

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to amend and reenact §§ 3.2-3100 through 3.2-3104, 3.2-3108, 3.2-3111, and 62.1-203 of the Code of Virginia and to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 31.1, consisting of sections numbered 3.2-3112 through 3.2-3121, relating to the Tobacco Region Revitalization Commission; financial viability and feasibility study prior to disbursement; Virginia Tobacco Region Revolving Fund.

[S 1440]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 3.2-3100 through 3.2-3104, 3.2-3108, 3.2-3111, and 62.1-203 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 31.1, consisting of sections numbered 3.2-3112 through 3.2-3121, as follows:

§ 3.2-3100. Definitions.
 As used in this chapter, unless the context requires a different meaning:
 "Active tobacco producer" means a person: (i) actively engaged in planting, growing, harvesting, and marketing of flue-cured or burley tobacco, or who shares in the variable expenses of producing the crop; and is therefore entitled to share in the revenue derived from marketing the crop; and (ii) who produces such crop on a farm where tobacco was produced for the 1998 crop year, or any subsequent crop year upon which the Commission may determine to base indemnification payments, pursuant to a tobacco farm marketing quota or farm acreage allotment as established under the Agriculture Adjustment Act of 1938 (7 U.S.C. § 1281 et seq.).
 "Agreement" means the agreement or agreements between the Commonwealth, as seller of the Tobacco Assets, and the Corporation, as purchaser of the Tobacco Assets. The sale by the Commonwealth of the Tobacco Assets pursuant to any such agreement shall be a true sale and not a borrowing.
 "Commission" means the Tobacco Indemnification and Community Region Revitalization Commission created pursuant to § 3.2-3101.
 "Commission Allocation" means 50 percent of the annual amount received under the Master Settlement Agreement by the Commonwealth, or that would have been received but for a sale of such allocation pursuant to an agreement, between the commencing and ending dates specified in the agreement.
 "Corporation" means the Tobacco Settlement Financing Corporation as created under state law.
 "Endowment" means the Tobacco Indemnification and Community Revitalization Endowment established pursuant to § 3.2-3104.
 "Fund" means the Tobacco Indemnification and Community Revitalization Fund established pursuant to § 3.2-3106.
 "Master Settlement Agreement" means the settlement agreement and related documents between the Commonwealth and leading United States tobacco product manufacturers dated November 23, 1998, and including the Consent Decree and Final Judgment entered in the Circuit Court of the City of Richmond on February 23, 1999, Chancery Number HJ-2241-4.
 "Period of sale" means the time during which a purchaser under an agreement is entitled to receive the Commission Allocation.
 "Quota holder" means an owner of a farm on July 1, 1998, or July 1 of any subsequent crop year upon which the Commission may determine to base indemnification payments, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agriculture Adjustment Act of 1938 (7 U.S.C. § 1281 et seq.).
 "Strategic Plan" means the strategic plan required pursuant to subsection C of § 3.2-3103.
 "Tobacco Assets" means all right, title, and interest in and to the portion of the Commission Allocation that may be sold to the Corporation.
 "Tobacco farmer" means any person who is an active tobacco producer, a quota holder, or both.
§ 3.2-3101. Tobacco Region Revitalization Commission created; purposes.
 The Tobacco Indemnification and Community Region Revitalization Commission is created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Commission is established for the purposes of determining the appropriate recipients of moneys in the Tobacco Indemnification and Community Revitalization Fund and causing distribution of such moneys for the purposes provided in

57 this chapter, including using moneys in the Fund to: (i) provide payments to tobacco farmers as
 58 compensation for the adverse economic effects resulting from loss of investment in specialized tobacco
 59 equipment and barns and lost tobacco production opportunities associated with a decline in quota; and
 60 (ii) revitalize tobacco dependent communities. The Commission shall have only those powers
 61 enumerated in § 3.2-3103.

