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HOUSE BILL NO. 849

Offered January 11, 2006

Prefiled January 10, 2006

A BILL to amend and reenact §§ 2.2-212, 51.5-56, and 51.5-59 of the Code of Virginia, relating to the Assistive Technology Loan Fund Authority.

Patrons—Albo, Kilgore and Melvin; Senators: Norment and Stolle

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-212, 51.5-56, and 51.5-59 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-212. Position established; agencies for which responsible; additional powers.

The position of Secretary of Health and Human Resources (the Secretary) is created. The Secretary of Health and Human Resources shall be responsible to the Governor for the following agencies: Department of Health, Department for the Blind and Vision Impaired, Department of Health Professions, Department for the Aging, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative Services, Department of Social Services, Department of Medical Assistance Services, Child Day-Care Council, Virginia Department for the Deaf and Hard-of-Hearing, and the Office of Comprehensive Services for Youth and At-Risk Youth and Families, *and the Assistive Technology Loan Fund Authority*. The Governor may, by executive order, assign any other state executive agency to the Secretary of Health and Human Resources, or reassign any agency listed above to another Secretary.

Unless the Governor expressly reserves such power to himself, the Secretary shall (i) coordinate the work of state agencies to implement the long-term care policy of the Commonwealth and (ii) serve as the lead Secretary for the Comprehensive Services Act for At-Risk Youth and Families, working with the Secretary of Education and the Secretary of Public Safety to facilitate interagency service development and implementation, communication and cooperation.

§ 51.5-56. Powers of the Authority.

The Authority is hereby granted all powers necessary or appropriate to carry out and effectuate its purposes including, but not limited to, the following powers to:

1. Have perpetual existence as a public body corporate and as a political subdivision of the Commonwealth;

2. Adopt, amend, and repeal bylaws, rules and regulations not inconsistent with this chapter, to regulate its affairs and to carry into effect the powers and the purposes of the Authority and for the conduct of its business. All regulations of the Authority shall be promulgated in accordance with the Administrative Process Act (§ 2.2-4000 et seq.);

3. Sue and be sued in its name;

4. Have an official seal and alter it at will;

5. Establish, administer, manage, including the creation of reserves, and make expenditures from the Fund for the sole purpose of providing loans to individuals with disabilities for the acquisition of assistive technology, other equipment, or other authorized purposes;

6. Administer the Fund established by this chapter and contract with the State Treasurer and other state or community-based entities or groups working with persons with disabilities for such assistance in administering the loan program as the Board may require;

7. Maintain an office at such place or places within the Commonwealth as it may designate;

8. Make and execute contracts and all other instruments necessary and convenient for the performance of its duties and the exercise of its powers under this chapter upon such terms and conditions as it deems appropriate, including contracts with appropriate state or community-based entities or groups dealing with disabled persons;

9. Employ office personnel, advisers, consultants, professionals and agents as may be necessary in its judgment, and to fix their compensation. *The Board shall appoint an executive director who is subordinate to the Board, and the Board shall ensure that the executive director complies with all Board, regulatory, and statutory directives.* Legal services in civil matters shall be rendered and performed by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2, and special counsel may only be employed with approval and appointment by the Attorney General or as may otherwise be authorized by § 2.2-510;

10. Procure insurance against any loss in connection with its property and other assets, including, but

59 not limited to, loans in such amounts and from such insurers as it may deem advisable;

60 11. Receive, hold, accept, and administer from any source gifts, grants, aid or contributions of
61 money, property, labor or other things of value to be held, used and applied to carry out the purposes of
62 this chapter (subject, however, to any conditions upon which grants or contributions are made)
63 including, but not limited to, gifts, grants, bequests of money or devises from any source, including the
64 federal government or any of its agencies or instrumentalities for the purposes of this chapter. Unless
65 otherwise restricted by the terms of the gift or bequest, the Board is authorized to sell, exchange, or
66 otherwise dispose of such money, securities, or other property given or bequeathed to it in furtherance
67 of its purposes;

68 12. Borrow money to carry out the purposes of this chapter and to execute evidences of such
69 indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from funds
70 pledged for that purpose and to provide for the payment of the same and for the rights of the holders
71 thereof, provided that, any moneys borrowed, whether through the use of bonds or other indebtedness,
72 may be secured or paid solely from funds received pursuant to subdivision 11 or funds received from
73 the fees and charges imposed by the Authority pursuant to subdivision 14;

74 13. Use any fund or funds of the Authority for any and all expenses to be paid by the Authority
75 including, by way of example, but not by limitation, any and all expenses for administrative, legal, and
76 other services;

77 14. Collect fees and charges, as the Authority determines to be reasonable, in connection with its
78 loans, insurance, guarantees, commitments and servicing thereof;

79 15. Take any action necessary or convenient for the exercise of the powers granted by this chapter or
80 reasonably implied from them; and

81 16. Maintain the confidentiality of financial, medical, rehabilitative and other personal information
82 submitted to or maintained by the Authority concerning applicants for or recipients of loan funds. Such
83 information shall not be subject to the mandatory disclosure provisions of § 2.2-3704 or the public
84 meeting requirements of § 2.2-3711 of the Virginia Freedom of Information Act.

85 § 51.5-59. Annual report; Auditor of Public Accounts to annually audit books and accounts.

86 The Board shall submit an annual *report that includes* a statement of the receipts, disbursements, and
87 current investments of the Fund for the preceding year to the Governor and the General Assembly. The
88 report shall set forth a complete operating and financial statement covering the operation of the Fund
89 during the year, *including any loan fund or loan guarantee fund the Authority administers or manages.*
90 *The Auditor of Public Accounts or his legally authorized representatives shall at least once in a year*
91 *audit the books and accounts of the Authority and any loan fund or loan guarantee fund the Authority*
92 *administers or manages.*