

Chapter 21. Virginia Resources Authority.

§ 62.1-197. Short title.

This chapter shall be known and may be cited as the Virginia Resources Authority Act.

1984, c. 699; 1985, c. 67.

§ 62.1-198. Legislative findings and purposes.

The General Assembly finds that there exists in the Commonwealth a critical need for additional sources of funding to finance the present and future needs of the Commonwealth for water supply; land conservation or land preservation including land for parks and other recreational purposes; oyster restoration projects, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters; wastewater treatment facilities; drainage facilities; solid waste treatment, disposal and management facilities; recycling facilities; resource recovery facilities; energy conservation and energy efficiency projects; professional sports facilities; certain heavy rail transportation facilities; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties, including properties contaminated by defective drywall; the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail; construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure; site acquisition and site development work for economic and community development projects; recovered gas energy facilities; the location or retention of federal facilities in the Commonwealth and the support of the transition of former federal facilities from use by the federal government to other uses; and renewable energy projects, including solar, wind, biomass, waste-to-energy, and geothermal. This need can be alleviated in part through the creation of a resources authority. Its purpose is to encourage the investment of both public and private funds and to make loans, grants, and credit enhancements available to local governments to finance water and sewer projects, land conservation or land preservation programs or projects, oyster restoration projects, drainage projects, solid waste treatment, disposal and management projects, recycling projects, energy conservation and energy efficiency projects, professional sports facilities, resource recovery projects, public safety facilities, airport facilities, the remediation of brownfields and contaminated properties including properties contaminated by defective drywall, the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail, site acquisition and site development work for the benefit of economic development projects, technology, construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure, infrastructure for broadband services, recovered gas energy facilities, federal facilities or former federal facilities, and renewable energy projects. The General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose and will promote the health, safety, welfare, convenience or prosperity of the people of the Commonwealth.

1984, c. 699; 1989, cc. 533, 551; 1990, c. 506; 1998, c. 399; 2000, c. 790; 2001, cc. 652, 661; 2003, c. 561; 2005, cc. 727, 769; 2007, cc. 81, 649, 663; 2008, cc. 3, 24, 238, 259, 504, 605, 613; 2009, cc. 14, 246, 311, 543, 632; 2010, cc. 42, 724, 820; 2011, c. 270.

§ 62.1-199. Definitions.

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

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions or any other obligations of the Authority for the payment of money.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § [62.1-215](#).

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements, real estate appraisals, site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment, the reasonable costs of financing incurred by the local government in the course of the development of the project, including the cost of any credit enhancements, carrying charges incurred before placing the project in service, interest on local obligations issued to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, the funding of accounts and reserves which the Authority may require and the cost of other items which the Authority determines to be reasonable and necessary. It also includes the amount of any contribution, grant or aid which a local government may make or give to any adjoining state, the District of Columbia or any department, agency or instrumentality thereof to pay the costs incident and necessary to the accomplishment of any project, including, without limitation, the items set forth above. The term also includes interest and principal payments pursuant to any installment purchase agreement.

"Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees and other forms of collateral or security.

"Defective drywall" means the same as that term is defined in § [36-156.1](#).

"Federal facility" means any building or infrastructure used or to be used by the federal government, including any building or infrastructure located on lands owned by the federal government.

"Federal government" means the United States of America, or any department, agency or instrumentality, corporate or otherwise, of the United States of America.

"Former federal facility" means any federal facility formerly used by the federal government or in transition from use by the federal government to a facility all or part of which is to serve any local government.

"Local government" means any county, city, town, municipal corporation, authority, district, commission or political subdivision created by the General Assembly or pursuant to the Constitution and laws of the Commonwealth or any combination of any two or more of the foregoing.

"Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, leases, credit enhancements, or any other obligations of a local government for the payment of money.

"Minimum capital reserve fund requirement" means, as of any particular date of computation, the amount of money designated as the minimum capital reserve fund requirement which may be established in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any outstanding issue of bonds or credit enhancement.

