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## HOUSE BILL NO. 918

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health  
on February 26, 1998)

(Patron Prior to Substitute—Delegate Diamonstein)

A BILL to amend and reenact §§ 22.1-154, 22.1-157, and 22.1-158 of the Code of Virginia, relating to Literary Fund loans.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-154, 22.1-157, and 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. Any school board entering into a long-term lease with an agency of the United States government for the site of a school building may apply for a loan for the construction or renovation or enlarging of a school building on such site and its application for such loan shall be deemed to satisfy the requirements of subsection A of this section and §§ 22.1-155 and 22.1-156 if all of the following conditions are met:

1. The application includes a certificate of the examining attorney which certifies that (i) the school board or its governing body has an exclusive leasehold interest in the real estate on which the building has been or is to be erected, (ii) the minimum remaining term of the leasehold is at least the term of the Literary Fund loan which is requested, and (iii) any other encumbrances, in such exist, on the title to the real estate; and

2. The application includes exhibits providing (i) resolutions of the governing bodies of the school board and the local governing body which approve the lease, (ii) a copy of the executed lease, and (iii) satisfactory evidence that no further approvals are required of the landlord to authorize the school board to initiate and complete construction of the school building.

The Board of Education shall have the right to require reasonable amendments to the lease as a condition precedent to its approval of such loan.

§ 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.

C. Prior to the disbursement of any funds for an approved loan, the attorney for the school board shall provide the Board of Education with an opinion attesting to the validity of the loan and the status under federal tax laws of the interest on such loan. Such opinion and the criteria of loan validity and the interest status shall comply with regulations promulgated by the Board.

§ 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

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