62 **§ 3.2-3102. Membership; terms; vacancies; compensation and expenses; chairman; chairman's**
 63 **executive summary.**

64 A. The Commission shall be composed of ~~34~~ 28 members as follows:

65 1. Six members of the House of Delegates appointed by the Speaker of the House of Delegates;

66 2. Four members of the Senate appointed by the Senate Committee on Rules;

67 3. The Secretary of Commerce and Trade or his designee;

68 4. The Secretary of Finance or his designee;

69 5. The Secretary of Agriculture and Forestry or his designee;

70 6. ~~Three~~ Five nonlegislative citizen members who shall be active flue-cured *or burley* tobacco
 71 producers appointed by the Governor. ~~Of the active flue-cured tobacco producers, two shall be~~ *or active*
 72 *farmers* appointed by the Governor from a list of ~~six~~ seven persons provided by the members of the
 73 General Assembly appointed to the Commission. ~~Three of the tobacco producers or active farmers shall~~
 74 *reside in the Southside region and two shall reside in the Southwest region;*

75 7. ~~Three nonlegislative citizen members who shall be active burley tobacco producers appointed by~~
 76 ~~the Governor. Of the active burley tobacco producers, one member shall be appointed by the Governor~~
 77 ~~from a list of three persons provided by the members of the General Assembly appointed to the~~
 78 ~~Commission;~~

79 8. One nonlegislative citizen member who shall be a representative of the Virginia Farm Bureau
 80 Federation appointed by the Governor from a list of at least three persons provided by Virginia Farm
 81 Bureau Federation; and

82 9. ~~Eleven~~ 8. *Nine* members shall be nonlegislative citizens appointed by the Governor. Of the ~~14~~
 83 *nine* nonlegislative citizen members, three shall be appointed by the Governor from a list of ~~nine~~ six
 84 provided by the members of the General Assembly appointed to the Commission.

85 With the exception of the Secretary of Commerce and Trade or his designee, the Secretary of
 86 Finance or his designee and the Secretary of Agriculture and Forestry or his designee, all members of
 87 the Commission shall reside in the Southside and Southwest regions of the Commonwealth and shall be
 88 subject to confirmation by the General Assembly. To the extent feasible, appointments representing the
 89 Southside and Southwest regions shall be proportional to the tobacco quota production of each region.
 90 *Thirteen of the 28 members shall have experience in business, economic development, investment*
 91 *banking, finance, or education.*

92 Except as otherwise provided herein, all appointments shall be for terms of four years each.
 93 Legislative members, the Secretary of Commerce and Trade, the Secretary of Finance, and the Secretary
 94 of Agriculture and Forestry or his designee shall serve terms coincident with their terms of office. No
 95 nonlegislative citizen member shall be eligible to serve more than two successive four-year terms. After
 96 expiration of a term of three years or less, two additional four-year terms may be served by such
 97 member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be
 98 made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as
 99 the original appointment. The remainder of any term to which a member is appointed to fill a vacancy
 100 shall not constitute a term in determining the member's eligibility for reappointment.

101 ~~The initial appointments of the active flue-cured tobacco producers, the active burley tobacco~~
 102 ~~producers, and other nonlegislative citizen members shall be as follows: one active flue-cured tobacco~~
 103 ~~producer, one active burley tobacco producer and four nonlegislative citizen members shall be appointed~~
 104 ~~for terms of two years; one active flue-cured tobacco producer, one active burley tobacco producer and~~
 105 ~~four nonlegislative citizen members shall be appointed for terms of three years; and one active~~
 106 ~~flue-cured tobacco producer, one active burley tobacco producer and three nonlegislative citizen~~
 107 ~~members shall be appointed for terms of four years. Thereafter all appointments shall be for terms of~~
 108 ~~four years.~~

109 B. The Commission shall appoint from its membership a chairman and a vice-chairman, both of
 110 whom shall serve in such capacities at the pleasure of the Commission. The chairman, or in his absence,
 111 the vice-chairman, shall preside at all meetings of the Commission. The meetings of the Commission
 112 shall be held on the call of the chairman or whenever the majority of the members so request. A
 113 majority of members of the Commission serving at any one time shall constitute a quorum for the
 114 transaction of business.

115 C. Legislative members of the Commission shall receive such compensation as is set forth in
 116 § 30-19.12, and nonlegislative members shall receive such compensation for the performance of their
 117 duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary

118 expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such
119 compensation and expenses shall be paid from the Fund.

120 D. Members and employees of the Commission shall be subject to the standards of conduct set forth
121 in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed
122 from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set
123 forth therein.

124 E. Except as otherwise provided in this chapter, members and employees of the Commission shall be
125 subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

126 F. The chairman of the Commission shall submit to the Governor and the General Assembly an
127 annual executive summary of the interim activity and work of the Commission no later than the first
128 day of each regular session of the General Assembly. The executive summary shall be submitted as
129 provided in the procedures of the Division of Legislative Automated Systems for the processing of
130 legislative documents and reports and shall be posted on the General Assembly's website.