"Project" means (i) any water supply or wastewater treatment facility, including a facility for receiving and stabilizing septage or a soil drainage management facility, and any solid waste treatment, disposal, or management facility, recycling facility, federal facility or former federal facility, or resource recovery facility located or to be located in the Commonwealth, the District of Columbia, or any adjoining state, all or part of which facility serves or is to serve any local government, and (ii) any federal facility located or to be located in the Commonwealth, provided that both the Board of Directors of the Authority and the governing body of the local government receiving the benefit of the loan, grant, or credit enhancement from the Authority make a determination or finding to be embodied in a resolution or ordinance that the undertaking and financing of such facility is necessary for the location or retention of such facility and the related use by the federal government in the Commonwealth. The term includes, without limitation, water supply and intake facilities; water treatment and filtration facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface and ground water) collection, treatment, and disposal facilities; drainage facilities and projects; solid waste treatment, disposal, or management facilities; recycling facilities; resource recovery facilities; related office, administrative, storage, maintenance, and laboratory facilities; and interests in land related thereto. The term also includes energy conservation measures and facility technology infrastructure as defined in § 11-34.2 and other energy objectives as defined in § 67-101. The term also means any heavy rail transportation facilities operated by a transportation district created under the Transportation District Act of 1964 (§ 33.2-1900 et seq.) that operates heavy rail freight service, including rolling stock, barge loading facilities, and any related marine or rail equipment. The term also means, without limitation, the design and construction of roads, the construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail. In addition, the term means any project as defined in § 5.1-30.1 and any professional sports facility, including a major league baseball stadium as defined in § 15.2-5800, provided that the specific professional sports facility projects have been designated by the General Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities, and technology infrastructure designed to provide broadband service. The term also means facilities supporting, related to, or otherwise used for public safety, including but not limited to law-enforcement training facilities and emergency response, fire, rescue, and police stations. The term also means the remediation, redevelopment, and rehabilitation of property contaminated by the release of hazardous substances, hazardous wastes, solid wastes, or petroleum, where such remediation has not clearly been mandated by the United States Environmental Protection Agency, the

Department of Environmental Quality, or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived. The term also means any program or project for land conservation, parks, park facilities, land for recreational purposes, or land preservation, including but not limited to any program or project involving the acquisition of rights or interests in land for the conservation or preservation of such land. The term also means any dredging program or dredging project undertaken to benefit the economic and community development goals of a local government but does not include any dredging program or dredging project undertaken for or by the Virginia Port Authority. The term also means any oyster restoration project, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters. The term also means any program or project to perform site acquisition or site development work for the benefit of economic and community development projects for any local government. The term also means any undertaking by a local government to build or facilitate the building of a recovered gas energy facility; and any local government renewable energy project, including solar, wind, biomass, waste-to-energy, and geothermal projects. The term also means any undertaking by a local government to facilitate the remediation of residential properties contaminated by the presence of defective drywall.

"Recovered gas energy facility" means a facility, located at or adjacent to (i) a solid waste management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of treating sewage and wastewater for discharge to state waters, which facility or work is constructed and operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in the solid waste management facility or sewerage system or sewage treatment work and (b) either using such gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off premises for sale or delivery to commercial or industrial purchasers or to a public utility or locality.

1984, c. 699; 1985, c. 67; 1986, c. 331; 1987, cc. 117, 133; 1989, cc. 533, 551; 1990, c. 506; 1998, c. 399; 1999, c. 897; 2000, c. 790; 2001, cc. 652, 661; 2005, cc. 727, 769; 2007, cc. 81, 649, 663; 2008, cc. 3, 24, 238, 259, 504, 605, 613; 2009, cc. 14, 246, 311, 543, 632; 2010, cc. 42, 724, 820; 2011, cc. 270, 616; 2018, c. 153.

§ 62.1-200. Creation of Authority.

The Virginia Resources Authority is created, with the duties and powers set forth in this chapter, as a public body corporate and as a political subdivision of the Commonwealth. The exercise by the Authority of the duties and powers conferred by this chapter shall be deemed to be the performance of an essential governmental function of the Commonwealth.

1984, c. 699; 1985, c. 67.

§ 62.1-201. Board of Directors.

A. All powers, rights and duties conferred by this chapter or other provisions of law upon the Authority shall be exercised by a board of directors consisting of the State Treasurer or his designee, the State Health Commissioner or his designee, the Director of the Department of Environmental Quality or his designee, the Director of the Department of Aviation or his

designee, and seven members appointed by the Governor, subject to confirmation by the General Assembly. The members of the Board of Directors appointed by the Governor shall serve terms of four years each, except that the original terms of three members appointed by the Governor shall end on June 30, 1985, 1986, and 1987, respectively, as designated by the Governor. Any appointment to fill a vacancy on the Board of Directors shall be made for the unexpired term of the member whose death, resignation or removal created the vacancy. All members of the Board of Directors shall be residents of the Commonwealth. Members may be appointed to successive terms on the Board of Directors. Each member of the Board of Directors shall be reimbursed for his or her reasonable expenses incurred in attendance at meetings or when otherwise engaged in the business of the Authority and shall be compensated at the rate provided in § 2.2-2813 for each day or portion thereof in which the member is engaged in the business of the Authority.

