

**VIRGINIA COLLEGE BUILDING AUTHORITY**

**APPLICATION FOR FINANCING**

**FOR**

**PRIVATE INSTITUTIONS OF**

**HIGHER EDUCATION**

(Revised June 2004)

VIRGINIA COLLEGE BUILDING AUTHORITY  
APPLICATION FOR FINANCING  
FOR  
PRIVATE INSTITUTIONS OF HIGHER EDUCATION  
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VIRGINIA COLLEGE BUILDING AUTHORITY  
APPLICATION FOR FINANCING  
FOR  
PRIVATE INSTITUTIONS OF HIGHER EDUCATION

PURPOSE

This application should be used by Virginia private institutions of higher education wishing to obtain financing through the Virginia College Building Authority (the "VCBA") pursuant to Chapter 3.3 of Title 23 of the *Code of Virginia*, §§23-30.39 through 23-30.58, the "Educational Facilities Authority Act." Please refer to the Appendices for a review of statutes and VCBA Policy and Procedures regarding private institution financing. The application should be completed as described below.

The application is to be submitted in two parts. Part I of the application should be submitted when the institution first informs the VCBA of its interest in issuing debt through the VCBA. Part II of the application, along with an updated Part I, should be submitted at least two weeks prior to the date when the VCBA is requested to take formal action on the proposed financing.

Information should be placed directly on the application where possible. Additional pages may be used to supplement the application where descriptive language is required to complete a specific question. If additional pages are required, they should be attached directly behind the page to which they refer and should be appropriately referenced to the question being addressed. Two copies of all materials requested in the application should be submitted except for: (1) prior years' financial statements and (2) the current five year capital plan. (One copy of these will be sufficient.) ***Questions regarding this application can be addressed to the VCBA Debt Manager, Department of the Treasury, Division of Debt Management at: (804) 786-2082.***

The completed application should be **delivered** to the:

Virginia College Building Authority  
c/o Department of the Treasury  
James Monroe Building, Third Floor  
101 North 14<sup>th</sup> Street  
Richmond, Virginia 23219  
Attention: VCBA Debt Manager

Or, you may **Mail** the completed application to:

Virginia College Building Authority  
Department of the Treasury  
P.O. Box 1879  
Richmond, Virginia 23218-1879  
Attention: VCBA Debt Manager

PART I

VIRGINIA COLLEGE BUILDING AUTHORITY

APPLICATION FOR FINANCING

of

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for

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DATE:

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PART I

A. GENERAL INFORMATION

1. Name of Institution

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2. Address – U.S. Mail

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3. Address – Federal Express Delivery

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4. Contact person at the institution

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Alternate contact person at the institution

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

VIRGINIA COLLEGE BUILDING AUTHORITY

5. Projects included in financing and amounts

	<u>PROJECT</u>	<u>AMOUNT</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____

(Use this space for any additional information pertinent to Part I, Section A.)

VIRGINIA COLLEGE BUILDING AUTHORITY

B. PROJECT INFORMATION

1. Describe the project(s) including location, use, expected life of the project, source and amount of anticipated revenues to be generated by the project(s), etc. When describing the use of the project(s) be specific. For example: classrooms for student use, dining facility for students run by institution or private contractor, on campus post office, athletic facility to be used by the institution's teams also rented to local groups twenty-five percent of the time, etc.
2. Describe any contractual relationships that are now in place or that may be put in place in the future that will affect the use of the project(s) or the revenues generated by the project(s).
3. Describe the reasons for the project(s) and how it will be integrated into the institution's existing programs. Include any estimates of the use of the project(s), (i.e., number of students served, number of events, etc.) If the project(s) is for a new program, describe the projections used to determine the need for the new facility.
4. Describe the current status of construction plans. Provide an anticipated construction schedule through the date of occupancy or use for the project's intended purpose.
5. Provide a financing calendar or timetable describing the timing of the institution's proposed financing.
6. If the financing refunds a previous series of bonds, identify the bond series, maturities, and amounts being refunded, the project(s) financed with the bonds being refunded, and the reason for refunding the debt.
7. Provide the name and address of the Architect.

