

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 15.2-4905 of the Code of Virginia and to amend the Code of Virginia by*
 3 *adding a section numbered 15.2-958.4:1, relating to local authority; affordable housing performance*
 4 *grant programs.*

5 [H 352]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 15.2-4905 of the Code of Virginia is amended and reenacted and that the Code of Virginia is**
 9 **amended by adding a section numbered 15.2-958.4:1 as follows:**10 **§ 15.2-958.4:1. Affordable housing performance grant programs.**11 *A. As used in this section:*12 *"Affordable housing" means the same as that term is defined in § 15.2-2201.*13 *"Applicant" means the record owner of real property that is seeking the award of an affordable housing*
 14 *performance grant for a qualifying property.*15 *"Authority" means any locality's industrial development authority or economic development authority*
 16 *established by ordinance pursuant to § 15.2-4903.*17 *"Property" means real property.*18 *B. Any locality that has established an industrial development authority or economic development*
 19 *authority pursuant to § 15.2-4903 may by ordinance establish an affordable housing performance grant*
 20 *program for qualifying construction and improvement of property. Such ordinance shall authorize the*
 21 *Authority to award affordable housing performance grants to qualifying applicants.*22 *C. Any ordinance establishing an affordable housing performance grant program shall include*
 23 *reasonable regulations and provisions as to all of the following:*24 *1. A definition of affordable housing;*25 *2. Affordable housing performance grant program application guidelines and processes, including an*
 26 *identification of the local officer designated by the governing body to accept such applications;*27 *3. Criteria for determining whether the construction or improvement of property qualifies for the*
 28 *awarding of an affordable housing performance grant;*29 *4. Provisions requiring that, prior to the Authority awarding an affordable housing performance grant, an*
 30 *applicant acquire any appropriate permits and complete the construction or improvement to develop*
 31 *affordable housing, as defined by the locality, on the qualifying property, which shall be confirmed by the*
 32 *commissioner of revenue or other local assessing officer;*33 *5. Provisions requiring that, prior to the Authority awarding an affordable housing performance grant, an*
 34 *applicant produce evidence demonstrating that a restrictive covenant to provide affordable housing, as*
 35 *defined by the locality, on the qualifying property for a term prescribed by the ordinance, but limited to no*
 36 *more than 30 years, has been filed and recorded in the office of the clerk of the circuit court. Such covenants*
 37 *may be enforced by the beneficial party to such recorded covenant by an action at law or suit in equity,*
 38 *including specific performance and injunctive relief or, in the event of noncompliance, a right to liquidated*
 39 *damages; and*40 *6. A timeline for the Authority to award affordable housing performance grants to qualifying applicants*
 41 *either (i) upon the completion of the construction or improvement of the property or (ii) on January 1 of the*
 42 *year following the completion of the construction or improvement of the property.*43 *D. Any grant awarded pursuant to this section shall not exceed an amount equal to the increase in*
 44 *assessed value resulting from the construction or improvement of a property as determined by the*
 45 *commissioner of revenue or other local assessing officer.*46 *E. Any locality that adopts an ordinance pursuant to this section may impose a fee, not to exceed \$250, to*
 47 *offset the costs of processing an application seeking the award of an affordable housing performance grant.*48 **§ 15.2-4905. Powers of authority.**49 The authority shall have the following powers together with all powers incidental thereto or necessary for
 50 the performance of those hereinafter stated:51 1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of
 52 the subject matter and of the parties;

53 2. To adopt and use a corporate seal and to alter the same at pleasure;

54 3. To enter into contracts; however, any written contract of the authority shall contain provisions
 55 addressing the issue of whether attorney's fees shall be recoverable by the prevailing party in the event the
 56 contract is subject to litigation;

57 4. To acquire, whether by purchase, exchange, gift, lease or otherwise, and to improve, maintain, equip
58 and furnish one or more authority facilities including all real and personal properties which the board of
59 directors of the authority may deem necessary in connection therewith and regardless of whether any such
60 facilities shall then be in existence;

61 5. To lease to others any or all of its facilities and to charge and collect rent therefor and to terminate any
62 such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any
63 such lease, if desired, a provision that the lessee thereof shall have options to renew such lease or to purchase
64 any or all of the leased facilities, or that upon payment of all of the indebtedness of the authority it may lease
65 or convey any or all of its facilities to the lessee thereof with or without consideration;

66 6. To sell, exchange, donate, and convey any or all of its facilities or properties whenever its board of
67 directors shall find any such action to be in furtherance of the purposes for which the authority was
68 organized;