B. The Governor shall designate one member of the Board of Directors as chairman; he shall be the chief executive officer of the Authority. The Board of Directors may elect one member as vice-chairman; he shall exercise the powers of chairman in the absence of the chairman or as directed by the chairman. The State Treasurer or his designee, the Director of the Department of Environmental Quality or his designee, the Director of the Department of Aviation or his designee, and the State Health Commissioner or his designee shall not be eligible to serve as chairman or vice-chairman.

C. Meetings of the Board of Directors shall be held at the call of the chairman or of any five members. Six members of the Board of Directors shall constitute a quorum for the transaction of the business of the Authority. An act of the majority of the members of the Board of Directors present at any regular or special meeting at which a quorum is present shall be an act of the Board of Directors. No vacancy on the Board of Directors shall impair the right of a majority of a quorum of the members of the Board of Directors to exercise all the rights and perform all the duties of the Authority.

D. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall have forfeited his or her office or employment by reason of acceptance of membership on the Board of Directors or by providing service to the Authority.

1984, c. 699; 1989, cc. 533, 551; 1992, c. 887; 2000, cc. 38, 197; 2012, cc. 114, 242.

§ 62.1-202. Appointment and duties of Executive Director.

The Governor shall appoint an Executive Director of the Authority, who shall report to, but not be a member of, the Board of Directors. The Executive Director shall serve as the ex officio secretary of the Board of Directors and shall administer, manage and direct the affairs and activities of the Authority in accordance with the policies and under the control and direction of the Board of Directors. He shall attend meetings of the Board of Directors, shall keep a record of the proceedings of the Board of Directors and shall maintain and be custodian of all books, documents and papers of the Authority, the minute book of the Authority and its official seal. He may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that the copies are true copies, and all persons dealing with the Authority may rely upon the certificates. He shall also perform other duties as instructed by the Board of Directors in carrying out the purposes of this chapter. He shall execute a surety bond in a penalty sum determined by the Board of Directors. The surety bond shall be executed by a surety company authorized to transact business in the

Commonwealth and shall be conditioned upon the faithful performance of the duties of the office.

1984, c. 699; 1994, c. 684.

§ 62.1-203. Powers of Authority.

The Authority is granted all powers necessary or appropriate to carry out and to effectuate its purposes, including the following:

1. To have perpetual succession as a public body corporate and as a political subdivision of the Commonwealth;
2. To adopt, amend and repeal bylaws, and rules and regulations, not inconsistent with this chapter for the administration and regulation of its affairs and to carry into effect the powers and purposes of the Authority and the conduct of its business;
3. To sue and be sued in its own name;
4. To have an official seal and alter it at will although the failure to affix this seal shall not affect the validity of any instrument executed on behalf of the Authority;
5. To maintain an office at any place within the Commonwealth which it designates;
6. To make and execute contracts and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;
7. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its properties and assets;
8. To employ officers, employees, agents, advisers and consultants, including without limitations, attorneys, financial advisers, engineers and other technical advisers and public accountants and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation without the approval of any other agency or instrumentality;
9. To procure insurance, in amounts and from insurers of its choice, or provide self-insurance, against any loss, cost, or expense in connection with its property, assets or activities, including insurance or self-insurance against liability for its acts or the acts of its directors, employees or agents and for the indemnification of the members of its Board of Directors and its employees and agents;
10. To procure credit enhancements from any public or private entities, including any department, agency or instrumentality of the United States of America or the Commonwealth, for the payment of any bonds issued by the Authority, including the power to pay premiums or fees on any such credit enhancements;
11. To receive and accept from any source aid, grants and contributions of money, property, labor or other things of value to be held, used and applied to carry out the purposes of this chapter subject to the conditions upon which the aid, grants or contributions are made;
12. To enter into agreements with any department, agency or instrumentality of the United States of America or, the Commonwealth, the District of Columbia or any adjoining state for the purpose of planning, regulating and providing for the financing of any projects;

13. To collect, or to authorize the trustee under any trust indenture securing any bonds or any other fiduciary to collect, amounts due under any local obligations owned or credit enhanced by the Authority, including taking the action required by § 15.2-2659 or 62.1-216.1 to obtain payment of any unpaid sums;
14. To enter into contracts or agreements for the servicing and processing of local obligations owned by the Authority;
15. To invest or reinvest its funds as provided in this chapter or permitted by applicable law;
16. Unless restricted under any agreement with holders of bonds, to consent to any modification with respect to the rate of interest, time and payment of any installment of principal or interest, or any other term of any local obligations owned by the Authority;
17. To establish and revise, amend and repeal, and to charge and collect, fees and charges in connection with any activities or services of the Authority;
18. To do any act necessary or convenient to the exercise of the powers granted or reasonably implied by this chapter; and
19. To pledge as security for the payment of any or all bonds of the Authority, all or any part of the Capital Reserve Fund or other reserve fund or account transferred to a trustee for such purpose from the Water Facilities Revolving Fund pursuant to § 62.1-231, from the Water Supply Revolving Fund pursuant to § 62.1-240, from the Virginia Solid Waste or Recycling Revolving Fund pursuant to § 62.1-241.9, from the Virginia Airports Revolving Fund pursuant to § 5.1-30.6, from the Dam Safety, Flood Prevention and Protection Assistance Fund pursuant to § 10.1-603.17, or from the Virginia Tobacco Region Revolving Fund pursuant to § 3.2-3117. Notwithstanding the foregoing, any such transfer from the Virginia Tobacco Region Revolving Fund may be pledged to secure only those bonds of the Authority issued to finance or refinance projects located in the tobacco-dependent communities in the Southside and Southwest regions of Virginia.