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

8. Provide the name and address of the Contractor.

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

## VIRGINIA COLLEGE BUILDING AUTHORITY

### C. PROJECT FINANCING

1. Provide in reasonable detail the cost components for each project (i.e., construction, furnishings, equipment, utilities, A&E, etc.) and the financing costs of the bond issue (i.e., cost of issuance, bond counsel, financial advisor, capitalized interest, etc.)
2. Indicate the total amount of financing to be completed through the VCBA. If it is not the same as the total in 1. above, indicate all additional sources of funding for the project. Also, indicate any security interest in the project the other sources of funding may have.
3. Describe the proposed plan of financing including, but no limited to:
  - a. Term of the borrowing:

Final amortization period of the debt. (If bond anticipation notes are proposed, what form of permanent financing is anticipated and in what time-frame?)
  - b. Structure of debt:

Describe the structure of the proposed debt (i.e., fixed or variable rate, serial or term bonds, redemption provisions, put or tender options, reserve funds, etc.)
  - c. Security features:

Refer to the Authority's Statement of Policy and Procedure, Appendix I. Describe all security features or credit enhancements of the proposed issuance fully (i.e., bond insurance, reserve fund, liquidity facility general or specific revenue pledge, etc.)
  - d. Method of Sale:

Private or public; negotiate or competitive; bank qualified, etc.
  - e. Tax status of the debt:

Tax exempt, taxable.
4. Describe the source of revenue(s) used to repay the debt and to what extent they are pledged. Provide a historical view of these revenues for the last five years and the projected amounts of the next five years. Discuss how the revenues will be adequate to retire the debt as it comes due either by repayment or by the issuance of additional (refunding) debt. If additional debt is to be issued, what is the ultimate repayment plan?
5. Provide a Preliminary Financing Summary in substantially the form outlined in Part II, Schedule G.

6. Provide the following information for the Bond Counsel.

Firm: \_\_\_\_\_  
Attorney: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

7. Provide the following information for the Investment Banker.

Firm: \_\_\_\_\_  
Banker: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

8. Provide the following information for the Financial Advisor.

Firm: \_\_\_\_\_  
Advisor: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

9. Provide the following information for the Underwriters Counsel.

Firm: \_\_\_\_\_  
Attorney: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

PART II

VIRGINIA COLLEGE BUILDING AUTHORITY

APPLICATION FOR FINANCING

of

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for

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DATE:

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# VIRGINIA COLLEGE BUILDING AUTHORITY

## PART II

### D. SUPPLEMENTAL INFORMATION

Please provide the following information or documents at least two weeks prior to the date when the VCBA is requested to take formal action on the proposed financing:

1. The last three audited financial statements of the institution.
2. A copy of the Minutes or the Resolution of the governing body of the institution that authorized the financing of the project. If the financing has not been so authorized, when will this be accomplished.
3. Drawings of the project to the extent available.
4. A "Schedule of Enrollment" in substantially the same form as Schedule A.
5. A "Schedule of Applications" in substantially the same form as Schedule B.
6. A "Schedule of Tuition and Fees" in substantially the same form as Schedule C.
7. A "Budget Survey" in substantially the same form as Schedule D.
8. A "Schedule of Outstanding Debt" in Substantially the same form as Schedule E.
9. A "Schedule of Financial Rations" as described in Schedule F.
10. A "Preliminary Financing Summary" in substantially the same form as Schedule G.
11. A copy of the institution's current five year capital plan.
12. A copy of the institution's current academic catalog.

SCHEDULE A

Schedule of Enrollment

Include actual full-time equivalent enrollment during the regular academic term (September – June) for the five-year period immediately preceding the application; and the projected full-time equivalent enrollment during the regular academic term (September – June) for the five-year period starting with the current year.

ACTUAL

Academic Year	Undergraduate Enrollment	Graduate Enrollment	Total Enrollment	Percentage Change

PROJECTED

Academic Year	Undergraduate Enrollment	Graduate Enrollment	Total Enrollment	Percentage Change

Include any comments deemed appropriate regarding the trends shown in the above analysis.

SCHEDULE B

Schedule of Applications

ACTUAL

Academic Year	Undergraduate Applications Number	Applications Accepted Number and %	Yield Attend/Accept Number & %	Graduate Applications Number	Applications Accepted Number & %	Yield Attend/Accept %

PROJECTED

Academic Year	Undergraduate Applications Number	Applications Accepted Number and %	Yield Attend/Accept Number & %	Graduate Applications Number	Applications Accepted Number & %	Yield Attend/Accept %

SCHEDULE C

Schedule of Tuition and Fees

Include actual annual full-time tuition, fees and average room and board charged during the regular academic term (September – June) for the five-year period immediately preceding the application; and the projected full-time tuition, fees and average room and board that will be charged during the regular academic term (September – June) for the five-year period starting with the current year.

