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HOUSE BILL NO. 359

Offered January 13, 2010

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A BILL to amend and reenact §§ 15.2-5131 and 15.2-5158 of the Code of Virginia, relating to powers of community development authorities.

Patron—Ware, O.

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That §§ 15.2-5131 and 15.2-5158 of the Code of Virginia are amended and reenacted as follows:**

§ 15.2-5131. Bonds not debts of Commonwealth or participating political subdivision.

A. Revenue bonds issued under the provisions of this chapter shall not constitute a pledge of the faith and credit of the Commonwealth or of any political subdivision. All bonds shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any political subdivision are pledged to the payment of the principal of or the interest on the bonds. The issuance of revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth or any political subdivision to levy any taxes or to make any appropriation for their payment except from the funds pledged under the provisions of this chapter.

B. Unless otherwise provided in the ordinance which forms the authority or in a subsequent ordinance or resolution authorizing additional improvements, neither the Commonwealth nor any locality shall pay any part of the principal or interest of any bonds issued by a community development authority formed pursuant to §§ 15.2-5152 through 15.2-5157, nor shall any locality carry any part of such bonds on its financial statements as a contingent obligation; except that if a community development authority fails to pay such bonds, to the extent that a locality has imposed a real property tax surcharge or a special assessment at the request of a community development authority pursuant to subdivisions A 3 or A 56 of § 15.2-5158, funds collected from such sources may be paid against such debt.

C. Debt issued by a community development authority formed pursuant to §§ 15.2-5152 through 15.2-5157 shall not be considered in determining the debt limit of any locality.

§ 15.2-5158. Additional powers of community development authorities.

A. Each community development authority created under this article, in addition to the powers provided in Article 3 (§ 15.2-5110 et seq.) of Chapter 51 of this title, may:

1. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable governmental bodies and agencies having authority with respect to any area included therein, finance, fund, plan, establish, acquire, construct or reconstruct, enlarge, extend, equip, operate, and maintain the infrastructure improvements enumerated in the ordinance or resolution establishing the district, as necessary or desirable for development or redevelopment within or affecting the district or to meet the increased demands placed upon the locality as a result of development or redevelopment within or affecting the district, including, but not limited to:

a. Roads, bridges, parking facilities, curbs, gutters, sidewalks, traffic signals, storm water management and retention systems, gas and electric lines and street lights within or serving the district which meet or exceed the specifications of the locality in which the roads are located.

b. Parks and facilities for indoor and outdoor recreational, cultural and educational uses; entrance areas; security facilities; fencing and landscaping improvements throughout the district.

c. Fire prevention and control systems, including fire stations, water mains and plugs, fire trucks, rescue vehicles and other vehicles and equipment.

d. School buildings and related structures, which may be leased, sold or donated to the school district, for use in the educational system when authorized by the local governing body and the school board.

e. Infrastructure and recreational facilities for age-restricted active adult communities, and any other necessary infrastructure improvements as provided above, with a minimum population approved under local zoning laws of 1,000 residents. Such development may include security facilities and systems or measures which control or restrict access to such community and its improvements.

2. Issue revenue bonds of the development authority as provided in § 15.2-5125, including but not limited to refunding bonds, subject to such limitation in amount, and terms and conditions regarding capitalized interest, reserve funds, contingent funds, and investment restrictions, as may be established in

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the ordinance or resolution establishing the district, for all costs associated with the improvements enumerated in subdivision 1 of this subsection. Such revenue bonds shall be payable solely from revenues received by the development authority. The revenue bonds issued by a development authority shall not require the consent of the locality, except where consent is specifically required by the provisions of the resolution authorizing the collection of revenues and/or the trust agreement securing the same, and shall not be deemed to constitute a debt, liability, or obligation of any other political subdivision, and shall not impact upon the debt capacity of any other political subdivision.

3. Request annually that the locality levy and collect a special tax on taxable real property within the development authority's jurisdiction to finance the services and facilities provided by the authority. Notwithstanding the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, any such special tax imposed by the locality shall be levied upon the assessed fair market value of the taxable real property. Unless requested by every property owner within the proposed district, the rate of the special tax shall not be more than \$.25 per \$100 of the assessed fair market value of any taxable real estate or the assessable value of taxable leasehold property as specified by § 58.1-3203. The special taxes shall be collected at the same time and in the same manner as the locality's taxes are collected, and the proceeds shall be kept in a separate account and be used only for the purposes provided in this chapter. All revenues received by the locality from such special tax shall be paid over to the development authority for its use pursuant to this chapter subject to annual appropriation. No other funds of the locality shall be loaned or paid to the development authority without the prior approval of the local governing body.