131 **§ 3.2-3103. Powers and duties of the Tobacco Region Revitalization Commission.**

132 A. The Commission shall have the power and duty to:

133 1. Adopt, use, and alter at will an official seal;

134 2. Make bylaws for the management and regulation of its affairs;

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

136 4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or
137 bequeathed to the Commission, absolutely or in trust, for the purposes for which the Commission is
138 created;

139 5. Determine how moneys in the Fund are to be distributed and to authorize;

140 6. Authorize grants, loans, or other distributions of moneys in the Fund for the purposes set forth in
141 this chapter;

142 7. *For each economic development grant or award, including a grant from the Tobacco Region
143 Opportunity Fund, require a dollar-for-dollar match from non-Commission sources. Performance bonds
144 shall be considered acceptable matching payment. No more than 25 percent of the match shall be
145 in-kind. However, a match of less than 50 percent may be considered by a two-thirds majority vote of
146 the Commission;*

147 8. *Adopt policies governing the Tobacco Region Opportunity Fund, including a repayment policy.
148 The Commission shall apply the policies consistently;*

149 9. *Enter into a contractual or employment agreement with a financial viability manager (the
150 Manager). The management agreement shall require the Manager to provide a written financial viability
151 and feasibility report to the Commission as to the financial propriety of certain loans, grants, or other
152 distributions of money made for the revitalization of a tobacco-dependent locality as proposed in
153 accordance with the Commission's strategic objectives. The Commission shall not make any loan, except
154 a loan made through the Virginia Tobacco Region Revolving Fund created in Chapter 31.1 (§ 3.2-3112
155 et seq.); grant; or other distribution of money until the Manager has provided the Commission with a
156 written recommendation as to the financial viability and feasibility of the proposed distribution of funds.
157 However, nothing in this section shall eliminate consideration of strategic economic initiatives;*

158 ~~6.~~ 10. Make and execute contracts and all other instruments and agreements necessary or convenient
159 for the exercise of its powers and functions;

160 ~~7.~~ 11. Invest its funds as provided in this chapter or permitted by applicable law; and

161 ~~8.~~ 12. Do any lawful act necessary or appropriate to carry out the powers herein granted or
162 reasonably implied, including use of whatever lawful means may be necessary and appropriate to
163 recover any payments wrongfully made from the Fund.

164 B. The Commission shall undertake studies and gather information and data in order to determine: (i)
165 the economic consequences of the reduction in or elimination of quota for tobacco growers; (ii) the
166 potential for alternative cash crops; and (iii) any other matters the Commission believes will affect
167 tobacco growers in the Commonwealth.

168 C. *The Commission shall at least biennially develop a strategic plan containing specific priorities,
169 measureable goals, and quantifiable outcomes. In developing the Strategic Plan, the Commission shall
170 solicit input from local and regional economic developers, the Virginia Department of Agriculture and
171 Consumer Services, the Virginia Economic Development Partnership, the Virginia Department of
172 Housing and Community Development, the Virginia Tourism Authority, the Virginia Resources Authority,
173 and the Center for Rural Virginia. The Strategic Plan shall state how each Fund award is consistent
174 with the Commission's achievement of measurable goals and outcomes and its advancement of the
175 specific priorities of the Strategic Plan. The Strategic Plan shall also state how awards from the Fund
176 are projected to affect key economic indicators of employment, income, educational attainment, amount
177 of Virginia-grown agricultural and forestal products used by the project, and return on investment.*

178 D. *The Commission shall develop a publicly available online database of all Commission awards,*

179 listing for each project the project's goals, the means by which the project fits into the Strategic Plan,
 180 the project's expected and achieved outcomes, and the total amount of funding the Commission has
 181 awarded to the project through any prior grants.

182 E. The Commission shall submit a report annually to the Governor and the General Assembly.

183 **§ 3.2-3104. Tobacco Indemnification and Community Revitalization Endowment.**