ACTUAL

Academic Year	Tuition	Fees	Room & Board	Total Charges	Percentage Change

PROJECTED

Academic Year	Tuition	Fees	Room & Board	Total Charges	Percentage Change

Include any comments deemed appropriate regarding the trends shown in the above analysis.

SCHEDULE D

Budget Survey

PROJECTED

Academic Year	Student Tuition	Pledged Tuition	Unrestricted Endowment	Unrestricted Endowment Income	Unrestricted Gifts and Grants	Restricted Gifts and Grants	Other Income



SCHEDULE F

Financial Ratios

Calculate the financial ratios, as described on the attached page, for each of the last three years.

Fiscal Year	Liquidity	Historical Debt Service Burden	Future Debt Service Burden	Direct Debt to Total Capitalization	Total Financial Resources per Student	Expendable Financial Resources to Total Net Assets

Fiscal Year	Financial Aid	Annual Operating Margin	Operating Margin Excluding Gifts	Unrestricted Financial Resources to Operations	Return on Net Assets	Return on Financial Resources

SCHEDULE F

Financial Ratios (Continued)

**Liquidity** – Total Unrestricted and temporarily restricted net assets less net investment in plant, divided by total operating expenses.

**Historical Debt Service Burden** – Historical debt service as a percentage of unrelated years total operating expenses.

**Future Debt Service Burden** – Future maximum annual debt service as a percentage of the last full year's operating expenses.

**Direct Debt-to-total Capitalization** – Direct debt / total net assets plus direct debt.

**Total Financial Resources per Student** – Total net assets less net investment in plant / full-time equivalent students.

**Expendable financial resources-to-total net assets** – Unrestricted net assets plus temporarily restricted net assets less net investment in plant / total net assets.

**Financial Aid** – Total institution generated scholarships and fellowships / gross tuition and fee revenue.

**Annual Operating Margin** - Adjusted total unrestricted revenues (adjustments include limiting investment income to 5.0% of a three-year average of investments and subtracting net assets released for construction and acquisition of fixed assets), less total unrestricted operating expenses, divided by adjusted total unrestricted revenues.

**Operating Margin excluding gifts**- Adjusted total unrestricted revenues less gifts less total unrestricted operating expenses , divided by adjusted total unrestricted revenues less gifts.

**Unrestricted financial resources-to-operations** – Total unrestricted net assets less net investment in plant / total operating expenses.

**Return on net assets** – Increase (decrease) in total net assets, divided by average total net assets (the sum on beginning and ending net assets divided by two).

**Return on financial resources** – Increase (decrease) in total financial resources (total net assets less net investment in plant), divided by average total financial resources (the sum on beginning and ending total financial resources divided by two).

SCHEDULE G  
Preliminary Financing Summary

Title:

Issuer: Virginia College Building Authority

Amount (Not to Exceed):

Constitutional Reference: Article X, Section 9(d)

Legislative Reference: Educational Facilities Authority Act

Purpose:

Security:

Method of Sale:

Sale Date:

Dated Date

Delivery Date:

Bond Structure:

Principal Payment Dates:

Interest Payment Dates:

Registration Provisions:

Redemption Provisions:

Denominations:

Estimated True Cost:

Anticipated Bond Ratings:

Financial Advisor:

Underwriter:

Bond Counsel:

Trustee:

Estimate Costs of Issuance:

**VIRGINIA COLLEGE BUILDING AUTHORITY**

**APPENDICES TO  
APPLICATION FOR FINANCING  
FOR  
PRIVATE INSTITUTIONS OF  
HIGHER EDUCATION**

VIRGINIA COLLEGE BUILDING AUTHORITY  
Guidelines in Connection with

**BOND FINANCINGS FOR THE BENEFIT OF PRIVATE NON-PROFIT INSTITUTIONS OF  
HIGHER EDUCATION**  
(Revised April 20, 2004)

The purpose of this document is to articulate the Virginia College Building Authority's (the "Authority" or the "VCBA") guidelines in connection with the issuance of bonds for the benefit of certain private, non-profit institutions of higher education within the Commonwealth of Virginia (the "Commonwealth"). This document's scope is limited to the Authority's Private College Financing Program pursuant to the Educational Facilities Authority Act, Chapter 3.3 of Title 23 of the *Code of Virginia* of 1950, as amended (the "Act"). These guidelines supercede the Virginia College Building Authority Statement of Policy and Procedures on Loans to Private Non-Profit Institutions of Higher Education issued October 19, 1993.

