

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 209

An Act to amend and reenact § 2.2-2340 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-2340.1, relating to Fort Monroe Authority; fees; security.

[H 2256]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2340 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-2340.1 as follows:

§ 2.2-2340. Additional declaration of policy; powers of the Authority; penalty.

A. It is the policy of the Commonwealth that the historic, cultural, and natural resources of Fort Monroe be protected in any conveyance or alienation of real property interests by the Authority. Real property in the Area of Operation at Fort Monroe may be maintained as Commonwealth-owned land that is leased, whether by short-term operating/revenue lease or long-term ground lease, to appropriate public, private, or joint venture entities, with such historic, cultural, and natural resources being protected in any such lease, to be approved as to form by the Attorney General of the Commonwealth of Virginia. If sold as provided in this article, real property interests in the Area of Operation at Fort Monroe may only be sold under covenants, historic conservation easements, historic preservation easements, or other appropriate legal restrictions approved as to form by the Attorney General that protect these historic and natural resources. Properties in the Wherry Quarter and Inner Fort areas identified in the Fort Monroe Reuse Plan may only be sold with the consent of both the Governor and the General Assembly, except that any transfer to the National Park Service shall require only the approval of the Governor. The proceeds from the sale or pre-paid lease of any real or personal property within the Area of Operation shall be retained by the Authority and used for infrastructure improvements in the Area of Operation.

B. The Authority shall have the power and duty:

1. To sue and be sued; to adopt and use a common seal and to alter the same as may be deemed expedient; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Authority; and to make and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with law, to carry into effect the powers and purposes of the Authority;

2. To foster and stimulate the economic and other development of Fort Monroe, including without limitation development for business, employment, housing, commercial, recreational, educational, and other public purposes; to prepare and carry out plans and projects to accomplish such objectives; to provide for the construction, reconstruction, rehabilitation, reuse, improvement, alteration, maintenance, removal, equipping, or repair of any buildings, structures, or land of any kind; to lease or rent to others or to develop, operate, or manage with others in a joint venture or other partnering arrangement, on such terms as it deems proper and which are consistent with the provisions of the Programmatic Agreement, Design Standards, and Reuse Plan governing any lands, dwellings, houses, accommodations, structures, buildings, facilities, or appurtenances embraced within Fort Monroe; to establish, collect, and revise the rents charged and terms and conditions of occupancy thereof; to terminate any such lease or rental obligation upon the failure of the lessee or renter to comply with any of the obligations thereof; to arrange or contract for the furnishing by any person or agency, public or private, of works, services, privileges, or facilities in connection with any activity in which the Authority may engage, provided, however, that if services are provided by the City of Hampton pursuant to § 2.2-2341 for which the City is compensated pursuant to subsection B of § 2.2-2342, then the Authority may provide for additional, more complete, or more timely services than are generally available in the City of Hampton as a whole if deemed necessary or appropriate by the Authority; to acquire, own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, easement, dedication, or otherwise any real or personal property or any interest therein, which purchase, lease, or acquisition may only be made for less than fair market value if the Board of Trustees determines, upon the advice of the Attorney General, that the transaction is consistent with the fiduciary obligation of the Authority to the Commonwealth and if necessary or appropriate to further the purposes of the Authority; as provided in this article, to sell, lease, exchange, transfer, assign, or pledge any real or personal property or any interest therein, which sale, lease, or other transfer or assignment may be made for less than fair market value; as provided in this article, to dedicate, make a gift of, or lease for a nominal amount any real or personal property or any interest therein to the Commonwealth, the City of Hampton, or other localities or agencies, public or private, within the Area of Operation or adjacent thereto, jointly or severally, for public use or benefit, such as, but not limited to, game preserves,

playgrounds, park and recreational areas and facilities, hospitals, clinics, schools, and airports; to acquire, lease, maintain, alter, operate, improve, expand, sell, or otherwise dispose of onsite utility and infrastructure systems or sell any excess service capacity for offsite use; to acquire, lease, construct, maintain, and operate and dispose of tracks, spurs, crossings, terminals, warehouses, and terminal facilities of every kind and description necessary or useful in the transportation and storage of goods, wares, and merchandise; and to insure or provide for the insurance of any real or personal property or operation of the Authority against any risks or hazards;

3. To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursements, in property or security in which fiduciaries may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled;

