

1 HOUSE BILL NO. 1941

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources

4 on January 18, 2023)

5 (Patron Prior to Substitute--Delegate Hodges)

6 A BILL to amend and reenact § 62.1-229 of the Code of Virginia, relating to loans for septic systems.

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 62.1-229 of the Code of Virginia is amended and reenacted as follows:**9 **§ 62.1-229. Loans to local governments or other entities.**

10 Except as otherwise provided in this chapter, money in the Fund shall be used solely to make loans
11 to local governments or other entities as permitted by federal law to finance or refinance the cost of any
12 project. The local governments or other entities to which loans are to be made, the purposes of the loan,
13 the amount of each such loan, the interest rate thereon and the repayment terms thereof, which may vary
14 between loan recipients, shall be designated in writing by the Board to the Authority following
15 consultation with the Authority. No loan from the Fund shall exceed the total cost of the project to be
16 financed or the outstanding principal amount of the indebtedness to be refinanced plus reasonable
17 financing expenses. Loans may also be made from the Fund, in the Board's discretion, to a local
18 government (i) for the purpose of correcting onsite sewage disposal problems (small water facility
19 projects) to protect or improve water quality and prevent the pollution of state waters or (ii) which has
20 developed a funding program to provide low-interest-loan-program-to-provide loans or other incentives to
21 facilitate the correction of onsite sewage disposal problems (small water facility projects), provided that
22 the moneys may be used only for the program and that the onsite sewage disposal systems to be repaired
23 or upgraded are owned by eligible businesses or individual citizens of the Commonwealth where ~~(i)~~ (a)
24 public health or water quality concerns are present and ~~(ii)~~ (b) connection to a public sewer system is not
25 feasible because of location or cost. To be eligible for loan funding, a business shall be located within a
26 locality that is in the Rural Coastal Virginia Community Enhancement Authority, as defined in § 15.2-

27 7600. Eligible businesses include bed-and-breakfast operations, campgrounds, and restaurants, as those
28 terms are defined in § 35.1-1, and businesses that use working waterfronts, as defined in § 15.2-2201.

29 Except as set forth above, the Authority shall determine the terms and conditions of any loan from
30 the Fund, which may vary between loan recipients. Each loan shall be evidenced by appropriate bonds or
31 notes of the local government or other entity payable to the Fund. The bonds or notes shall have been duly
32 authorized by the local government or other entity and executed by its authorized legal representatives.
33 The Authority is authorized to require in connection with any loan from the Fund such documents,
34 instruments, certificates, legal opinions and other information as it may deem necessary or convenient. In
35 addition to any other terms or conditions which the Authority may establish, the Authority may require,
36 as a condition to making any loan from the Fund, that the local government or other entity receiving the
37 loan covenant to perform any of the following:

38 A. Establish and collect rents, rates, fees and charges to produce revenue sufficient to pay all or a
39 specified portion of (i) the costs of operation, maintenance, replacement, renewal and repairs of the
40 project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal
41 of and premium, if any, and interest on the loan from the Fund to the local government or other entity;
42 and (iii) any amounts necessary to create and maintain any required reserve, including any rate
43 stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or part,
44 for future increases in rents, rates, fees or charges;

45 B. With respect to local governments, levy and collect ad valorem taxes on all property within the
46 jurisdiction of the local government subject to local taxation sufficient to pay the principal of and
47 premium, if any, and interest on the loan from the Fund to the local government;

48 C. Create and maintain a special fund or funds for the payment of the principal of and premium, if
49 any, and interest on the loan from the Fund to the local government or other entity and any other amounts
50 becoming due under any agreement entered into in connection with the loan, or for the operation,
51 maintenance, repair or replacement of the project or any portions thereof or other property of the local
52 government or other entity, and deposit into any fund or funds amounts sufficient to make any payments
53 on the loan as they become due and payable;

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

55 E. Perform other acts, including the conveyance of, or the granting of liens on or security interests
56 in, real and personal property, together with all rights, title and interest therein, to the Fund, or take other
57 actions as may be deemed necessary or desirable by the Authority to secure payment of the principal of
58 and premium, if any, and interest on the loan from the Fund and to provide for the remedies of the Fund
59 in the event of any default in the payment of the loan, including, without limitation, any of the following:

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

63 2. The combination of one or more projects, or the combination of one or more projects with one
64 or more other undertakings, facilities, utilities or systems, for the purpose of operations and financing, and
65 the pledging of the revenues from such combined projects, undertakings, facilities, utilities and systems
66 to secure the loan from the Fund made in connection with such combination or any part or parts thereof;

67 3. The maintenance, replacement, renewal and repair of the project; and

68 4. The procurement of casualty and liability insurance.

69 All local governments or other entities borrowing money from the Fund are authorized to perform
70 any acts, take any action, adopt any proceedings and make and carry out any contracts that are
71 contemplated by this chapter. Such contracts need not be identical among all local governments or other
72 entities, but may be structured as determined by the Authority according to the needs of the contracting
73 local governments or other entities and the Fund.

74 Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the
75 Authority may consent to and approve any modification in the terms of any loan subject to guidelines
76 adopted by the Board.

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