

# VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

## CHAPTER 719

*An Act to amend and reenact §§ 22.1-154 through 22.1-158 of the Code of Virginia, relating to Literary Fund loans.*

[H 918]

Approved April 16, 1998

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

**1. That §§ 22.1-154 through 22.1-158 of the Code of Virginia are amended and reenacted as follows:**

§ 22.1-154. Examination of title to property on application for loan.

A. Whenever application is made by a school board for a loan from the Literary Fund, the title to the real estate on which the building has been or is to be erected shall be examined and approved by the appropriate attorney for the Commonwealth or city or county attorney or by other competent attorney. The abstract shall be filed with the clerk of the circuit court having jurisdiction in the school division, and a certificate from the attorney making the abstract showing the school board or its governing body has a fee simple title to such lot or parcel of ground shall accompany the application. The certificate of the examining attorney shall contain a brief synopsis of any encumbrances on the property.

B. In lieu of an abstract and certificate, as provided in subsection A of this section, a policy of insurance insuring the fee simple title of the real estate on which the building has been or is to be erected, issued by an insurance company authorized to do business in this Commonwealth shall be sufficient for the purposes of this section.

C. *Notwithstanding the provisions of subsections A and B of this section, any school board which enters into a long-term lease with an agency of the United States government for land with the intention to use such land for the construction of a school and provides evidence that both parties to such lease are fully apprised of the construction plans, a copy of such lease, certification of the approval of the lease by the local governing body and the local school board, documentation of the fiscal integrity and benefits of the arrangement, and a brief synopsis of the lease to the Board may apply for and obtain a Literary Fund loan for construction of a school building on such property to house students of the school division, on the same basis as any school board holding title to a construction site or whose local governing body holds title to such construction site. For the purposes of this section, "long-term lease" means a lease for a term of twenty-five years or more.*

§ 22.1-155. Certificate of clerk of court or copy of lease on application for loan.

A. On the application for a loan from the Literary Fund, the following certificate shall be made by the clerk of the circuit court having jurisdiction in the school division making application for such loan:

### CERTIFICATE OF THE CLERK OF COURT.

Whereas, the school board or the governing body of ..... owns ..... acres of real estate in ..... county or ..... city at ....., Virginia, on which to erect the school building described in this application. The title deed to this property is recorded in the clerk's office for ..... county, or ..... city, in deed book number ....., page .....

One. That the title to the real estate has been examined and approved in writing by the attorney for the Commonwealth, the county or city attorney or other competent attorney and his report filed with the clerk of the court.

Two. That the certificate of the attorney examining the title shows that the school board or the governing body of ..... has a good and sufficient title in fee simple to the real estate subject to the (following) (no) encumbrances.

Given under my hand this the ..... day of ....., nineteen hundred and .....

..... Clerk of the Circuit Court of ..... County or City.

B. *Notwithstanding the provisions of subsection A of this section, any school board which enters into a long-term lease with an agency of the United States government for land with the intention to use such land for construction of a school and provides evidence that both parties to the lease are fully apprised of the construction plans, a copy of such lease, certification of the approval of the lease by the local governing body and the local school board, documentation of the fiscal integrity and benefits of the arrangement, and a brief synopsis of the lease to the Board shall file such lease with the clerk and obtain a certificate verifying such filing in the form prescribed by the Board of Education after consultation with the Office of the Attorney General. For the purposes of this section, "long-term lease" means a lease for a term of twenty-five years or more.*

§ 22.1-156. Submission of application and certificate of title to Attorney General.

A. The application for a loan from the Literary Fund and the attorney's certificate of title to the property on which is to be erected the school building for which the loan is to be made shall be

submitted to the Attorney General for his approval before the Board of Education makes such loan.

*B. Notwithstanding the provisions of subsection A of this section, any school board which enters into a long-term lease with an agency of the United States government for land with the intention to use such land for construction of a school and provides evidence that both parties to the lease are fully apprised of the construction plans, a copy of such lease, certification of the approval of the lease by the local governing body and the local school board, documentation of the fiscal integrity and benefits of the arrangement, and a brief synopsis of the lease to the Board may provide all of the materials disclosed to the Board of Education and the clerk's certificate required by § 22.1-155 B in lieu of the requirements of subsection A of this section to the Attorney General for his approval before the Board of Education makes such loan. For the purposes of this section, "long-term lease" means a lease for a term of twenty-five years or more.*

§ 22.1-157. Insurance.

A. The loans made under this chapter, including interest thereon, shall constitute a specific lien on the building and ~~addition~~ additions thereto for which such loan was made as well as the lots where the buildings are situated; however, in the case of a school board which enters into a long-term lease with an agency of the United States government for land with the intention to use such land for construction of a school, the loan shall constitute a specific lien on only the building and additions thereto. A memorandum of lien shall be duly recorded in the appropriate circuit court. A restriction on the use of the land for public school purposes shall not be deemed to operate as an encumbrance nor shall such a restriction defeat this lien. No recordation tax shall be assessable. *For the purposes of this section, "long-term lease" means a lease for a term of twenty-five years or more.*

B. The school board shall keep all ~~such~~ buildings constructed with funds borrowed from the Literary Fund fully and adequately insured for the benefit of the Literary Fund, and proof of the existence of the policy or policies of insurance shall be obtained by the insured from the insurer in a form satisfactory to the State Superintendent of Public Instruction.

§ 22.1-158. Provisions for payment.

The governing body of any county, city or town, if the town constitutes the school division, in which the school board has borrowed money from the Literary Fund shall include in its levies and appropriate to the school board a fund sufficient to meet the liabilities of the school board on such loan *for the construction or renovation or enlarging of any school building, regardless of whether the title to the site is held by the school board, the local governing body or by a third party with whom the school board has entered into a long-term lease.* The governing body of any county in which the school board thereof has borrowed money from the Literary Fund for construction of school facilities located in a town in such county constituting a separate school division shall have authority to include in its levies for such town, a levy sufficient to meet the liabilities of the school board on such loan and shall levy a separate tax in the rest of the county to meet its liabilities on any contract for school facilities constructed outside such town. In the event that such school board shall fail to pay any installment of interest or principal promptly, upon notice in writing to that effect from the State Treasurer, the county, city or town treasurer shall pay to the State Treasurer any such past-due installment of interest or principal, out of the funds in his hands belonging to such county, city or town. The failure of such governing body to provide for the payment of such loan or the interest thereon when and as due shall be deemed a cause for removal of the members thereof from office on motion before the circuit court having jurisdiction in such county, city or town, instituted by the attorney for the Commonwealth of such county or city or by the Attorney General where the attorney for the Commonwealth refuses or neglects to act after demand is made on him to proceed.

*For the purposes of this section, "long-term lease" means a lease for a term of twenty-five years or more.*