184 A. There is hereby established in the state treasury a special fund to be designated the "Tobacco
 185 Indemnification and Community Revitalization Endowment." The Endowment shall receive any proceeds
 186 from any sale of all or any portion of the Commission Allocation, and any gifts, grants and
 187 contributions that are specifically designated for inclusion in such Endowment. No part of the
 188 Endowment, neither corpus nor income, or interest thereon, shall revert to the general fund of the state
 189 treasury. The Endowment shall be under the management and control of the Treasury Board, and the
 190 Treasury Board shall have such powers and authority as may be necessary to exercise such management
 191 and control consistent with the provisions of this section. The income of the Endowment shall be paid
 192 out, not less than annually, to the Fund. In addition, up to ~~40~~ six percent of the corpus of the
 193 Endowment shall be paid to the Fund annually upon request of the Commission, *by majority vote*, to the
 194 Treasury Board. Upon two-thirds vote of the Commission, up to ~~45~~ 10 percent of the corpus of the
 195 Endowment shall be so paid. *Upon three-fourths vote of the Commission, up to 15 percent of the corpus*
 196 *of the Endowment shall be so paid.* No use of proceeds shall be made that would cause bonds issued on
 197 a tax-exempt basis to be deemed taxable. For purposes of this section, "income" of the Endowment
 198 means at the time of determination the lesser of the available cash in, or the realized investment income
 199 for the applicable period of, the Endowment, and "corpus" of the Endowment means at the time of
 200 determination the sum of the proceeds from the sale of all or any portion of the Commission Allocation,
 201 any gifts, grants, and contributions that have been credited to such Endowment, and any income not
 202 appropriated and withdrawn from the Endowment prior to June 30 of each year, less withdrawals from
 203 the corpus. Determinations by the Treasury Board, or the State Treasurer on behalf of the Treasury
 204 Board, as to the amount of income or the amount of the corpus shall be conclusive.

205 B. The Treasury Board shall serve as trustee of the Endowment and the corpus and income of the
 206 Endowment shall be withdrawn and credited to the Fund by order of the Treasury Board as provided in
 207 subsection A. The State Treasurer shall be custodian of the funds credited to the Endowment. The
 208 Treasury Board shall have full power to invest and reinvest funds credited to the Endowment in
 209 accordance with the provisions of the Uniform Prudent Management of Institutional Funds Act
 210 (§ 64.2-1100 et seq.) and, in addition, as otherwise provided by law. The Treasury Board may borrow
 211 money in such amounts as may be necessary whenever in its judgment it would be more advantageous
 212 to borrow money than to sell securities held for the Fund. Any debt so incurred may be evidenced by
 213 notes duly authorized by resolution of the Treasury Board, such notes to be retired no later than the end
 214 of the biennium in which such debt is incurred. The Treasury Board may commingle, for purposes of
 215 investment, the corpus of the Endowment provided that it shall appropriately account for the investments
 216 credited to the Endowment. The Treasury Board may hire independent investment advisors and
 217 managers as it deems appropriate to assist with investing the Endowment. The expenses of making and
 218 disposing of investments, such as brokerage commissions, legal expenses related to a particular
 219 transaction, investment advisory and management fees and expenses, transfer taxes, and other customary
 220 transactional expenses shall be payable out of the income of the Endowment.

221 Not less than annually and more frequently if so desired by the Commission or requested by the
 222 Treasury Board, the Commission shall provide to the Treasury Board schedules of anticipated
 223 disbursements from the Fund for the current and succeeding fiscal year, and the Treasury Board shall, to
 224 the extent practicable, take into account such schedules and changes thereto in scheduling maturities and
 225 redemptions of its investments of the Endowment.

226 **§ 3.2-3108. Distribution of Fund.**

227 A. The Fund shall be distributed by the Commission for the following purposes:

228 1. The compensation of Virginia tobacco farmers for the decline or elimination of the tobacco quota
 229 based on averaging the basic burley and flue-cured quota as allocated by the USDA for the crop years
 230 1995 through 1998.

231 To the extent quota holders in Virginia are not otherwise compensated by a national tobacco
 232 community trust fund or a federal tobacco loss assistance program that is based on substantially the
 233 same distribution criteria established by the Commission for indemnification payments and to the extent
 234 moneys are available in the Fund, the Fund shall be used to compensate quota holders in an amount
 235 equal to the total lost asset value in quota incurred annually by such quota holders.

236 To the extent active tobacco producers in Virginia are not otherwise compensated by a national
 237 tobacco community trust fund or a federal tobacco loss assistance program that is based on substantially
 238 the same distribution criteria established by the Commission for indemnification payments and to the
 239 extent moneys are available in the Fund, the Fund shall be used to compensate active tobacco producers

240 for the economic loss resulting from any annual quota reduction.

241 For the purposes of this section, the total asset loss value in quota and economic losses for tobacco
242 farmers in Virginia shall be estimated to be \$1.2 billion.

