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HOUSE BILL NO. 1421

Offered January 18, 2024

A BILL to amend and reenact §§ 36-141, 36-142, 36-143, 36-145 through 36-148.1, and 36-151 of the Code of Virginia, relating to Virginia Housing Trust Fund; eligibility.

Patron—Morefield

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-141, 36-142, 36-143, 36-145 through 36-148.1, and 36-151 of the Code of Virginia are amended and reenacted as follows:

§ 36-141. Definitions.

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

"Board" means the Board of Housing and Community Development.

"Department" means the Department of Housing and Community Development.

"Director" means the Director of the Department of Housing and Community Development.

"Eligible income" means low, moderate, or middle income as defined in the program guidelines developed by the Department.

"Fund" means the Virginia Housing Trust Fund created by this chapter.

"HDA" means the Virginia Housing Development Authority created in Chapter 1.2 (§ 36-55.24 et seq.).

"Housing development" or "housing project" means any work or undertaking, whether new construction or rehabilitation, which that is designed and financed pursuant to the provisions of this chapter for the primary purpose of providing affordable sanitary, decent, and safe dwelling accommodations for persons and families of low or moderate eligible income in need of housing; such work or undertaking may include any buildings, land, equipment, facilities, or other real or personal properties which that are necessary, convenient, or desirable appurtenances, including but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and such offices; and other nonhousing facilities incidental to such development or project such as administrative, community, health, educational, and recreational facilities as the Department of Housing and Community Development determines to be necessary. "Low and moderate income" shall be defined in the program guidelines developed by the Department of Housing and Community Development.

"Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, public bodies, trusts, firms, associations, or other legal entities or any combination thereof, corporations, cooperatives, and condominiums; approved by the Department of Housing and Community Development as qualified either to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development, whether nonprofit or organized for limited profit subject to the regulatory powers of the Department of Housing and Community Development and other terms and conditions set forth in this chapter.

"Residential housing" means a specific work or improvement within this the Commonwealth, whether multi-family residential housing or single-family residential housing, undertaken primarily to provide dwelling accommodations, including the acquisition, construction, rehabilitation, preservation, or improvement of land, buildings, and improvements thereto, for residential housing; and such other nonhousing facilities as may be incidental, related, or appurtenant thereto.

§ 36-142. Creation and management of Virginia Housing Trust Fund; report.

A. There is hereby established in the state treasury a special permanent, nonreverting fund, to be known as the "Virginia Housing Trust Fund." The Fund shall be established on the books of the Comptroller and consist of sums appropriated to the Fund by the General Assembly, all receipts by the Fund from loans made by it to housing sponsors and persons and families of low and moderate eligible income, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private. The Fund shall also consist of such other sums as may be made available to it and shall include federal grants solicited and received for the specific purposes of the Fund and all interest and income from investment of the Fund. Any sums remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

B. The Department shall:

- 1. Work in collaboration with the HDA to provide loan origination and servicing activities as needed

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59 to carry out the purposes of the Fund. The costs of such services shall be considered an eligible use of
60 the Fund; ~~and~~

61 2. Use, through HDA, at least 80 percent of the moneys from the Fund to provide flexible financing
62 for low-interest loans through eligible organizations. Such loans shall be structured to maximize
63 leveraging opportunities. All such funds shall be repaid to the credit of the Fund. Loans may be
64 provided for (i) affordable rental housing to include new construction, rehabilitation, repair, or
65 acquisition of housing to assist ~~low or moderate~~ *persons and families with eligible* income ~~citizens~~,
66 including land and land improvements; (ii) down payment and closing cost assistance for homebuyers;
67 and (iii) short-term, medium-term, and long-term loans to reduce the cost of homeownership and rental
68 housing. Moneys required by the HDA to fund such loans and perform loan closing and disbursement
69 services shall be transferred from the Fund to the HDA.