**Authority's Private College Financing Program**

The Authority was created by and derives its powers from Chapters 3.2 and 3.3 of Title 23 of the *Code of Virginia* of 1950, as amended. Under the Act, the Authority is authorized to assist as a conduit issuer for private, non-profit institutions of higher education within the Commonwealth in the financing and refinancing of a broad range of capital projects. Such institutions include any private, non-profit educational institution of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education. The Authority is specifically prohibited from financing any facility to be used for sectarian instruction or as a place of religious worship or to be used primarily in connection with theological education.

Under this program, the Authority issues its obligations and lends the borrowed proceeds to an institution, taking back the institution's promissory note as evidence of its debt to the Authority and assigning the promissory note and the Authority's rights under a loan agreement to a trustee as security for the Authority's obligations. The Authority's obligations are limited obligations of the Authority payable solely from and secured by an assignment of the payments received by the Authority to pay the principal of and interest on the obligations as they become due.

The Authority expects to finance new facilities, additions and major renovations of existing facilities. Also eligible for financing are costs of land, site development and equipment, professional fees, interest during construction, financing expenses and other costs normally associated with the development, construction and placing of capital projects into operation. The Authority does not expect to finance facilities for which construction has been completed prior to submission of an application. However, the Authority may refinance debt for facilities that have been previously financed either through the Private College Financing Program or through other methods of financing.

**Purpose**

These guidelines are intended to assist private, non-profit institutions within the Commonwealth in structuring their financing arrangements in a manner consistent with the best interests of the institution and the purposes of the Act. These are guidelines only and consideration of a structure outside of these guidelines may be warranted under certain circumstances.

## Applicability

These guidelines apply to all private, non-profit institutions of higher education in the Commonwealth, which meet the statutory requirements of § 23-30.41(e) of the *Code of Virginia* of 1950, as amended.

## VCBA Board Approval

Approval of an application for financing will be made by the VCBA at a scheduled meeting. VCBA meetings are scheduled when needed and, therefore, the institution will need to work closely with the Authority's staff to select a date far enough in advance to meet the needs of all parties in the transaction. **A meeting of the VCBA will not be scheduled until an institution's complete application is received in the Debt Management Division of the Department of the Treasury and the institution's governing body has approved the financing. Draft financing documents must be received a minimum of two (2) weeks prior to the scheduled meeting date and the financing documents needed for presentation to the VCBA must be received one (1) week prior to the scheduled meeting date.** The applicant must provide documents in substantially final form and in a quantity sufficient to satisfy the Authority's mailing list. If required, a Tax Equity and Fiscal Responsibility Act (TEFRA) public hearing may be held either during the VCBA meeting or at such time as the institution may desire prior to the VCBA meeting.

Upon receipt of the institution's completed application, the Authority's staff will begin its review of the terms and structure of the financing and other statistical information required in the application in preparation for its recommendation to the Authority's Board. Staff will also refer the application to the State Council of Higher Education for Virginia (SCHEV) for its evaluation of institutional characteristics. The Authority will consider the comments of SCHEV, but will not require a formal statement of approval as a prerequisite to the proposed financing. The Authority may consult with its counsel or a financial advisor for advice concerning the application from the institution and, by making application to the Authority, the institution agrees that any costs incurred by the Authority on behalf of the institution will be the responsibility of the institution, regardless of whether the Authority ultimately issues bonds or notes for the institution

The acceptance and approval of the proposed financing will be made by the Authority with due consideration to the financing terms and structure that are judged to be in the best interest of the Authority and the institution. Following the Authority's determination to finance a project, it will be the responsibility of the institution to carry out the financing, have financing documents finalized, apply for bond ratings (in the discretion of the institution), and complete all other documents and actions necessary for the marketing and closing of the financing transaction.

Obligations issued by the Authority for the benefit of the institution will be payable solely from the specific sources provided by the institution and the Authority will have no direct responsibility therefore. **All costs incurred in connection with the issuance of the Authority's obligations must be paid out of the proceeds of the obligations or by the institution directly at the closing of the financing transaction.** Obligations issued by the Authority are in no way to be construed as obligations of the Commonwealth, legal, moral or otherwise.

As part of the approval process, the Authority will consider the institution's selection of bond counsel, trustee and other advisors, but the consent of the Authority to this selection will be required prior to the issuance of the Authority's obligations. Historically, the Authority has consented to institutions' selection of bond counsel, trustee and other advisors. The institution will be responsible for paying the fees and charges of such counsel, trustee and other advisors. The institution may select the providers of such other services needed for the public or private sale of the Authority's obligations including:

bond rating agencies, investment bankers, accountants and financial printers. The institution will also be responsible for paying for such providers.