243 The Commission may establish criteria for determining economic loss resulting from any annual
244 quota reduction, including any similar criteria established pursuant to the creation of a national tobacco
245 community trust fund;

246 2. The stimulation of economic growth and development in tobacco-dependent communities in an
247 equitable manner throughout the southside *Southside* and southwest *Southwest* regions of the
248 Commonwealth, to assist such communities in reducing their dependency on, or finding alternative uses
249 for, tobacco and tobacco-related business; and

250 3. 2. Scientific research performed at one of the Commonwealth's National Cancer
251 Institute-designated research institutes designed to advance the treatment and prevention of cancers that
252 directly impact the citizens of tobacco-dependent communities throughout the southside *Southside* and
253 southwest *Southwest* regions of the Commonwealth.

254 B. The Commission may require that as a condition of receiving any grant or loan incentive that is
255 based on employment goals, a recipient company must provide copies of employer quarterly payroll
256 reports provided to the Virginia Employment Commission to verify the employment status of any
257 position included in the employment goal.

258 *The Commission shall require that each project have an accountability matrix. For an economic
259 development program, the matrix shall be based on return on investment, jobs, wages, and capital
260 investment. For a scholarship program, the matrix shall be based on attainment of bachelor's degrees,
261 credentials, or jobs. For a health care program, the matrix shall be based on health care outcomes. For
262 an agriculture or forestry program, the matrix shall be based on jobs, capital investment, amount of
263 Virginia-grown agricultural and forestal products used by the project, projected impact on agricultural
264 and forestal producers, and a return on investment analysis.*

265 *The Commission shall require each applicant to provide with its application (i) baseline figures, (ii)
266 explicit and quantified outcome expectations, (iii) the method used to calculate outcome expectations,
267 (iv) details on the timing of the expected outcomes, and (v) a specific link to economic revitalization and
268 the Strategic Plan.*

269 *The Commission shall require that as a condition of receiving any grant or loan incentive each
270 project (a) demonstrate how it will address low employment levels, per capita income, educational
271 attainment, or other workforce indicators; (b) be consistent with the Strategic Plan; and (c) receive a
272 written recommendation as to its financial viability and feasibility from the Manager pursuant to
273 subdivision A 9 of § 3.2-3103.*

274 **§ 3.2-3111. Confidentiality of information.**

275 A. The Commission shall hold in confidence the personal and financial information supplied to it, or
276 maintained by it, concerning tobacco farmers, including names, addresses, and payment information. The
277 Commission may require any tobacco farmer or other applicant for payments from the Fund to provide
278 his social security or taxpayer identification number.

279 B. Notwithstanding the foregoing, personal and financial information supplied to or maintained by
280 the Commission relating to tobacco farmers may be used, exchanged, and disclosed at the Commission's
281 discretion as may be necessary or appropriate to make payments under, administer, or enforce this
282 chapter and related state and federal laws, any other state or federal tobacco indemnification or loss
283 assistance program, or a national tobacco community trust fund.

284 C. Nothing in this section shall prohibit the Commission, in its discretion, from releasing any
285 information that has been transformed into a statistical or aggregate form that does not allow the
286 identification of the person who supplied particular information or the sum of money received by a
287 particular recipient.

288 D. Personal and financial information supplied by or maintained on persons or entities applying for
289 or receiving distributions from the Fund for economic growth and development, as well as specific
290 information relating to the amount and identity of recipients of such distributions, shall be subject to
291 disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The
292 provisions of that Act applicable to records or meetings of the Virginia Economic Development
293 Partnership or other state or local economic development entities shall apply mutatis mutandis to the
294 Commission *and the Manager selected pursuant to subdivision A 9 of § 3.2-3103.*

295 E. The provisions of this section shall also apply to any department, agency, institution, political
296 subdivision, or employee of the Commonwealth or a political subdivision that receives personal or
297 financial information from the Commission in order to process checks for payments from the Fund or to
298 assist the Commission with the administration and enforcement of this chapter.

299 PART D.

300 TOBACCO INDEMNIFICATION AND COMMUNITY REGION REVITALIZATION COMMISSION

AND VIRGINIA TOBACCO REGION REVOLVING FUND.

CHAPTER 31.1.

VIRGINIA TOBACCO REGION REVOLVING FUND.

§ 3.2-3112. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.) of Title 62.1.

"Commission" means the Tobacco Region Revitalization Commission created pursuant to § 3.2-3101.

"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; 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; carrying charges incurred before the project is placed in service; interest on funds borrowed 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 that the Authority may require; and the cost of other items that the Authority determines to be reasonable and necessary.

"Endowment" means the Tobacco Indemnification and Community Revitalization Endowment as established in § 3.2-3104.

