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**HOUSE BILL NO. 1187**

Offered January 22, 1996

*A BILL to amend and reenact §§ 36-137, 36-139, 36-141, 36-142, 36-143, 36-144, and 36-146 of the Code of Virginia and to repeal § 36-150 of the Code of Virginia, relating to the Virginia Housing Partnership Revolving Fund.*

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 Referred to Committee on General Laws
 

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

**1. That §§ 36-137, 36-139, 36-141, 36-142, 36-143, 36-144, and 36-146 of the Code of Virginia are amended and reenacted as follows:**

§ 36-137. Powers and duties of Board.

The Board shall exercise the following powers and duties, and such others as may be provided by law:

1. Provide a means of citizen access to the Department.
2. Provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department activities.
3. Monitor the policies and activities of the Department and have the right of access to departmental information.

4. Advise the Governor and the Director on matters relating to housing and community development.

5. Make such rules and regulations as may be necessary to carry out its responsibilities and repeal or amend such rules when necessary.

6. Issue a certificate of competence concerning the content, application, and intent of specified subject areas of the building and fire regulations promulgated by the Board to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections pursuant to Chapter 6 (§ 36-97 et seq.) of this title and any regulations adopted thereunder, who have completed training programs or in other ways demonstrated adequate knowledge.

7. Levy by regulation up to one percent of building permit fees authorized pursuant to § 36-105 to support training programs of the Building Code Academy established pursuant to § 36-139. Local building departments shall collect such levy and transmit it quarterly to the Department of Housing and Community Development. Localities which maintain, individual or regional, training academies accredited by the Department of Housing and Community Development shall retain such levy. However, such localities may send employees to training programs of the Building Code Academy upon payment of a fee calculated to cover the cost of such training. Any unspent balance shall be reappropriated each year for the continued operation of the Building Code Academy. Annual collections of such levy in excess of \$500,000 or any unobligated fund balance greater than one-third of that year's collections shall be credited against the levy to be collected in the next fiscal year.

8. Establish general policies, ~~procedures~~ *goals*, and programs for the Virginia *Affordable* Housing Partnership Revolving Fund established in Chapter 9 (§ 36-141 et seq.) of this title.

9. ~~Determine the categories of housing programs, housing sponsors and persons and families of low and moderate income eligible to participate in grant or loan programs of the Virginia Housing Partnership Revolving Fund and designate the proportion of such grants or loans to be made available in each category.~~

10. Advise the Director of the Department on the program guidelines required to accomplish the policies and procedures of the Virginia Housing Partnership Revolving Fund.

~~11. Advise the Virginia Housing Development Authority on matters relating to the administration and management of loans and grants from the Virginia Affordable Housing Partnership Revolving Fund.~~

12. Establish the amount of the low-income housing credit, the terms and conditions for qualifying for such credit, and the terms and conditions for computing any credit recapture amount for the Virginia income tax return.

~~1310.~~ Serve in an advisory capacity to the Center for Housing Research established by § 23-135.7:14.

~~1411.~~ Advise the Department in the development of the Comprehensive Housing Affordability Strategy on the Housing and Urban Development Consolidated Plan to guide and coordinate the housing and community development programs of the Department, the Virginia Housing Development Authority, and other state agencies and instrumentalities.

§ 36-139. Powers and duties of Director.

The Director of the Department of Housing and Community Development shall have the following

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responsibilities:

1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their planning and development activities, boundary changes, changes of forms and status of government, intergovernmental agreements and arrangements, and such other information as he may deem necessary.

2. Making information available to communities, planning district commissions, service districts and governmental subdivisions of the Commonwealth.

3. Providing professional and technical assistance to, and cooperating with, any planning agency, planning district commission, service district, and governmental subdivision engaged in the preparation of development plans and programs, service district plans, or consolidation agreements.

4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the General Assembly in accordance with § 15.1-1412.

5. Administering federal grant assistance programs, including funds from the Appalachian Regional Commission, the Economic Development Administration and other such federal agencies, directed at promoting the development of the Commonwealth's communities and regions.

6. Developing state community development policies, goals, plans and programs for the consideration and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the General Assembly.

7. Developing a Comprehensive Housing Affordability Strategy to guide the development and implementation of housing programs in the Commonwealth for the purpose of meeting the housing needs of the Commonwealth and, in particular, those of low-income and moderate-income persons and families.