### **Form of Application and Financing Documents**

The Authority has a formal application entitled Virginia College Building Authority Application for Financing for Private Institutions of Higher Education. This application may be obtained at <http://www.trsvirginia.gov/debt/vcba.asp>. Generally, the application and financing documents for Authority consideration must include the following items (as applicable):

- **Description of the Proposed Financing, including:**
  - Objectives of the financing,
  - Description of project(s),
  - Financing calendar,
  - Security features,
  - Source of debt service payments,
  - Explanation of any special features (i.e. capitalized interest, reserve funds, credit enhancements, etc.),
  - Description of the method of sale,
  - Brief explanation of how and when the proceeds are to be spent,
  - Copy of any financial analysis (i.e. debt service schedule, savings analysis, cost of issuance, etc.),
  - Supplemental financial and statistical information about the institution,
  - Working group list of staff and professionals involved.
  
- **Financing Summary** detailing (among other things) the terms and structure, the estimated cost of issuance, and the firms (bond counsel, trustee, financial advisor, underwriter, underwriter's counsel, etc.) involved in the transaction. The form of the financing summary is provided in Part II, Schedule G of the VCBA Application for Financing for Private Institutions of Higher Education.
  
- **Governing body of the institution Resolution Authorizing the Issuance of Obligations through the Authority and Resolution of Intent to Reimburse.** If the resolution(s) has not yet been adopted, a draft will suffice for application purposes. Any revisions between the draft and the final resolution(s) should be provided to the Authority prior to the Authority's Board meeting. In the case of refunding bonds, a minimum savings threshold should be specified. **The governing body of the institution must have adopted the authorizing resolution prior to action by the Authority's Board.**
  
- **Draft Preliminary Official Statement/Placement Memorandum.** In the case of a public offering, the institution will provide a draft offering document meeting acceptable industry standards for the type of offering of securities proposed.
  
- **VCBA Board Resolution** that the Authority's Board will be asked to approve.

### **Presentation to the Authority's Board**

The Authority's Board will consider the financing proposal and may propose any changes to the terms and structure of the financing and the proposed resolution it deems advisable. Representatives of the institution, the financial advisor and/or bond counsel should be at the Authority Board meeting to present the proposed financing and answer questions from the Authority's Board. The Authority may choose to give final approval upon the pricing of the securities, or the Authority may choose to

delegate final approval to a committee of the Authority's Board or to the State Treasurer. **Under no circumstances shall the preliminary offering documents or any notice of sale be released without having first obtained approval from the Authority's Board.**

### **Authority's Review**

The Authority's review of the terms and structure of the transaction will include many of the following components. The following suggested terms or parameters are meant only to provide general guidance to the institution; however, the institution should be prepared to explain and/or justify major deviations from these guidelines.

- **Method of Sale** – Generally, private institutions desiring financing through the Authority use a negotiated method of sale or private placement.
- **Selection of Financing Team** The use of an independent financial advisor is strongly encouraged. The institution may engage a financial advisor of its own choice or may use the Authority's financial advisor (at the institution's sole expense). The institution must advise the Authority of the scope of the engagement of the financial advisor.
- **Compliance with Federal tax laws** (i.e. the Internal Revenue Code). Tax-exempt borrowings must include provisions to ensure compliance with all applicable federal tax laws.
  - Institutions must comply with Internal Revenue Service regulations concerning the reimbursement of the institution for expenses occurring prior to issuance. If costs related to the facility being financed are incurred before bonds are sold and the institution wishes to have these costs reimbursed with bond proceeds, the institution must have its governing body approve an intent to reimburse resolution. The institution should work with its bond counsel to assess the need for or to obtain such a resolution.
  - Institutions should consider how bond proceeds will be invested and monitored to facilitate compliance with arbitrage rules and arbitrage rebate requirements.
  - Institutions should consider the long-term use of the project being financed. Limits on private (non-governmental) use apply for the life of the bonds. A change in project use, the existence of certain private management contracts or arrangements, or the use of the project by the federal government during the life of the bonds could drastically affect the tax-exempt status of the bonds.
- **Disclosure** – Accurate and complete disclosure is imperative.
  - Primary disclosure refers to the information distributed to potential investors at the time of the initial issuance of the securities (i.e. an official statement or placement memorandum). *Disclosure Guidelines for State and Local Governments*, published by the Government Finance Officers Association (GFOA), provides guidelines for the preparation of primary disclosure documents.
  - Secondary market disclosure refers to the requirement for the institution to provide ongoing information on its financial condition for the benefit of individuals purchasing or holding the securities subsequent to their initial issuance. The institution must commit in the bond documents to provide secondary market disclosure.
- **Refunding Bonds** should be issued only when the issuance is of benefit to the institution. Bonds issued after 1986 can only be advance-refunded one time.
  - General Guidelines:
    1. 5% present value savings for bonds refunded within five years of their issuance date or 4% present value savings of at least \$1 million.