"Fund" means the Virginia Tobacco Region Revolving Fund created by this chapter.

"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 of Virginia or laws of the Commonwealth, or any combination of any two or more of the foregoing, located in any of the tobacco-dependent communities in the Southside and Southwest regions of Virginia.

"Project" means the same as that term is defined in § 62.1-199.

§ 3.2-3113. Creation and management of Virginia Tobacco Region Revolving Fund.

A. There shall be set apart as a permanent and perpetual fund, to be known as the Virginia Tobacco Region Revolving Fund, with a sum of up to \$50 million made available from (i) the corpus of the taxable portion of the Endowment paid to the Fund per request from the Commission within the limits imposed pursuant to § 3.2-3104, (ii) sums, if any, appropriated to the Fund by the General Assembly, (iii) all receipts by the Fund from loans made by it to local governments, (iv) all income from the investment of moneys held in the Fund, and (v) any other sums designated for deposit to the Fund from any source public or private, including, without limitation, any federal grants, awards, or other forms of assistance received by the Commonwealth that are eligible for deposit therein under federal law. Transfers from the Endowment to the Fund shall occur as required for loan disbursements.

B. The Authority shall administer and manage the Fund and establish the interest rates and repayment terms of such loans as are provided for by this chapter in accordance with a memorandum of agreement with the Commission. In order to carry out the administration and management of the Fund, the Authority, in consultation with the Commission, is granted the power to employ officers, employees, agents, advisers, and consultants, including, without limitation, 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. The Authority may disburse from the Fund the reasonable costs and expenses it incurs in the administration and management of the Fund and a reasonable fee to be approved by the Commission for its management services, but the Authority shall not charge its ordinary expenses to the Fund or the Commission. The Department of the Treasury, as the party holding the Endowment, shall be a party to the memorandum of agreement. Under all circumstances, the Commission shall select the projects eligible for the loans.

C. The Commission shall direct the distribution of loans from the Fund to particular local governments. Consistent with this chapter, the Commission shall, after consultation with all interested parties, develop a guidance document governing project eligibility and project priority criteria.

§ 3.2-3114. Deposit of money; expenditures; investments.

A. All money belonging to the Fund shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations located in the Commonwealth, or savings institutions located in the Commonwealth and organized under the laws of

362 the Commonwealth or the United States. The money in these accounts shall be paid by check signed by
 363 the Executive Director of the Authority or another officer or employee designated by the Board of
 364 Directors of the Authority. All deposits of money shall, if required by the Authority, be secured in a
 365 manner determined by the Authority to be prudent, and all banks, trust companies, and savings
 366 institutions are authorized to give security for the deposits.

367 B. Money in the Fund shall not be commingled with other money of the Authority. Money in the
 368 Fund not needed for immediate use or disbursement may be invested or reinvested by the Authority in
 369 obligations or securities that are considered lawful investments for public funds under the laws of the
 370 Commonwealth, including the Local Government Investment Pool Act (§ 2.2-4600 et seq.).

371 **§ 3.2-3115. Collection of money due the Fund.**

372 The Authority is empowered to collect, or to authorize others to collect on its behalf, amounts due to
 373 the Fund under any loan to a local government, including, if appropriate, by taking the action required
 374 by § 15.2-2659 or 62.1-216.1 to obtain payment of any amounts in default. Proceedings to recover
 375 amounts due to the Fund may be instituted by the Authority in the name of the Fund in the appropriate
 376 circuit court.

377 **§ 3.2-3116. Loans to local governments.**

378 A. Except as otherwise provided in this chapter, money in the Fund shall be used solely to make
 379 loans to local governments to finance or refinance the cost of any project that has an identifiable
 380 revenue stream from which the loan proceeds may be repaid. The local government to which a loan is
 381 to be made, the purpose of the loan, the amount of the loan, and the associated identifiable revenue
 382 stream shall be designated in writing by the Commission to the Authority following consultation with the
 383 Authority. No loan from the Fund shall exceed the total cost of the project to be financed or the
 384 outstanding principal amount of the indebtedness to be refinanced plus reasonable financing expenses.

385 B. Except as otherwise provided in this chapter, the Authority shall determine the interest rate and
 386 terms and conditions of any loan from the Fund, which may vary between local governments. Each loan
 387 shall be evidenced by appropriate bonds or notes of the local government payable to the Fund. The
 388 bonds or notes shall have been duly authorized by the local government and executed by its authorized
 389 legal representatives. The Authority is authorized to require in connection with any loan from the Fund
 390 such documents, instruments, certificates, legal opinions, and other information as it may deem
 391 necessary or convenient.