8. Determining present and future housing requirements of the Commonwealth on an annual basis and revising the Comprehensive Housing Affordability Strategy, as necessary to coordinate the elements of housing production to ensure the availability of housing where and when needed.

9. Assuming administrative coordination of the various state housing programs and cooperating with the various state agencies in their programs as they relate to housing.

10. Establishing public information and educational programs relating to housing; devising and administering programs to inform all citizens about housing and housing-related programs that are available on all levels of government; designing and administering educational programs to prepare families for home ownership and counseling them during their first years as homeowners; and promoting educational programs to assist sponsors in the development of low and moderate income housing as well as programs to lessen the problems of rental housing management.

11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

13. Administering the provisions of the Statewide Fire Prevention Code (§ 27-94 et seq.).

14. Establishing and operating a Building Code Academy for the training of personnel in building regulations promulgated by the Board of Housing and Community Development.

15. Administering, in conjunction with the federal government, and promulgating any necessary regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

16. Identifying and disseminating information to local governments about the availability and utilization of federal and state resources.

17. Administering, with the cooperation of the Department of Health, state assistance programs for public water supply systems.

~~18. Advising the Board on matters relating to policies and programs~~ *Developing state housing policies, goals and programs of the Virginia Housing Partnership Revolving Affordable Housing Fund for consideration and adoption by the Board.*

~~19. Designing and establishing program guidelines to meet the purposes of~~ *Establishing policies for loans and grants to be made from the Virginia Affordable Housing Housing Partnership Revolving Fund and to carry out the policies and procedures established by the Board.*

~~20. Preparing agreements and documents for loans and grants to be made from the Virginia Housing Partnership Revolving Fund; soliciting~~ *Soliciting, receiving, reviewing and selecting the applications for which loans and grants are to be made from such fund the Virginia Affordable Housing Fund; directing the Virginia Housing Development Authority as to the closing and disbursing of such loans and grants and as to the servicing and collection of such loans; directing the Virginia Housing Development Authority as to the regulation and monitoring of the ownership, occupancy and operation of the housing developments and residential housing financed or assisted by such loans and grants; and providing direction and guidance to the Virginia Housing Development Authority as to the investment of moneys in such fund management of such Fund's assets.*

~~21. Advising the Board on matters relating to policies for the low-income housing credit and administering the approval of low-income housing credits as provided in § 36-55.63~~ *Determining the categories of housing programs, housing sponsors and persons and families of low and moderate income eligible to participate in grant and loan programs of the Virginia Affordable Housing Fund and*

designating the proportion of such grants and loans to be made available in each category.

22. Establishing and administering program guidelines for a statewide homeless intervention program.

23. Carrying out such other duties as may be necessary and convenient to the exercise of powers granted to the Department.

§ 36-141. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the ~~Board of Housing and Community Development~~ *Virginia Housing Development Authority Board of Commissioners*.

"Fund" means the *Virginia Affordable Housing Partnership Revolving Fund* created by this chapter.

"HDA" means the Virginia Housing Development Authority created in Chapter 1.2 (§ 36-55.24 et seq.) of this title.

"Housing development" or "housing project" means any work or undertaking, whether new construction or rehabilitation, which is designed and financed pursuant to the provisions of this chapter for the primary purpose of providing affordable sanitary, decent and safe dwelling accommodations for persons and families of low or moderate income in need of housing; such work or undertaking may include any buildings, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and such offices, and other nonhousing facilities incidental to such development or project such as administrative, community, health, educational and recreational facilities as the Department of Housing and Community Development determines to be necessary. "Low and moderate income" shall be defined in the program guidelines developed by the Department of Housing and Community Development.

"Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, public bodies, trusts, firms, associations, or other legal entities or any combination thereof, corporations, cooperatives and condominiums, approved by the Department of Housing and Community Development as qualified either to own, construct, acquire, rehabilitate, operate, manage or maintain a housing development, whether nonprofit or organized for limited profit subject to the regulatory powers of the Department of Housing and Community Development and other terms and conditions set forth in this chapter.

"Residential housing" means a specific work or improvement within this Commonwealth, whether multi-family residential housing or single-family residential housing undertaken primarily to provide dwelling accommodations, including the acquisition, construction, rehabilitation, preservation or improvement of land, buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental, related, or appurtenant thereto.