69 7. To issue its bonds for the purpose of carrying out any of its powers including specifically, but without
70 intending to limit any power conferred by this section or this chapter, the issuance of bonds to provide long-
71 term financing of any pollution control facility, whether any such facility was constructed prior to or after the
72 enactment hereof or the receipt of a commitment from an authority to undertake financing pursuant hereto,
73 unless the major part of the proceeds of such bonds will be used to redeem any prior long-term financing of
74 such facility other than financings pursuant to this chapter or any similar law;

75 8. As security for the payment of the principal of and interest on any bonds so issued and any agreements
76 made in connection therewith, to mortgage and pledge any or all of its facilities or any part or parts thereof,
77 whether then owned or thereafter acquired, and to pledge the revenues therefrom or from any part thereof or
78 from any loans made by the authority;

79 9. To employ and pay compensation to such employees and agents, including attorneys, and real estate
80 brokers whether engaged by the authority or otherwise, as the board of directors shall deem necessary in
81 carrying on the business of the authority;

82 10. To exercise all powers expressly given the authority by the governing body of the locality which
83 established the authority and to establish bylaws and make all rules and regulations, not inconsistent with the
84 provisions of this chapter, deemed expedient for the management of the authority's affairs;

85 11. To appoint an industrial advisory committee or similar committee or committees to advise the
86 authority, consisting of such number of persons as it may deem advisable. Such persons may be compensated
87 such amount per regular, special, or committee meeting as may be approved by the appointing authority, not
88 to exceed \$50 per meeting day, and may be reimbursed for necessary traveling and other expenses incurred
89 while on the business of the authority;

90 12. To borrow money and to accept contributions, grants and other financial assistance from the United
91 States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision,
92 agency, or public instrumentality of the Commonwealth, for or in aid of the construction, acquisition,
93 ownership, maintenance or repair of the authority facilities, for the payment of principal of any bond of the
94 authority, interest thereon, or other cost incident thereto, or in order to make loans in furtherance of the
95 purposes of this chapter of such money, contributions, grants, and other financial assistance, and to this end
96 the authority shall have the power to comply with such conditions and to execute such agreements, trust
97 indentures, and other legal instruments as may be necessary, convenient or desirable and to agree to such
98 terms and conditions as may be imposed; and

99 13. To make loans or grants to any person, partnership, association, corporation, business, or
100 governmental entity in furtherance of the purposes of this chapter including for the purposes of promoting
101 economic development *and the development of affordable housing*, provided that such loans or grants shall
102 be made only from revenues of the authority which have not been pledged or assigned for the payment of any
103 of the authority's bonds, and to enter into such contracts, instruments, and agreements as may be expedient to
104 provide for such loans and any security therefor. An authority may also be permitted to forgive loans or other
105 obligations if it is deemed to further economic development *or the development of affordable housing*. The
106 word "revenues" as used in this subdivision includes contributions, grants and other financial assistance, as
107 set out in subdivision 12.

108 The authority shall not have power to operate any facility as a business other than as lessor and shall not
109 have the power to operate any single or multi-family housing facilities. However, the authority shall have the
110 power to apply for, establish, operate and maintain a foreign-trade zone in accordance with the provisions of
111 Chapter 14 (§ 62.1-159 et seq.) of Title 62.1. Any meeting held by the board of directors at which formal
112 action is taken shall be open to the public.

113 If a locality has created an industrial development authority pursuant to this chapter or any other provision
114 of law, no other such authority, not created by such locality, shall finance facilities, except pollution control
115 facilities, within the boundaries of such locality, unless the governing body of such locality in which the
116 facilities are located or are proposed to be located, concurs with the inducement resolution adopted by the
117 authority, and shows such concurrence in a duly adopted resolution. Notwithstanding the foregoing, nothing
118 contained herein shall be deemed to invalidate or otherwise impair any existing financing by an authority or

119 the financing of any facilities for which application has been made to an authority prior to July 1, 1981.
120 Notwithstanding the provisions of this section, and notwithstanding the provisions of any other law,
121 general or special, nothing herein shall be deemed to impair the authority of the town council of the Town of
122 Front Royal from creating its own independent industrial development authority, separate and apart for all
123 purposes from any currently existing or future industrial development authority. A Town of Front Royal
124 independent industrial development authority, created solely by the town, shall have all powers granted
125 industrial development authorities generally as set forth in this chapter. Such industrial development authority
126 may also include Warren County in any of its economic development projects for a period of five years
127 ending July 1, 2025.

ENROLLED

HB352ER