392 C. In addition to any other terms or conditions that the Authority may establish, the Authority may
 393 require, as a condition to making any loan from the Fund, that the local government receiving the loan
 394 covenant to perform any of the following:

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

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

408 3. Create and maintain other special funds as required by the Authority.

409 4. Perform other acts otherwise permitted by applicable law to secure payment of the principal of,
 410 premium, if any, and interest on the loan from the Fund to the local government and to provide for the
 411 remedies of the Fund in the event of any default by the local government in the payment of the loan,
 412 including, without limitation, any of the following:

413 a. The procurement of insurance, guarantees, letters of credit and other forms of collateral, security,
 414 liquidity arrangements, or credit supports for the loan from any source, public or private, and the
 415 payment therefor of premiums, fees, or other charges;

416 b. The combination of one or more projects, or the combination of one or more projects with one or
 417 more other undertakings, facilities, utilities, or systems, for the purpose of operations and financing, and
 418 the pledging of the revenues from such combined projects, undertakings, facilities, utilities, and systems
 419 to secure the loan from the Fund to the local government made in connection with such combination or
 420 any part or parts thereof;

421 c. The maintenance, replacement, renewal, and repair of the project; and

422 d. The procurement of casualty and liability insurance.

423 5. Obtain a review of the accounting and the internal controls from the Auditor of Public Accounts
 424 or his legally authorized representative. The Authority may request additional reviews at any time
 425 during the term of the loan. In addition, anyone receiving a report in accordance with § 3.2-3109 may
 426 request an additional review as set forth in this section.

427 D. Any local government borrowing money from the Fund is authorized to perform any acts, take
 428 any actions, adopt any proceedings, and make and carry out any contracts that are contemplated by this
 429 chapter. Such contracts need not be identical among all local governments but may be structured as
 430 determined by the Authority according to the needs of the contracting local government and the Fund.

431 E. Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the
 432 Authority may consent to and approve any modification in the terms of any loan to any local
 433 government.

434 **§ 3.2-3117. Pledge of loans to secure bonds of the Authority.**

435 A. The Authority is empowered at any time and from time to time to pledge, assign, or transfer from
 436 the Fund to banks or trust companies designated by the Authority any or all of the assets of the Fund to
 437 be held in trust as security for the payment of the principal of, premium, if any, and interest on any or
 438 all of the bonds, as defined in § 62.1-199, issued to finance any project located in the
 439 tobacco-dependent communities in the Southside and Southwest regions of Virginia. The interests of the
 440 Fund in any assets so transferred shall be subordinate to the rights of the trustee under the pledge,
 441 assignment, or transfer.

442 B. To the extent funds are not available from other sources pledged for such purpose, any of the
 443 assets or payments of principal and interest received on the assets pledged, assigned, or transferred or
 444 held in trust may be applied by the trustee thereof to the payment of the principal of, premium, if any,
 445 and interest on such bonds of the Authority secured thereby, and, if such payments are insufficient for
 446 such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from
 447 the sale to the payment of the principal of, premium, if any, and interest on such bonds of the Authority.

448 C. Any assets of the Fund pledged, assigned, or transferred in trust as set forth in this section and
 449 any payments of principal, interest, or earnings received thereon shall remain part of the Fund but shall
 450 be subject to the pledge, assignment, or transfer to secure the bonds of the Authority and shall be held
 451 by the trustee to which they are pledged, assigned, or transferred until no longer required for such
 452 purpose by the terms of the pledge, assignment, or transfer.

453 **§ 3.2-3118. Sale of loans.**

454 The Authority is empowered at any time and from time to time to sell, upon such terms and
 455 conditions as the Authority shall deem appropriate, any loan, or interest therein, made pursuant to this
 456 chapter. The net proceeds of sale remaining after the payment of the costs and expenses of the sale
 457 shall be designated for deposit to, and become part of, the Fund.

458 **§ 3.2-3119. Powers of the Authority.**

459 The Authority is authorized to do any act necessary or convenient to the exercise of the powers
 460 granted in this chapter or reasonably implied thereby.

461 **§ 3.2-3120. Report to the General Assembly and the Governor.**

462 The Commission, in conjunction with the Authority, shall report annually to the General Assembly
 463 and the Governor on all loans made from the Fund.