§ 36-142. Creation and management of Fund.

There shall be set apart as a permanent and perpetual fund, to be known as the "*Virginia Affordable Housing Partnership Revolving Fund*," sums appropriated to the Fund by the General Assembly, sums as may be allocated to the Commonwealth for this purpose by the United States government, all receipts by the Fund from loans made by it to housing sponsors and persons and families of low and moderate income, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private. *The Fund shall also consist of moneys set aside by HDA from its fund balance to be separately accounted for by HDA.* The Fund is created to address the serious shortage in the Commonwealth of safe and decent residential housing at prices that persons and families of low and moderate income can afford. Housing developments and housing projects funded through the Fund are intended to provide additional affordable housing opportunities for low and moderate income Virginians, by preserving existing housing units, by producing new housing units and by assisting persons with special needs to obtain adequate housing.

The Fund shall be administered and managed by the HDA as prescribed in this chapter. In order to carry out the administration and management of the Fund, the HDA is granted the power to employ officers, employees, agents, advisers and consultants, including, without limitation, attorneys, financial advisers, public accountants, engineers and other technical advisers and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation without the approval of any other agency or instrumentality. The HDA may disburse from the Fund its reasonable costs and expenses incurred in the administration and management of the Fund and a reasonable fee to be reviewed by the Board for its management services, which fee shall not exceed such amount as would be customary and usual for the services rendered.

§ 36-143. Deposit of money; expenditures; investments.

All money belonging to the Fund, *other than money set aside by HDA from its fund balance*, shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings and loan associations located in Virginia organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check signed by the Executive Director of the HDA or

183 other officers or employees designated by the Commissioners of the HDA. All deposits of money shall,  
184 if required by the *Executive* Director of the ~~Department of Housing and Community Development~~ HDA,  
185 be secured in a manner determined by the *Executive* Director of the ~~Department of Housing and~~  
186 ~~Community Development~~ HDA to be prudent. All banks, trust companies and savings and loan  
187 associations are authorized to give security for the deposits. Money in the Fund shall not be commingled  
188 with other money of the HDA. Money in the Fund not needed for immediate use or disbursement may  
189 be invested or reinvested by the HDA at the direction and guidance of the Director of the Department of  
190 ~~Housing and Community Development~~ in obligations or securities which are considered lawful  
191 investments for public funds under the laws of the Commonwealth. All interest and earnings accrued  
192 from investments of moneys from the Fund shall be used to increase the amount available in the Fund.

193 § 36-144. Annual audit.

194 An independent certified public accountant selected by the HDA, shall annually audit the accounts of  
195 the Fund, and the cost of such audit services shall be borne by the HDA and be paid from moneys  
196 designated for such purposes in the Fund. The audit shall be performed at least each fiscal year, in  
197 accordance with generally accepted auditing standards and, accordingly, include such tests of the  
198 accounting records and such auditing procedures as considered necessary under the circumstances. Such  
199 audit shall be reviewed by the Auditor of Public Accounts. The HDA shall furnish copies of the audit  
200 and a report on the status of the Fund to the Governor, the Secretary of Commerce and Trade, the  
201 Chairmen of the House Appropriations and the Senate Finance Committees, and to the Board on or  
202 before December 1 of each year.

203 § 36-146. Loans.

204 Except as otherwise provided in this chapter, money in the Fund shall be used to make loans to  
205 housing sponsors and to persons and families of low and moderate income to finance or refinance the  
206 acquisition, construction, improvement, ownership or occupancy of housing developments and residential  
207 housing for persons and families of low and moderate income.

208 Except as provided in this chapter, the Department of Housing and Community Development shall  
209 determine the terms and conditions of any loan from the Fund, including but not limited to the interest  
210 rate and repayment terms of each loan. All loans from the Fund shall be evidenced by appropriate notes  
211 of the loan recipient payable to the Fund. Any such loans made with respect to dwellings of residents of  
212 the Commonwealth shall be limited to dwellings occupied by persons or families of low and moderate  
213 income. The *Executive* Director of the ~~Department of Housing and Community Development~~ HDA is  
214 authorized to require in connection with any loan from the Fund any documents, instruments,  
215 certificates, legal opinions or other information it deems necessary or convenient.

216 **2. That § 36-150 of the Code of Virginia is repealed.**