

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 97

An Act to amend and reenact § 62.1-229 of the Code of Virginia, relating to loans for onsite sewage disposal systems.

[H 1941]

Approved March 21, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-229 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-229. Loans to local governments or other entities.

Except as otherwise provided in this chapter, money in the Fund shall be used solely to make loans to local governments or other entities as permitted by federal law to finance or refinance the cost of any project. The local governments or other entities to which loans are to be made, the purposes of the loan, the amount of each such loan, the interest rate thereon and the repayment terms thereof, which may vary between loan recipients, shall be designated in writing by the Board to the Authority following consultation with the Authority. No loan from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of the indebtedness to be refinanced plus reasonable financing expenses. Loans may also be made from the Fund, in the Board's discretion, to a local government (i) *for the purpose of correcting onsite sewage disposal problems (small water facility projects) to protect or improve water quality and prevent the pollution of state waters or* (ii) which has developed a *funding program to provide low-interest loan program to provide* loans or other incentives to facilitate the correction of onsite sewage disposal problems (small water facility projects), provided that the moneys may be used only for the program and that the onsite sewage disposal systems to be repaired or upgraded are owned by *eligible businesses or* individual citizens of the Commonwealth where ~~(i)~~ (a) public health or water quality concerns are present and ~~(ii)~~ (b) connection to a public sewer system is not feasible because of location or cost. *To be eligible for loan funding, a business shall be located within a locality that is in the Rural Coastal Virginia Community Enhancement Authority, as defined in § 15.2-7600. Eligible businesses include bed-and-breakfast operations, campgrounds, and restaurants, as those terms are defined in § 35.1-1, and businesses that use working waterfronts, as defined in § 15.2-2201.*

Except as set forth above, the Authority shall determine the terms and conditions of any loan from the Fund, which may vary between loan recipients. Each loan shall be evidenced by appropriate bonds or notes of the local government or other entity payable to the Fund. The bonds or notes shall have been duly authorized by the local government or other entity and executed by its authorized legal representatives. The Authority is authorized to require in connection with any loan from the Fund such documents, instruments, certificates, legal opinions and other information as it may deem necessary or convenient. In addition to any other terms or conditions which the Authority may establish, the Authority may require, as a condition to making any loan from the Fund, that the local government or other entity receiving the loan covenant to perform any of the following:

A. Establish and collect rents, rates, fees and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal of and premium, if any, and interest on the loan from the Fund to the local government or other entity; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or part, for future increases in rents, rates, fees or charges;

B. With respect to local governments, levy and collect ad valorem taxes on all property within the jurisdiction of the local government subject to local taxation sufficient to pay the principal of and premium, if any, and interest on the loan from the Fund to the local government;

C. Create and maintain a special fund or funds for the payment of the principal of and premium, if any, and interest on the loan from the Fund to the local government or other entity and any other amounts becoming due under any agreement entered into in connection with the loan, or for the operation, maintenance, repair or replacement of the project or any portions thereof or other property of the local government or other entity, and deposit into any fund or funds amounts sufficient to make any payments on the loan as they become due and payable;

D. Create and maintain other special funds as required by the Authority; and

E. Perform other acts, including the conveyance of, or the granting of liens on or security interests in, real and personal property, together with all rights, title and interest therein, to the Fund, or take other actions as may be deemed necessary or desirable by the Authority to secure payment of the principal of and premium, if any, and interest on the loan from the Fund and to provide for the

remedies of the Fund in the event of any default in the payment of the loan, including, without limitation, any of the following:

1. The procurement of insurance, guarantees, letters of credit and other forms of collateral, security, liquidity arrangements or credit supports for the loan from any source, public or private, and the payment therefor of premiums, fees or other charges;
2. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities and systems to secure the loan from the Fund made in connection with such combination or any part or parts thereof;
3. The maintenance, replacement, renewal and repair of the project; and
4. The procurement of casualty and liability insurance.

All local governments or other entities borrowing money from the Fund are authorized to perform any acts, take any action, adopt any proceedings and make and carry out any contracts that are contemplated by this chapter. Such contracts need not be identical among all local governments or other entities, but may be structured as determined by the Authority according to the needs of the contracting local governments or other entities and the Fund.

Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the Authority may consent to and approve any modification in the terms of any loan subject to guidelines adopted by the Board.