70 The Department may use up to 20 percent of the moneys from the Fund to provide grants through
71 eligible organizations for targeted efforts to reduce homelessness, including (a) temporary rental
72 assistance, not to exceed one year; (b) housing stabilization services in permanent supportive housing for
73 homeless individuals and homeless families; (c) mortgage foreclosure counseling targeted at localities
74 with the highest incidence of foreclosure activity; and (d) predevelopment assistance for permanent
75 supportive housing and other long-term housing options for the homeless; *and*

76 3. *Develop program guidelines for the administration of the Fund, which (i) shall include definitions*
77 *of "low income," "moderate income," and "middle income" consistent with the U.S. Department of*
78 *Housing and Urban Development and (ii) and shall give funding priority to low income and moderate*
79 *income housing projects..*

80 C. The Fund shall be administered and managed by the Department as prescribed in this chapter. In
81 order to carry out the administration and management of the Fund, the Department is granted the power
82 to contract with or employ officers, employees, agents, advisers, and consultants, including, without
83 limitation, attorneys, financial advisers, public accountants, *professional* engineers, and other technical
84 advisers and, the provisions of any other law to the contrary notwithstanding, to determine their duties
85 and compensation without the approval of any other agency or instrumentality. The Department may
86 disburse from the Fund its reasonable costs and expenses incurred in the administration and management
87 of the Fund, including reasonable fees and costs of the HDA.

88 D. For the purposes of this section, eligible organizations include (i) localities, (ii) local government
89 housing authorities, (iii) regional and statewide housing assistance organizations that provide assistance
90 to ~~low and moderate income or low~~ *persons and families with eligible* income ~~citizens of Virginia~~, and
91 (iv) limited liability companies expressly created for the purpose of owning and operating affordable
92 housing.

93 E. In any year prior to the expenditure of any general funds appropriated for the Fund for the next
94 succeeding fiscal year, the Department, in conjunction with HDA, shall submit a plan outlining the
95 proposed uses of such funds to the General Assembly. The plan shall be provided to the Chairmen of
96 the House Committee on Appropriations and the Senate Committee on Finance and Appropriations no
97 later than November 1 of each year.

98 **§ 36-143. Deposit of money; expenditures; investments.**

99 All money transferred to the control of the HDA from the Fund shall be deposited in an account or
100 accounts in banks or trust companies organized under the laws of the Commonwealth or in national
101 banking associations located in Virginia or in savings institutions located in Virginia organized under the
102 laws of the Commonwealth or the United States. The money in these accounts shall be paid by check
103 signed by the Executive Director of the HDA or other officers or employees designated by the
104 Commissioners of the HDA. All deposits of money shall, if required by the Director ~~of the Department~~
105 ~~of Housing and Community Development~~, be secured in a manner determined by the Director ~~of the~~
106 ~~Department of Housing and Community Development~~ to be prudent. All banks, trust companies, and
107 savings and loan associations are authorized to give security for the deposits. Money in the Fund shall
108 not be commingled with other money of the HDA. Money in the Fund not needed for immediate use or
109 disbursement may be invested or reinvested by the HDA at the direction and guidance of the Director ~~of~~
110 ~~the Department of Housing and Community Development~~ in obligations or securities ~~which that~~ are
111 considered lawful investments for public funds under the laws of the Commonwealth. All interest and
112 earnings accrued from investments of moneys from the Fund shall be used to increase the amount
113 available in the Fund.

114 **§ 36-145. Collection of money due Fund.**

115 The HDA is empowered to collect, or to authorize others to collect on its behalf, amounts due to the
116 Fund under any loan made to a housing sponsor or a person or family of ~~low or moderate~~ *eligible*
117 income and funded from the portion of the Fund transferred to its control in order to obtain payment of
118 any amounts in default. Proceedings to recover amounts due to the Fund may be instituted by the HDA
119 in the name of the Fund in the appropriate circuit court.