4. To undertake and carry out examinations, investigations, studies, and analyses of the business, industrial, agricultural, utility, transportation, and other economic development needs, requirements, and potentialities of its Area of Operation or offsite needs, requirements, and potentialities that directly affect the success of the Authority at Fort Monroe, and the manner in which such needs and requirements and potentialities are being met, or should be met, in order to accomplish the purposes for which it is created; to make use of the facts determined in such research and analyses in its own operation; and to make the results of such studies and analyses available to public bodies and to private individuals, groups, and businesses, except as such information may be exempted pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);

5. To administer, develop, and maintain at Fort Monroe permanent commemorative cultural and historical museums and memorials;

6. To adopt names, flags, seals, and other emblems for use in connection with such shrines and to copyright the same in the name of the Commonwealth;

7. To enter into any contracts not otherwise specifically authorized in this article to further the purposes of the Authority, after approval as to form by the Attorney General;

8. To establish nonprofit corporations as instrumentalities to assist in administering the affairs of the Authority;

9. To exercise the power of eminent domain in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1 within the Authority's Area of Operation; however, eminent domain may only be used to obtain easements across property on Fort Monroe for the provision of water, sewer, electrical, ingress and egress, and other necessary or useful services to further the purposes of the Authority, unless the Governor has expressly granted authority to obtain interests for other purposes;

10. To fix, charge, and collect rents, fees, and charges (i) for the use of, or the benefit derived from, the services or facilities provided, owned, operated, or financed by the Authority benefiting property within the Authority's Area of Operation and (ii) *for the consumption within the Area of Operation of goods and services being provided in exchange for value by any person or business located and operating, permanently or temporarily, within the Area of Operation*. Such rents, fees, and charges may be charged to and collected by such persons and in such manner as the Authority may determine from (i) (a) any person contracting for the services or using the Authority facilities or (ii) (b) 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. Such rents, fees, and charges shall not be chargeable to the Commonwealth or, where such rents, fees or charges relate to services or facilities utilized by the City of Hampton to provide municipal services, to the City of Hampton except as may be provided by lease or other agreement and may be used to fund the provision of the additional, more complete, or more timely services authorized under subdivision 6 of § 2.2-2339, the payments provided under § 2.2-2342, or for other purposes as the Authority may determine to be appropriate, subject to the provisions of subsection B of § 2.2-2342;

11. To receive and expend gifts, grants, and donations from whatever source derived for the purposes of the Authority;

12. To employ an executive director and such deputies and assistants as may be required;

13. To elect any past chairman of the Board of Trustees to the honorary position of chairman emeritus. Chairmen emeriti shall serve as honorary members for life. Chairmen emeriti shall be elected in addition to the nonlegislative citizen member positions defined in § 2.2-2338;

14. To determine what paintings, statuary, works of art, manuscripts, and artifacts may be acquired by purchase, gift, or loan and to exchange or sell the same if not inconsistent with the terms of such purchase, gift, loan, or other acquisition;

15. To change the form of investment of any funds, securities, or other property, real or personal, provided the same are not inconsistent with the terms of the instrument under which the same were acquired, and to sell, grant, or convey any such property, subject to the provisions of subsection A of § 2.2-2340;

16. To cooperate with the federal government, the Commonwealth, the City of Hampton, or other nearby localities in the discharge of its enumerated powers;

17. To exercise all or any part or combination of powers granted in this article;
18. To do any and all other acts and things that may be reasonably necessary and convenient to carry out its purposes and powers;
19. To adopt, amend or repeal, by the Board of Trustees, or the executive committee thereof, regulations concerning the use of, access to and visitation of properties under the control of the Authority in order to protect or secure such properties and the public enjoyment thereof, with any violation of such regulations being punishable by a civil penalty of up to \$100 for the first violation and up to \$250 for any subsequent violation, such civil penalty to be paid to the Authority;
20. To provide parking and traffic rules and regulations on property owned by the Authority; and
21. To provide that any person who knowingly violates a regulation of the Authority may be requested by an agent or employee of the Authority to leave the property and upon the failure of such person so to do shall be guilty of a trespass as provided in § 18.2-119.

§ 2.2-2340.1. Use of safety and security enhancement devices.

The Authority shall have the power to install, operate, maintain, repair, and replace, or to cause to be installed, operated, maintained, repaired, and replaced, within the Area of Operation, security cameras and any other devices or sensors that the Authority deems to be useful to enhance the safety and security of persons or property located within the Area of Operation.