1984, c. 699; 1985, c. 67; 1986, c. 415; 1987, cc. 117, 133, 324; 1994, c. 684; 1998, c. 399; 1999, c. 897; 2003, c. 561; 2006, cc. 648, 765; 2011, c. 616; 2015, cc. 399, 433.

§ 62.1-204. Power to borrow money and issue bonds and credit enhancements.

The Authority shall have the power to borrow money and issue its bonds in amounts the Authority determines to be necessary or convenient to provide funds to carry out its purposes and powers and to pay all costs and expenses incurred in connection with the issuance of bonds. The Authority shall also have the power to issue credit enhancements with respect to local obligations issued to finance or refinance the cost of any project. The total outstanding aggregate principal amount of bonds issued by the Authority and local obligations guaranteed by the Authority pursuant to credit enhancements, that in either case are secured by a capital reserve fund pursuant to the provisions of § 62.1-215, shall not exceed the sum of \$1.5 billion without prior approval of the General Assembly.

Notwithstanding the foregoing, the Authority shall not exceed the sum of eight million dollars in the total principal amount of bonds outstanding at any one time for the purpose of financing any heavy rail transportation facilities.

1984, c. 699; 1985, c. 67; 1989, cc. 533, 551; 1990, c. 506; 1994, c. 684; 1998, c. 399; 1999, c. 104;

2001, c. 574;2009, c. 324.

§ 62.1-205. Power to issue refunding bonds.

The Authority shall have the power: (i) to issue bonds to renew or to pay bonds, including the interest, (ii) whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and (iii) to issue bonds partly to refund bonds then outstanding and partly for its corporate purposes. The refunding bonds may be exchanged for the bonds to be refunded or they may be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded. The amount of the bonds issued by the Authority and refunded with proceeds of refunding bonds issued hereunder shall not be included in the total of outstanding bonds for purposes of the limit on the amount of bonds issued by the Authority as provided in § 62.1-204.

1984, c. 699; 1994, c. 684.

§ 62.1-206. Sources of payment and security for bonds and credit enhancements.

The Authority shall have the power to pledge any revenue or funds of or under the control of the Authority to the payment of its bonds and credit enhancements, subject only to any prior agreements with the holders of particular bonds or the beneficiaries of particular credit enhancements pledging money or revenue. Bonds or credit enhancements issued by the Authority may be secured by a pledge of any local obligation owned by the Authority, any grant, contribution or guaranty from the United States of America, the Commonwealth or any corporation, association, institution or person, any other property or assets of or under the control of the Authority, or a pledge of any money, income or revenue of the Authority from any source.

1984, c. 699; 1985, c. 67; 1986, c. 415; 1998, c. 399.

§ 62.1-207. Liability of Commonwealth, political subdivisions and members of board of directors.

No bonds or credit enhancements issued by the Authority under this chapter shall constitute a debt or a pledge of the faith and credit of the Commonwealth, or any political subdivision thereof other than the Authority, but shall be payable solely from the revenue, money or property of the Authority as provided for in this chapter. No member of the board of directors or officer, employee or agent of the Authority or any person executing bonds or credit enhancements of the Authority shall be liable personally on the bonds or credit enhancements by reason of their issuance or execution. Each bond or credit enhancement issued under this chapter shall contain on its face a statement to the effect (i) that neither the Commonwealth, nor any political subdivision thereof, nor the Authority shall be obligated to pay the principal of, or interest or premium on, the bond or credit enhancement or other costs incident to the bond or credit enhancement except from the revenue, money or property of the Authority pledged and (ii) that neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, is pledged to the payment of the principal of or interests or premium on the bond or credit enhancement.

1984, c. 699; 1998, c. 399.

§ 62.1-208. Authorization, content and sale of bonds and credit enhancements.

