operate and dispose of tracks, spurs, crossings, terminals, warehouses and terminal facilities of every kind and description necessary or useful in the transportation and storage of goods, wares and merchandise; and to insure or provide for the insurance of any real or personal property or operation of the authority against any risks or hazards.

(e) 3. To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursements, in property or security in which fiduciaries may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled.

(d) 4. To undertake and carry out examinations, investigations, studies and analyses of the business, industrial and agricultural, utility, transportation and other economic development needs, requirements and potentialities of its area of operation, or off-site needs, requirements and potentialities which directly affect the successful industrial and economic development of its area of operation, and the manner in which such needs and requirements and potentialities are being met, or should be met, in order to accomplish the purposes for which it is created; to make use of the facts determined in such research and analyses in its own operation; and to make the results of such studies and analyses available to public bodies and to private individuals, groups and businesses, except as such information may be exempted pursuant to the Virginia Freedom of Information Act (§ 2.1-340 et seq.).

(e) 5. In the discharge of its enumerated powers, to cooperate with the federal government, the Commonwealth and the counties, cities and towns within its area of operation or adjacent to such authority.

(f) 6. To appoint an authority advisory committee to advise it, consisting of such number of persons as it may deem proper. Such persons so appointed shall be residents of the counties localities in which the authority is located. They shall not receive any compensation for their services but may be reimbursed for their necessary traveling and other expenses incurred while on business of the authority.

(g) 7. To exercise all or any part or combination of powers herein granted.

(h) 8. To do any and all other acts and things which may be reasonably necessary and convenient to carry out its purposes and powers.

No provision of law with respect to the acquisition, operation or disposition of property by other political subdivisions or public bodies shall be applicable to an authority unless specifically stated therein. *In any locality where planning, zoning or development regulations may apply, the authority shall comply with and is subject to those regulations to the same extent as a private commercial or industrial enterprise.*

§ 15.1-1332. Authorities may borrow money, accept contributions, etc.

In addition to the powers conferred upon an authority by other provisions of this chapter, an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the federal government; the Commonwealth; any county, city, town or political subdivision; or any agency or instrumentality thereof; or from any source, public or private, for or in aid of any project of the authority, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable.

§ 15.1-1333. Authorities empowered to issue bonds; additional security; liability thereon.

An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes, including the issuance of refunding bonds for the payment or retirement of bonds previously issued by it. An authority may issue such type of bonds as it may determine, including (without limiting the generality of the foregoing):

- (a) 1. Bonds on which the principal and interest are payable:
- (1) a. Exclusively from the income and revenues of the project or facility financed with the proceeds of such bonds; or
 - (2) b. Exclusively from the income and revenues of certain designated projects or facilities whether or not they are financed in whole or in part with the proceeds of such bonds; or
 - (3) c. From its revenues generally.
- (b) 2. Bonds on which the principal and/or interest are payable solely from contributions or grants received from the federal government, *the Commonwealth* or ~~received from~~ any other source, public or private.

Any such bonds may be additionally secured by a pledge of any grants or contributions from the federal government, the Commonwealth of Virginia or any political subdivision of the Commonwealth, or other source, or a pledge of any income or revenues of the authority, or a mortgage of any particular projects or facilities or other property of the authority.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth, or any political subdivision thereof (other than the issuing authority), and neither the Commonwealth nor any political subdivision thereof (other than the issuing authority) shall be liable thereon, nor shall such bonds or obligations be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose.

§ 15.1-1334. Bonds to be authorized by resolution of board; terms; sale; negotiability; validity.

Bonds of an authority shall be authorized by resolution of its board and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such *annual* rate or rates, not exceeding ~~six per centum per annum~~ *nine percent*, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable to such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide. The bonds may be sold at public or private sale.

In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery. Any provisions of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable within the meaning and for all the purposes of Title 8.3.

In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a specific project or facility of such authority shall be conclusively deemed to have been issued for such enumerated purpose and such project or facility shall be conclusively deemed to have been conducted and operated in all respects in accordance with the purposes and provisions of this chapter.

§ 15.1-1339.1. *Dissolution of authority.*

Whenever the commission of the authority by resolution determines that the purposes for which the authority was formed have been substantially complied with and all bonds issued and all obligations incurred by the authority have been fully paid, the commission shall execute and file for record with the governing bodies of the counties, cities or towns within the area of operation of the authority, a resolution declaring such facts. If the governing bodies of the counties, cities or towns within the area of operation are of the opinion that the facts stated in the authority's resolution are true and the authority should be dissolved, they shall so resolve; however, the authority shall not be dissolved unless or until the Governor, upon receipt of the duly certified resolution of each governing body of each county, city or town within the area of operation of the authority requesting dissolution, shall proclaim that the authority is dissolved. Any such authority for which such a proclamation was issued shall be dissolved as of the date on which the proclamation was issued. Upon such dissolution, the title to all funds and properties owned by the authority at the time of such dissolution shall vest in the counties, cities or towns in the area of operation or to not-for-profit agencies, public or private, as may be designated by the counties, cities or towns.

§ 15.1-1340. Powers conferred additional and supplemental; severability; liberal construction.

The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law. *The powers granted and the duties imposed in this chapter shall be construed to be independent and severable. If any one or more sections, subsections, sentences or parts of any of this chapter shall be adjudged unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific*

provisions held unconstitutional or invalid. This chapter shall be liberally construed to effect the purposes hereof.