4. *Request annually that the locality levy and collect a special tax on transient occupancy; and the rate of the special transient occupancy tax shall not be more than two percent above the rate of such tax authorized by charter or by Article 6 (§ 58.1-3819 et seq.) of Chapter 38 of Title 58.1; and the rate of the special transient occupancy tax shall not exceed the limits specified in Article 6 of Chapter 38 of Title 58.1. The community development authority may also request annually that the locality levy and collect a special tax on food and beverages; and that the rate of the special food and beverage tax shall not be more than two percent above the rate of such tax authorized by charter or by Article 7.1 (§ 58.1-3833 et seq.) of Chapter 38 of Title 58.1; and that the rate of the special food and beverage tax shall not exceed the limits specified in Article 7.1 of Chapter 38 of Title 58.1. The authority may further request that the locality levy and collect a special tax on sales; and that the rate of the special tax on sales shall not be more than one percent above the rate of such tax authorized by charter or by Chapter 6 (§ 58.1-600 et seq.) of Title 58.1; and that the rate of the special tax shall not exceed the limits specified in Chapter 6 of Title 58.1. The special taxes shall be collected at the same time and in the same manner as the locality's taxes are collected, and the proceeds shall be kept in a separate account and shall be used only for the purposes provided in this chapter and the purposes specified in Title 58.1. All revenues received by the locality from such special tax shall be paid over to the development authority for its use pursuant to this chapter subject to annual appropriation. No other funds of the locality shall be loaned or paid to the development authority without the prior approval of the local governing body. None of these special taxes authorized under this subsection shall be levied unless requested by every property owner within the district.*

5. Provide special services, including: garbage and trash removal and disposal, street cleaning, snow removal, extra security personnel and equipment, recreational management and supervision, and grounds keeping.

56. Finance the services and facilities it provides to abutting property within the district by special assessment thereon imposed by the local governing body. All assessments pursuant to this section shall be subject to the laws pertaining to assessments under Article 2 (§ 15.2-2404 et seq.) of Chapter 24; provided that any other provision of law notwithstanding, (i) the taxes or assessments shall not exceed the full cost of the improvements, including without limitation the legal, financial and other directly attributable costs of creating the district and the planning, designing, operating and financing of the improvements which include administration of the collection and payment of the assessments and reserve funds permitted by applicable law; (ii) the taxes or assessments may be imposed upon abutting land which is later subdivided in accordance with the terms of the ordinance forming the district, in amounts which do not exceed the peculiar benefits of the improvements to the abutting land as subdivided; and (iii) the taxes or assessments may be made subject to installment payments for up to 40 years in an amount calculated to cover principal, interest and administrative costs in connection with any financing by the authority, without a penalty for prepayment. Notwithstanding any other provision of law, any assessments made pursuant to this section may be made effective as a lien upon a specified date, by ordinance, but such assessments may not thereafter be modified in a manner inconsistent with the terms of the debt instruments financing the improvements. All assessments pursuant to this section may also be made subject to installment payments and other provisions allowed for local assessments under this section or under Article 2 of Chapter 24. All revenues received by the locality pursuant to any such special assessments which the locality elects to impose upon request of the development authority shall

be paid over to the development authority for its use under this chapter, subject to annual appropriation, and may be used for no other purposes.

67. Fix, charge, and collect rates, fees, and charges for the use of, or the benefit derived from, the services and/or facilities provided, owned, operated, or financed by the authority benefiting property within the district. Such rates, fees, and charges may be charged to and collected by such persons and in such manner as the authority may determine from (i) any person contracting for the services or using the facilities and/or (ii) the owners, tenants, or customers of the real estate and improvements that are served by, or benefit from the use of, any such services or facilities, in such manner as shall be authorized by the authority in connection with the provision of such services or facilities.

78. Purchase development rights that will be dedicated as easements for conservation, open space or other purposes pursuant to the Open-Space Land Act (§ 10.1-1700 et seq.). For purposes of this subdivision, "development rights" means the level and quantity of development permitted by the zoning ordinance expressed in terms of housing units per acre, floor area ratio or equivalent local measure. An authority shall not use the power of condemnation to acquire development rights.

89. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable governmental bodies and agencies having authority with respect to any area included therein, finance and fund the acquisition of land within the district. All financing authority and methods provided by subsections 2, 3, 4, 5, 6, ~~and~~ 7, and 8 shall be permitted for the acquisition of land as provided herein.

B. Nothing contained in this chapter shall relieve the local governing body of its general obligations to provide services and facilities to the district to the same extent as would otherwise be provided were the district not formed.