A. The bonds and credit enhancements of the Authority shall be authorized by a resolution of the Board of Directors.

B. The bonds shall bear the date or dates and mature at the time or times that the resolution provides, except that no bond shall mature more than fifty years from its date of issue. The bonds may be in the denominations, be executed in the manner, be payable in the medium of payment, be payable at the place or places and at the time or times, and be subject to redemption or repurchase and contain such other provisions as may be determined by the Authority prior to their issuance. The bonds may bear interest payable at such time or times and at such rate or rates as determined by the Authority or as determined in such manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by it. Bonds may be sold by the Authority at public or private sale at the price or prices that the Authority determines and approves.

C. The Authority may bring action pursuant to Article 6 (§ 15.2-2650 et seq.) of Chapter 26 of Title 15.2 to determine the validity of any issuance or proposed issuance of its bonds or credit enhancements under this chapter and the legality and validity of all proceedings previously taken, or proposed in a resolution of the Authority to be taken, for the authorization, issuance, sale and delivery of bonds or credit enhancements and for the payment of the principal of and premium, if any, and interest on bonds or payments of amounts due under credit enhancements of the Authority.

1984, c. 699; 1985, c. 67; 1998, c. 399.

§ 62.1-209. Provisions of resolution or trust indenture authorizing issuance of bonds.

A. Bonds may be secured by a trust indenture between the Authority and a corporate trustee, which may be any bank having the power of a trust company or any trust company within or without the Commonwealth. A trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the exercise of its powers and the custody, safekeeping and application of all money. The Authority may provide by the trust indenture for the payment of the proceeds of the bonds and all or any part of the revenues of the Authority to the trustee under the trust indenture or to some other depository, and for the method of their disbursement with whatever safeguards and restrictions as the Authority specifies. All expenses incurred in carrying out the trust indenture may be treated as part of the operating expenses of the Authority.

B. Any resolution or trust indenture pursuant to which bonds are issued may contain provisions, which shall be part of the contract or contracts with the holders of such bonds as to:

1. Pledging all or any part of the revenue of the Authority to secure the payment of the bonds, subject to any agreements with bondholders that then exist;
2. Pledging all or any part of the assets of, or funds under control of the Authority, including local obligations owned by the Authority, to secure the payment of the bonds, subject to any agreements with bondholders that then exist;
3. The use and disposition of the gross income from, and payment of the principal of and premium, if any, and interest on local obligations owned by the Authority;
4. The establishment of reserves, sinking funds and other funds and accounts and the regulation and disposition thereof;
5. Limitations on the purposes to which the proceeds from the sale of the bonds may be applied,

and limitations pledging the proceeds to secure the payment of the bonds;

6. Limitations on the issuance of additional bonds, the terms on which additional bonds may be issued and secured, and the refunding of outstanding or other bonds;

7. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds, if any, the holders of which must consent thereto, and the manner in which any consent may be given;

8. Limitations on the amount of money to be expended by the Authority for operating expenses of the Authority;

9. Vesting in a trustee or trustees any property, rights, powers and duties in trust that the Authority may determine, and limiting or abrogating the right of bondholders to appoint a trustee or limit the rights, powers and duties of the trustees;

10. Defining the acts or omissions which shall constitute a default, the obligations or duties of the Authority to the holders of the bonds, and the rights and remedies of the holders of the bonds in the event of default, including as a matter of right the appointment of a receiver; these rights and remedies may include the general laws of the Commonwealth and other provisions of this chapter;

11. Requiring the Authority or the trustees under the trust indenture to file a petition with the Governor and to take any and all other actions required under § 15.2-2659 or 62.1-216.1 to obtain payment of all unpaid sums on local obligations owned by the Authority or held by a trustee to which § 15.2-2659 or § 62.1-216.1 shall be applicable; and

12. Any other matter, of like or different character, relating to the terms of the bonds or the security or protection of the holders of the bonds.

1984, c. 699; 1986, c. 415; 1997, c. 319; 1998, c. 399; 2003, c. 561; 2011, c. 616.

§ 62.1-210. Pledge by Authority.

Any pledge made by the Authority shall be valid and binding from the time when the pledge is made. The revenue, money or property so pledged and thereafter received by the Authority shall immediately be subject to the lien of such a pledge without any physical delivery thereof or further act. Furthermore, the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether the parties have notice of the pledge. No recording or filing of the resolution authorizing the issuance of bonds or credit enhancements, the trust indenture securing bonds or any other instrument, including filings under Title 8.9A (§ 8.9A-101 et seq.) of the Uniform Commercial Code of Virginia, shall be necessary to create or perfect any pledge or security interest granted by the Authority to secure any bonds or credit enhancements.

1984, c. 699; 1998, c. 399.

§ 62.1-211. Purchase of bonds by Authority.