120 **§ 36-146. Loans.**

121 Except as otherwise provided in this chapter, money in the Fund shall be used to make loans to
122 housing sponsors and to persons and families of ~~low and moderate~~ *eligible* income to finance or
123 refinance the acquisition, construction, improvement, ownership, or occupancy of housing developments
124 and residential housing for persons and families of ~~low and moderate~~ *eligible* income.

125 Except as provided in this chapter, the Department of ~~Housing and Community Development~~ shall
126 determine the terms and conditions of any loan from the Fund, including but not limited to the interest
127 rate and repayment terms of each loan. All loans from the Fund shall be evidenced by appropriate notes
128 of the loan recipient payable to the Fund. Any such loans made with respect to dwellings of residents of
129 the Commonwealth shall be limited to dwellings occupied by persons or families of ~~low and moderate~~
130 *income eligible*. The Director of the ~~Department of Housing and Community Development~~ is authorized
131 to require in connection with any loan from the Fund any documents, instruments, certificates, legal
132 opinions, or other information it deems necessary or convenient.

133 **§ 36-147. Grants.**

134 Subject to any restrictions ~~which that~~ may apply to the use of money in the Fund, the Board in its
135 discretion may approve the use of money in the Fund to make grants or appropriations to housing
136 sponsors and persons and families of ~~low and moderate~~ *eligible* income to provide assistance for the
137 acquisition, construction, improvement, ownership, or occupancy of housing developments and
138 residential housing for persons and families of ~~low and moderate~~ *eligible* income. Grants shall be
139 disbursed from the Fund by the State Treasurer in accordance with the directions of the Director of ~~the~~
140 ~~Department of Housing and Community Development~~.

141 **§ 36-148. Pledge of assets to secure bonds of the HDA.**

142 The HDA is empowered at any time and from time to time to transfer, upon the direction of the
143 Director of the ~~Department of Housing and Community Development~~, from the portion of the Fund
144 under its control to banks or trust companies designated by the HDA any or all of the assets of the
145 Fund to be held in trust as security for the payment of the principal of and premium, if any, and interest
146 on any or all of the bonds of the HDA. The interests of the Fund in any assets so transferred shall be
147 subordinate to the rights of the trustee under the pledge. To the extent funds are not available from
148 other sources pledged for such purpose, any payments of principal and interest received on the assets
149 transferred or held in trust may be applied by the trustee thereof to the payment of the principal of and
150 premium, if any, and interest on such bonds of the HDA to which the assets have been pledged, and, if
151 such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such
152 assets and apply the net proceeds from the sale to the payment of the principal of and premium, if any,
153 and interest on such bonds of the HDA. Any assets of the Fund transferred in trust as set forth above
154 and any payments of principal, interest, or earnings received thereon shall remain part of the Fund but
155 shall be subject to the pledge to secure the bonds of the HDA and shall be held by the trustee to which
156 they are pledged until no longer required for such purpose by the terms of the pledge. On or before
157 January 10 of each year, the HDA shall transfer, or shall cause the trustee to transfer, to the Fund any
158 assets transferred or held in trust as set forth above ~~which that~~ are no longer required to be held in trust
159 pursuant to the terms of the pledge.

160 **§ 36-148.1. Authorization of funding from HDA.**

161 The HDA and the Department of ~~Housing and Community Development~~, on behalf of the Fund, may
162 enter into agreements whereby the Fund may obtain funding from the HDA for the financing of loans in
163 accordance with this chapter, subject to such terms and conditions as shall be set forth therein. To the
164 extent so provided by the terms of any such agreements, moneys in the Fund may be used to repay the
165 HDA any amounts owed thereunder, and assets of the ~~fund~~ *Fund* may be pledged to the HDA pursuant
166 to such agreements to secure the repayment of such amounts. Any such agreements entered into by the
167 HDA and the Department of ~~Housing and Community Development~~ prior to February 25, 1991, are
168 hereby validated.

169 **§ 36-151. Liberal construction of chapter.**

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