

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 379

An Act to amend and reenact § 15.2-4902 of the Code of Virginia, relating to the Industrial Development and Revenue Bond Act.

[H 2177]

Approved March 24, 1999

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-4902 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-4902. Definitions.

Wherever used in this chapter, unless a different meaning clearly appears in the context:

"Authority" means any political subdivision, a body politic and corporate, created, organized and operated pursuant to the provisions of this chapter, or if the authority is abolished, the board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Authority facilities" or "facilities" means any or all (i) medical (including, but not limited to, office and treatment facilities), pollution control or industrial facilities; (ii) facilities for the residence or care of the aged; (iii) multi-state regional or national headquarters offices or operations centers; (iv) facilities for private, accredited and nonprofit institutions of collegiate, elementary, or secondary education in the Commonwealth whose primary purpose is to provide collegiate, elementary, secondary, or graduate education and not to provide religious training or theological education, such facilities being for use as academic or administration buildings or any other structure or application usual and customary to a college, elementary or secondary school campus other than chapels and their like; (v) parking facilities, including parking structures; (vi) facilities for use as office space by nonprofit, nonreligious or nonsectarian organizations; (vii) facilities for museums and historical education, demonstration and interpretation, together with buildings, structures or other facilities necessary or desirable in connection with the foregoing, for use by nonprofit organizations; (viii) facilities for use by an organization (other than an organization organized and operated exclusively for religious purposes) which is described in § 501 (c) (3) of the Internal Revenue Code of 1986, as amended, and which is exempt from federal income taxation pursuant to § 501 (a) of such Internal Revenue Code; (ix) facilities for use by a locality, the Commonwealth and its agencies, or other governmental organizations, provided that any such facilities owned by a locality, the Commonwealth or its agencies or other public bodies subject to the Virginia Public Procurement Act (§ 11-35 et seq.) shall not be exempt from competitive procurement requirements, under the exception granted in § 11-45 D; (x) facilities devoted to the staging of equine events and activities (other than racing events); however, such facilities must be owned by a governmental or nonprofit, nonreligious or nonsectarian organization and operated by any such governmental or nonprofit, nonreligious or nonsectarian organization; (xi) facilities for commercial enterprises *that are not enterprise zone facilities (as defined in § 1394 (b) of the Internal Revenue Code of 1986, as amended)* now existing or hereafter acquired, constructed or installed by or for the authority pursuant to the terms of this chapter; however, facilities for commercial enterprise that are *not enterprise zone facilities but which are* taxable authority facilities shall constitute authority facilities only if the interest on any bonds issued to finance such facilities is not exempt from federal income taxation; ~~and~~ (xii) *enterprise zone facilities; and* (xiii) facilities used primarily for single or multi-family residences. Clause ~~(xii)~~ (xiii) applies only to industrial development authorities created by one or more municipalities whose housing authorities have not been activated as provided by §§ 36-4 and 36-4.1. Any facility may be located within or outside or partly within or outside the locality creating the authority. Any facility may consist of or include any or all buildings, improvements, additions, extensions, replacements, machinery or equipment, and may also include appurtenances, lands, rights in land, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, acquired, constructed, or installed by or on behalf of the authority. A pollution control facility shall include any facility acquired, constructed or installed or any expenditure made, including the reconstruction, modernization or modification of any existing building, improvement, addition, extension, replacement, machinery or equipment, and which is designed to further the control or abatement of land, sewer, water, air, noise or general environmental pollution derived from the operation of any industrial or medical facility. Any facility may be constructed on or installed in or upon lands, structures, rights-of-way, easements, air rights, franchises or other property rights or interests whether owned by the authority or others.

"Bonds" or "revenue bonds" embraces notes, bonds and other obligations authorized to be issued by the authority pursuant to the provisions of this chapter.

"Cost" means, as applied to authority facilities, the cost of construction; the cost of acquisition of all

lands, structures, rights-of-way, franchises, easements and other property rights and interests; the cost of demolishing, removing or relocating any buildings or structures on lands acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated; the cost of all labor, materials, machinery and equipment; financing charges and interest on all bonds prior to and during construction and, if deemed advisable by the authority, for a period not exceeding one year after completion of such construction; cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, *and* other expenses necessary or incident to determining the feasibility or practicability of constructing the authority facilities; administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions and improvements; and such other expenses as may be necessary or incident to the construction of the authority facilities, the financing of such construction and the placing of the authority facilities in operation. Any obligation or expense incurred by the Commonwealth or any agency thereof, with the approval of the authority, for studies, surveys, borings, preparation of plans and specifications or other work or materials in connection with the construction of the authority facilities may be regarded as a part of the cost of the authority facilities and may be reimbursed to the Commonwealth or any agency thereof out of the proceeds of the bonds issued for such authority facilities as hereinafter authorized.

"Enterprise" means any industry for manufacturing, processing, assembling, storing, warehousing, distributing, or selling any products of agriculture, mining, or industry and for research and development or scientific laboratories, including, but not limited to, the practice of medicine and all other activities related thereto or for such other businesses or activities as will be in the furtherance of the public purposes of this chapter.

"Loans" means any loans made by the authority in furtherance of the purposes of this chapter from the proceeds of the issuance and sale of the authority's bonds and from any of its revenues or other moneys available to it as provided herein.

"Revenues" means any or all fees, rates, rentals and receipts collected by, payable to or otherwise derived by the authority from, and all other moneys and income of whatsoever kind or character collected by, payable to or otherwise derived by the authority in connection with the ownership, leasing or sale of the authority facilities or in connection with any loans made by the authority under this chapter.

"Taxable authority facilities" means any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard and ice skating), racquet sports facility, suntan facility, race track, or a facility the primary purpose of which is one of the following: (i) retail food and beverage services (excluding grocery stores), (ii) automobile sales and service, (iii) recreation or entertainment, or (iv) banks, savings and loan institutions or mortgage loan companies. *The foregoing sentence notwithstanding, no facility financed as an enterprise zone facility using tax-exempt "enterprise zone facility bonds" (as such term is used in § 1394 of the Internal Revenue Code) shall constitute a taxable authority facility.*

"Trust indenture" means any trust agreement or mortgage under which bonds authorized pursuant to this chapter may be secured.