The Authority, subject to such agreements with bondholders as may then exist, shall have the power to purchase bonds of the Authority out of any available funds, at any reasonable price. If the bonds are then redeemable, this price shall not exceed the redemption price then applicable plus accrued interest to the next interest payment date.

1984, c. 699.

§ 62.1-212. Bonds as negotiable instruments.

Whether or not in form and character of negotiable instruments, the bonds of the Authority are hereby made negotiable instruments, subject only to provisions of the bonds relating to registration.

1984, c. 699.

§ 62.1-213. Validity of signatures of prior members or officers.

In the event that any of the members of the board of directors or any officers of the Authority cease to be members or officers before the delivery of any bonds or credit enhancements signed by them, their signatures or authorized substitute signatures shall nevertheless be valid and sufficient for all purposes as if the members or officers had remained in office until delivery.

1984, c. 699; 1998, c. 399.

§ 62.1-214. Bondholder protection.

Subsequent amendments to this chapter shall not limit the rights vested in the Authority with respect to any agreements made with, or remedies available to, the holders of bonds or the beneficiaries of credit enhancements issued under this chapter before the enactment of the amendments until the bonds, together with all premium and interest thereon, and the credit enhancements, and all costs and expenses in connection with any proceeding by or on behalf of the holders or the beneficiaries, are fully met and discharged.

1984, c. 699; 1998, c. 399.

§ 62.1-215. Establishment of capital reserve funds.

A. 1. The Authority may create and establish one or more capital reserve funds and may pay into each capital reserve fund (i) any moneys appropriated and made available by the Commonwealth for the purpose of such a fund, (ii) any proceeds of the sale of bonds of the Authority, to the extent provided in the resolution authorizing the issuance of, or the trust indenture securing, the bonds, and (iii) any other moneys which may be made available to the Authority for the purpose of such a fund from any other source. All moneys held in any capital reserve fund, except as hereinafter provided, shall be used solely for the payment when due of the principal of and premium, if any, and interest on the bonds or obligations under credit enhancements issued by the Authority secured in whole or in part by such a fund. If, however, moneys in any such fund are ever less than the minimum capital reserve fund requirement established for the fund, the Authority shall not use the moneys for any optional purchase or redemption of bonds. Any income or interest earned on, or increment to, any capital reserve fund due to its investment may be transferred by the Authority to other funds or accounts of the Authority to the extent it does not reduce the amount of the capital reserve fund below its minimal requirement.

2. The Authority shall not at any time issue bonds or credit enhancements secured in whole or in part by any capital reserve fund, if upon the issuance of the bonds or credit enhancements, the amount in the capital reserve fund will be less than its minimal requirement unless the Authority, at the time of issuance of the bonds or credit enhancements, deposits in the fund an amount which, together with the amount then in the fund, will not be less than the fund's minimal capital reserve requirement.

B. In order to assure further the maintenance of capital reserve funds, the chairman of the

Authority shall annually, on or before December 1, make and deliver to the Governor and the Secretary of Administration a certificate stating the sum, if any, required to restore each capital reserve fund to its minimal requirement. Within five days after the beginning of each session of the General Assembly, the Governor shall submit to the presiding officer of each House of the General Assembly printed copies of a budget including the sum, if any, required to restore each capital reserve fund to its minimal requirement. All sums, if any, which may be appropriated by the General Assembly for any restoration and paid to the Authority shall be deposited by the Authority in the applicable capital reserve fund. All amounts paid to the Authority by the Commonwealth pursuant to the provisions of this section shall constitute and be accounted for as advances by the Commonwealth to the Authority and, subject to the rights of the holders of any bonds of the Authority or the beneficiaries of credit enhancements of the Authority, shall be repaid to the Commonwealth without interest from available operating revenues of the Authority in excess of amounts required for the payment of bonds, credit enhancements or other obligations of the Authority, the maintenance of capital reserve funds, and operating expenses. In addition, no bonds issued by the Authority to finance a professional sports facility shall be secured by a capital reserve fund.

C. The Authority may create and establish other funds as necessary or desirable for its corporate purposes.

D. Nothing in this section shall be construed as limiting the power of the Authority to issue bonds or credit enhancements not secured by a capital reserve fund.

1984, c. 699; 1998, c. 399; 2000, c. 790.

§ 62.1-216. Purchase and credit enhancements of local obligations.

The Authority shall have the power and authority, with any funds of the Authority available for such a purpose, to purchase and acquire, on terms which the Authority determines, local obligations to finance or refinance the cost of any project. The Authority may pledge to the payment of any bonds all or any portion of the local obligations so purchased. The Authority may also, subject to any such pledge, sell any local obligations so purchased and apply the proceeds of such a sale to the purchase of other local obligations for financing or refinancing the cost of any project or for any other corporate purpose of the Authority.

