

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 36-55.41 of the Code of Virginia, relating to HDA; capital reserve funds.

[H 2475]

Approved

Be it enacted by the General Assembly of Virginia:**1. That § 36-55.41 of the Code of Virginia is amended and reenacted as follows:**

§ 36-55.41. Reserve funds and appropriations.

~~(1)~~ ~~(a)~~ A. 1. HDA may create and establish one or more special funds (herein referred to as "capital reserve funds"), and shall pay into each such capital reserve fund ~~(1 i)~~ any moneys appropriated and made available by the Commonwealth for the purpose of such fund, ~~(2 ii)~~ any proceeds of sale of notes or bonds, to the extent provided in the resolution or resolutions of HDA authorizing the issuance thereof, and ~~(3 iii)~~ any other moneys which may be made available to HDA for the purpose of such fund from any other source or sources. All moneys held in any capital reserve fund, except as hereinafter provided, shall be used, as required, solely for the payment of the principal of bonds secured in whole or in part by such fund or of the sinking fund payments hereinafter mentioned with respect to such bonds, the purchase or redemption of such bonds, the payment of interest on such bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; however, if moneys in any such fund at any time are less than the minimum capital reserve fund requirement established for such fund as hereinafter provided, HDA shall not use such moneys for any optional purchase or redemption of such bonds. Any income or interest earned by, or increment to, any capital reserve fund due to the investment thereof may be transferred by HDA to other funds or accounts of HDA to the extent it does not reduce the amount of such capital reserve fund below the minimum capital reserve fund requirement for such fund;

~~(b)~~ 2. HDA shall not at any time issue bonds, secured in whole or in part by a capital reserve fund, if upon the issuance of such bonds, the amount of such capital reserve fund will be less than the minimum capital reserve fund requirement of such fund, unless HDA, at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds to be issued, or from other sources, an amount which, together with the amount then in such fund, will not be less than the minimum capital reserve fund requirement for such fund. For purposes of this section, the term "minimum capital reserve fund requirement" shall mean, as of any particular date of computation, an amount of money, as provided in the resolutions of HDA authorizing the bonds with respect to which such fund is established, equal to not more than the greatest of the respective amounts, for the current or any future fiscal year of HDA, of annual debt service on the bonds of HDA secured in whole or in part by such fund, such annual debt service for any fiscal year being the amount of money equal to the aggregate of (i) all interest payable during such fiscal year on all bonds secured in whole or in part by such fund outstanding on the date of computation plus (ii) the principal amount of all such bonds outstanding on said date of computation which mature during such fiscal year, plus (iii) all amounts specified in any resolution of the authority authorizing any of such bonds as payable during such fiscal year as a sinking fund payment with respect to any of such bonds which mature after such fiscal year, all calculated on the assumption that such bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due and application in accordance with the resolution authorizing those bonds, of all of such sinking fund payments payable at or after said date of computation; however, in computing the annual debt service for any fiscal year as aforesaid, bonds deemed to have been paid in accordance with the defeasance provisions of the resolution or resolutions of HDA authorizing the issuance thereof shall not be included in bonds outstanding on the date of computation aforesaid;

~~(c)~~ 3. In computing the amount of any capital reserve funds for the purpose of this section, securities in which all or a portion of such funds shall be invested shall be valued at par or if purchased at less than par, at their cost to HDA;

~~(d)~~ 4. To assure the continued operation and solvency of HDA for the carrying out of its corporate purposes, provision is made in subdivision ~~(a)~~ 1 of this subsection for the accumulation in each capital reserve fund of an amount equal to the minimum capital reserve fund requirement for such fund.

~~(2)~~ B. In order further to assure the maintenance of the foregoing capital reserve funds, the chairman of HDA shall annually, on or before December 1, make and deliver to the Governor and Director of the Budget his certificate stating the sum, if any, required to restore each such capital reserve fund to the

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57 minimum capital reserve fund requirement for such fund. Within five days after the beginning of each
58 session of the General Assembly, the Governor shall submit to the presiding officer of each house
59 printed copies of a budget including the sum, if any, required to restore each such capital reserve fund
60 to the minimum capital reserve fund requirement for such fund. All sums appropriated by the legislature
61 for such restoration and paid shall be deposited by HDA in the applicable capital reserve fund.

62 ~~(3)~~ C. HDA shall create and establish such other fund or funds as may be necessary or desirable for
63 its corporate purposes.

64 (4) D. All amounts paid over to HDA by the Commonwealth pursuant to the provisions of this
65 section shall constitute and be accounted for as advances by the Commonwealth to HDA and, subject to
66 the rights of the holders of any bonds or notes of HDA theretofore or thereafter issued, shall be repaid
67 to the Commonwealth without interest from all available operating revenues of HDA in excess of
68 amounts required for the payment of bonds, notes or other obligations of HDA, the capital reserve funds
69 and operating expenses.

70 ~~(5)~~ E. The outstanding principal amount of notes and bonds issued by HDA secured by capital
71 reserve funds pursuant to this section, other than notes and bonds for which refunding obligations shall
72 have been issued pursuant to § 36-55.42, shall not exceed ~~\$1.3~~ \$1.5 billion. For the purpose of this
73 subdivision, the outstanding principal amount of notes or bonds issued by HDA at a price less than the
74 face amount thereof shall be deemed to be the issue price of such notes or bonds.