464 **§ 3.2-3121. Liberal construction of chapter.**

465 The provisions of this chapter shall be liberally construed to the end that its beneficial purposes may
 466 be effectuated. Insofar as the provisions of this chapter are inconsistent with the provisions of any other
 467 law, general, special, or local, the provisions of this chapter shall be controlling.

468 **§ 62.1-203. Powers of Authority.**

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

471 1. To have perpetual succession as a public body corporate and as a political subdivision of the
 472 Commonwealth;

473 2. To adopt, amend and repeal bylaws, and rules and regulations, not inconsistent with this chapter
 474 for the administration and regulation of its affairs and to carry into effect the powers and purposes of
 475 the Authority and the conduct of its business;

476 3. To sue and be sued in its own name;

477 4. To have an official seal and alter it at will although the failure to affix this seal shall not affect
 478 the validity of any instrument executed on behalf of the Authority;

479 5. To maintain an office at any place within the Commonwealth which it designates;

480 6. To make and execute contracts and all other instruments and agreements necessary or convenient
 481 for the performance of its duties and the exercise of its powers and functions under this chapter;

482 7. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any
 483 part of its properties and assets;

484 8. To employ officers, employees, agents, advisers and consultants, including without limitations,
 485 attorneys, financial advisers, engineers and other technical advisers and public accountants and, the
 486 provisions of any other law to the contrary notwithstanding, to determine their duties and compensation
 487 without the approval of any other agency or instrumentality;

488 9. To procure insurance, in amounts and from insurers of its choice, or provide self-insurance,
 489 against any loss, cost, or expense in connection with its property, assets or activities, including insurance
 490 or self-insurance against liability for its acts or the acts of its directors, employees or agents and for the
 491 indemnification of the members of its Board of Directors and its employees and agents;

492 10. To procure credit enhancements from any public or private entities, including any department,
 493 agency or instrumentality of the United States of America or the Commonwealth, for the payment of
 494 any bonds issued by the Authority, including the power to pay premiums or fees on any such credit
 495 enhancements;

496 11. To receive and accept from any source aid, grants and contributions of money, property, labor or
 497 other things of value to be held, used and applied to carry out the purposes of this chapter subject to the
 498 conditions upon which the aid, grants or contributions are made;

499 12. To enter into agreements with any department, agency or instrumentality of the United States of
 500 America or, the Commonwealth, the District of Columbia or any adjoining state for the purpose of
 501 planning, regulating and providing for the financing of any projects;

502 13. To collect, or to authorize the trustee under any trust indenture securing any bonds or any other
 503 fiduciary to collect, amounts due under any local obligations owned or credit enhanced by the Authority,
 504 including taking the action required by § 15.2-2659 or 62.1-216.1 to obtain payment of any unpaid
 505 sums;

506 14. To enter into contracts or agreements for the servicing and processing of local obligations owned
 507 by the Authority;

508 15. To invest or reinvest its funds as provided in this chapter or permitted by applicable law;

509 16. Unless restricted under any agreement with holders of bonds, to consent to any modification with
 510 respect to the rate of interest, time and payment of any installment of principal or interest, or any other
 511 term of any local obligations owned by the Authority;

512 17. To establish and revise, amend and repeal, and to charge and collect, fees and charges in
 513 connection with any activities or services of the Authority;

514 18. To do any act necessary or convenient to the exercise of the powers granted or reasonably
 515 implied by this chapter; and

516 19. To pledge as security for the payment of any or all bonds of the Authority, all or any part of the
 517 Capital Reserve Fund or other reserve fund or account transferred to a trustee for such purpose from the
 518 Water Facilities Revolving Fund pursuant to § 62.1-231, from the Water Supply Revolving Fund
 519 pursuant to § 62.1-240, from the Virginia Solid Waste or Recycling Revolving Fund pursuant to
 520 § 62.1-241.9, from the Virginia Airports Revolving Fund pursuant to § 5.1-30.6, ~~or~~ from the Dam
 521 Safety, Flood Prevention and Protection Assistance Fund pursuant to § 10.1-603.17, *or from the Virginia
 522 Tobacco Region Revolving Fund pursuant to § 3.2-3117. Notwithstanding the foregoing, any such
 523 transfer from the Virginia Tobacco Region Revolving Fund may be pledged to secure only those bonds
 524 of the Authority issued to finance or refinance projects located in the tobacco-dependent communities in
 525 the Southside and Southwest regions of Virginia.*

526 **2. That the three Commission members serving as of July 1, 2015, whose seats are eliminated by**
 527 **the reduction in the size of the Commission may serve the remainder of their unexpired terms.**