The Authority shall also have the power and authority to issue credit enhancements, on terms which the Authority determines, to credit enhance local obligations issued to finance or refinance the cost of any project.

The Authority may require, as a condition to the purchase or credit enhancement of any local obligations, that the local government issuing the local obligations 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 local obligations; 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. Create and maintain a special fund or funds for the payment of the principal of and premium,

if any, and interest on the local obligations and any other amounts becoming due under any agreement entered into in connection with the local obligations, or for the operation, maintenance, repair or replacement of the project or any portions thereof or other property of the local government, and deposit into any fund or funds amounts sufficient to make any payments as they become due and payable;

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

D. Perform other acts, including the conveyance of real and personal property together with all right, title and interest therein to the Authority, 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 local obligations or obligations to the Authority with respect to any credit enhancement and to provide for the remedies of the Authority or other holder of the local obligations in the event of any default by the local government in the payment, including, without limitation, any of the following:

1. The procurement of credit enhancements or liquidity arrangements for local obligations from any source, public or private, and the payment therefor of premiums, fees or other charges.
2. The payment of the allocable shares of the local governments, as determined by the Authority, of any costs, fees, charges or expenses attributable to liquidity arrangements incurred in connection with the issuance of bonds by the Authority to acquire local obligations of one or more local governments. The determination of such allocable shares may be made by the Authority on any reasonable basis.
3. 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 local obligations issued in connection with such combination or any part or parts thereof.
4. The payment of the allocable shares of the local governments, as determined by the Authority on any reasonable basis, of rate stabilization funds established or required by the Authority in connection with the issuance of bonds by the Authority to acquire or provide credit enhancement for local obligations of two or more local governments.

All local governments issuing and selling local obligations to the Authority or to be credit enhanced by the Authority are authorized to perform any acts, take any action, adopt any proceedings and make and carry out any contracts with the Authority that are contemplated by this chapter. Such contracts need not be identical among all participants in financings of the Authority, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Authority.

To the extent permitted by law for local obligations issued after July 1, 2003, local governments may enter into agreements with the Authority that provide for a local government to consider and make appropriations of any funds or revenue generated from the following: (i) taxes, funds and assessments from service districts created under Chapter 24 (§ 15.2-2400 et seq.) of Title 15.2, (ii) funds held by the local government, or (iii) any revenue or funds generated from sources other than property taxes imposed under Chapter 32 (§ 58.1-3200 et seq.) or Chapter 35 (§ 58.1-3500 et seq.) of Title 58.1 in amounts sufficient to pay all or a specified portion of the amounts set forth in subsection A or to make deposits into the special fund or funds provided for in

subsections B and C and to pledge and apply the amounts so appropriated for such purposes.

1984, c. 699; 1985, c. 67; 1998, c. 399; 2003, c. 561.

§ 62.1-216.1. Investigation by Governor of nonpayments; withholding state funds from nonpaying locality; payment of funds withheld; receipts, reports, etc.

Whenever it appears to the Governor from an affidavit filed with him by the Authority as the purchaser, holder, or credit enhancer of local obligations (regardless of the security therefor) issued by any county, city or town that a payment has not been made on any local obligations, the Governor shall immediately make a summary investigation into the facts set forth in the affidavit. The Authority may, but shall not be required to, file such an affidavit unless the Authority has otherwise contracted to make such filing for the benefit of the holders of any of its bonds or the local obligations credit enhanced by it. The affidavit described in this section may be filed by a trustee to which the Authority has assigned the local obligations or the payment thereon as security for bonds of the Authority under a resolution or trust indenture or otherwise.

If it is established to the satisfaction of the Governor that such nonpayment has occurred, the Governor shall immediately make an order directing the Comptroller to withhold all further payment to the county, city or town of all funds, or of any part of them, appropriated and payable by the Commonwealth to the county, city or town for any and all purposes, until the unpaid sum is obtained. The Governor shall, while the nonpayment continues, direct in writing the payment of all sums withheld by the Comptroller, or as much of them as is necessary, to the Authority, so as to cure, or cure insofar as possible, nonpayment on the local obligations.

The Governor shall, as soon as practicable, give notice of the nonpayment and of the availability of funds with the Comptroller in writing to the Authority. Any payment so made by the Comptroller to the Authority shall be credited as if made directly by the county, city or town and shall be charged by the Comptroller against the first appropriations otherwise payable to the county, city or town as if paid to the county, city or town. The Authority, at the time of payment or at the time of each payment shall receipt for the payment and deliver to the Comptroller all local obligations or other instruments or documents, in a form satisfactory to the Comptroller, evidencing the Authority's right to receive the amounts satisfied by the payment. The Comptroller shall report each payment made to the governing body of the nonpaying county, city or town and deliver or send by registered mail to the governing body all local obligations, or other instruments or documents received by the Comptroller under the provisions of this section.

