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HOUSE BILL NO. 1561

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on January 31, 1997)

(Patron Prior to Substitute—Delegate Thomas)

A BILL to amend and reenact §§ 9-221 and 9-235 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 9-228.1 through 9-228.4, relating to the creation of the Virginia Export Loan Guarantee Fund; Virginia Small Business Financing Authority.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9-221 and 9-235 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 9-228.1 through 9-228.4 as follows:

§ 9-221. Liability of Commonwealth, political subdivisions and members of Board.

No bonds issued or loans or loan guarantees made by the Authority under this chapter shall constitute a debt, liability or general obligation of the Commonwealth or any political subdivision thereof (other than the Authority), or a pledge of the faith and credit of the Commonwealth or any political subdivision thereof (other than the Authority), but shall be payable solely as provided by the Authority. No member or officer of the Board nor any person executing the bonds, loans, or loan guarantees shall be liable personally on the bonds, loans, or loan guarantees by reason of the issuance thereof. Each bond issued or loan or loan guarantee made under this chapter shall contain on the face thereof a statement that neither the Commonwealth, nor any other political subdivision thereof, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenue or money pledged by the Authority and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of, or the interest on, such bond, loan, or loan guarantee.

§ 9-228.1. Creation, administration, and management of Virginia Export Loan Guarantee Fund.

In addition to any other fund or account the Authority may create pursuant to § 9-228, there shall be a permanent fund known as the Virginia Export Loan Guarantee Fund (the "Fund"). The Fund shall be comprised of (i) sums appropriated to it by the General Assembly, (ii) receipts by the Fund from loan guarantees made against it, (iii) all income from the investment of moneys held by the Fund, and (iv) any other sums designated for deposit to the Fund from any source, public or private. The Fund shall be administered and managed by the Authority, and all monies in the Fund shall be used to provide loans or loan guarantees as provided in § 9-228.4. Any balances remaining in the Fund shall not revert to the general fund but shall be retained in order to make additional loans or loan guarantees.

§ 9-228.2. Deposit of moneys.

All moneys belonging to the Fund shall be deposited to the credit of the State Treasurer and recorded on the books of the State Comptroller. Earnings from investments and interest shall be returned to the Fund.

§ 9-228.3. Collection of moneys due to the Fund.

The Authority, or its designated agent, is empowered to collect moneys due to the Fund. Proceedings to recover moneys due to the Fund may be instituted by the Authority in the name of the Fund in any appropriate circuit court.

§ 9-228.4. Loan guarantees made against the Fund.

A. The Fund shall be used to guarantee up to ninety percent of the principal amount of any commercial loan or line of credit made by a lender for the purpose of facilitating the sale of goods, products, or services outside of the United States by persons, firms, or corporations utilizing a Virginia air, land, or sea port to ship such goods, products, or services. Such guarantee shall not exceed one million dollars.

B. The Authority shall determine the terms and conditions of any loan guarantee made against the Fund and may allow for use of the Fund in single or multiple transactions. No loan guarantee shall exceed a term of eighteen months. The Authority shall charge an annual guarantee fee. However, the Authority may waive such fees in an economically distressed area as defined in § 58.1-439. In connection with applications for loan guarantees made against the Fund, the Authority is authorized to require the production of any document, instrument, certificate, legal opinion, or other information it deems necessary or convenient.

C. All loan guarantees made against the Fund shall be approved by the Board or an authorized committee or subcommittee thereof.

§ 9-235. Annual report; audit.

The Authority shall, within 120 days of the close of each fiscal year, submit an annual report of its activities for the preceding fiscal year to the Governor and the chairmen of the House Committee on

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60 *Appropriations and the Senate Committee on Finance. The clerk of each house of the General*
61 *Assembly shall receive a copy of the report by making a request for it to the chairman of the Authority.*
62 *Each report shall set forth, for the preceding fiscal year, a complete operating and financial statement*
63 *for the Authority during the fiscal year it covers and any loan fund or loan guarantee fund the Authority*
64 *administers or manages. The Commonwealth's Auditor of Public Accounts or his designee shall at least*
65 *once in a year audit the books and accounts of the Authority and any loan fund or loan guarantee fund*
66 *the Authority administers or manages.*