Nothing in this section shall be construed to create any obligation on the part of the Comptroller or the Commonwealth to make any payment on behalf of the nonpaying county, city or town other than from funds appropriated and payable to the nonpaying county, city or town.

1998, c. 399; 2003, c. 561; 2011, c. 616.

§ 62.1-217. Grants from Commonwealth.

The Commonwealth may make grants of money or property to the Authority for the purpose of enabling it to carry out its corporate purposes and for the exercise of its powers, including deposits to the capital reserve funds. This section shall not be construed to limit any other power the Commonwealth may have to make grants to the Authority.

1984, c. 699.

§ 62.1-218. Grants to local governments.

The Authority shall have the power and authority, with any funds of the Authority available for this purpose, to make grants to local governments. In determining which local governments are to receive grants, the Department of Environmental Quality, the Department of Health, and the Virginia Waste Management Board shall assist the Authority in determining needs for wastewater treatment facilities, water supply facilities, solid waste treatment, disposal or management facilities, or recycling facilities, and the method and form of such grants.

1984, c. 699; 1992, cc. 378, 887.

§ 62.1-219. Exemption from taxation.

As set forth in § 62.1-200, the Authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter. Accordingly, the Authority shall not be required to pay any taxes or assessments upon any project or any property or upon any operations of the Authority or the income therefrom, or any taxes or assessments upon any project or any property or local obligation acquired, credit enhanced or used by the Authority under the provisions of this chapter or upon the income therefrom. Any bonds and credit enhancements issued by the Authority under the provisions of this chapter, the transfer thereof and the income therefrom, including any profit on the sale thereof, shall at all times be free from taxation and assessment of every kind by the Commonwealth and by the local governments and other political subdivisions of the Commonwealth.

1984, c. 699; 1985, c. 67; 1998, c. 399.

§ 62.1-220. Bonds as legal investments and securities.

The bonds issued by the Authority in accordance with the provisions of this chapter are declared to be legal investments in which all public officers or public bodies of the Commonwealth, its political subdivisions, all municipalities and municipal subdivisions; all insurance companies and associations and other persons carrying on insurance business; all banks, bankers, banking associations, trust companies, savings banks, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business; all administrators, guardians, executors, trustees and other fiduciaries; and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the Commonwealth, may invest funds, including capital, in their control or belonging to them. The bonds of the Authority are also hereby made securities which may be deposited with and received by all public officers and bodies of the Commonwealth or any agency or political subdivision of the Commonwealth and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may be later authorized by law.

1984, c. 699.

§ 62.1-221. Deposit of money; expenditures; security for deposits.

A. All money of the Authority, except as otherwise authorized by law or provided in this chapter, shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check signed by the Executive Director or other officers or employees and designated by the Authority. All deposits of money shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies and savings institutions are authorized to give security for the

deposits.

B. Notwithstanding the provisions of subsection A the Authority shall have the power to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any money of the Authority and of any money held in trust or otherwise for the payment of bonds and to carry out such a contract. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of money may be secured in the same manner as money of the Authority, and all banks and trust companies are authorized to give security for the deposits.

C. Subject to the provisions of subsection B hereof, funds of the Authority not needed for immediate use or disbursement, including any funds held in reserve, may be invested in (i) obligations or securities which are considered lawful investments for fiduciaries, both individual and corporate, as set forth in § 2.2-4519, (ii) bankers' acceptances, or (iii) repurchase agreements, reverse repurchase agreements, rate guarantee or investment agreements or other similar banking arrangements.

D. Whenever investments are made in accordance with this section, no director, officer or employee of the Authority shall be liable for any loss therefrom in the absence of negligence, malfeasance, misfeasance or nonfeasance on his part.

1984, c. 699; 1985, c. 67; 1994, c. 684; 1996, c. 77.

§ 62.1-222. Annual reports; audit.

The Authority shall, following the close of each fiscal year, submit an annual report on or before December 1 of its activities for the preceding year to the Governor and General Assembly. Each report shall set forth a complete operating and financial statement for the Authority during the fiscal year it covers. An independent certified public accountant or the Auditor of Public Accounts shall perform an audit of the books and accounts of the Authority at least once in each fiscal year.

1984, c. 699; 2005, c. 633.

§ 62.1-223. Liberal construction of chapter.

The provisions of this chapter shall be liberally construed to the end that its beneficial purposes may be effectuated. No proceedings, notice or approval shall be required for the issuance of any bonds of the Authority or any instruments or the security thereof, except as provided in this chapter. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special or local, the provisions of this chapter shall be controlling.

1984, c. 699.