2. 3% present value savings for bonds refunded more than five years after their issuance date.
- **Under no circumstance shall any notice to call the refunded bonds be released to bondholders prior to the bond closing.**
  - **“Alternative Financing” Methods, Ancillary Contracts and/or Synthetic Features** such as, privatization arrangements, public-private partnerships, lease-purchases, long-term capital leases, contracts on interest rates, currency, cash flows, interest rate swaps, interest rate caps and floors and guaranteed investment contracts (GICs), etc. should be evaluated against more traditional financing options and with due consideration to the creditworthiness of the counterparty or other obligated entity. The Authority recommends the use of an independent financial advisor for any transaction involving an alternative financing method.

### **Security Guidelines**

If, from the information in the application from the institution, it appears that the institution may have the financial capability and outlook for the future to enable it to repay the loan and pay the interest thereon, the Authority will determine if acceptable security for the loan can be developed from the following guidelines:

The institution’s note shall be secured by its general credit together with certain covenants as to, among other things: (1) maintaining its corporate existence; (2) maintaining its status as a tax-exempt organization; (3) continuing to operate as an accredited institution of higher education; and (4) not dissolving or otherwise disposing of all, or substantially all, of its assets.

The Authority may request that the institution make certain additional covenants or agreements as may be deemed appropriate. The acceptance and approval of any particular covenants or arrangements by the Authority will be granted [or withheld?] in the best interest of the Authority and the institution with due consideration of the provisions made for the repayment of the related Authority bonds, the security therefore and compliance with the spirit of and letter of the Act. The Authority may consult with its financial advisor for advice concerning the application of and financing terms proposed by the institution. This advice may include, but are not limited to, advice on any of the following:

- **Debt Coverage Ratio.** The institution may maintain an agreed upon ratio of available assets to debt obligations to be determined for the transactions by the Authority. If required, the institution, via its independent auditor, shall report annually to the trustee as to the status of this ratio.
- **Negative Pledge.** The institution may make a negative pledge covenant agreeing not to dispose of or encumber all, or a portion of, its endowment and endowment-type funds and/or that it will not mortgage its other (or certain other) properties.
- **Segregated Endowment.** The institution may set aside and earmark an amount of endowment or other assets, designating them for use for purposes such as payment of debt obligations and financing of capital expenditures.
- **Mortgage/Security Interest.** The institution may mortgage in favor of the Authority (to be assigned to the trustee for the benefit of the bondholders) the land and buildings comprising the project and may include therein other land and buildings and may grant a security interest in equipment and other tangible personal property.

- **Letter of Credit.** The institution may enhance the credit (and credit rating, if applied for) of the proposed bond issue by providing a letter of credit from a financial institution acceptable to the Authority.
- **Bond Insurance.** The institution may enhance the credit (and credit rating, if applied for) of the proposed bond issue by providing bond insurance acceptable to the Authority.
- **Debt Service Reserve Fund.** The Authority may require establishment of a debt service reserve fund funded with bond proceeds and containing up to one year's maximum annual debt service.
- **Collateral.** The institution may collateralize the loan by depositing with the trustee securities in an amount equal to a certain percentage of the principal amount of the loan (and maintaining such level over the life of the loan) subject to compliance with applicable tax regulations in the case of tax-exempt bonds.

### **Post-Pricing**

As soon as possible after completion of the pricing of the bonds, the institution should ensure that the Authority is provided with the following:

- Final financing summary detailing the sale results.
- Final debt service schedule including cost of issuance.

### **Closing**

Sufficient time should be allowed between the sale (or pricing) date and the closing date to permit adequate review and execution of all closing documents.

- Closing documents requiring the approval of and/or execution by the Chairman, Vice-Chairman and/or State Treasurer must be provided as soon as possible after pricing in order to allow adequate time for review and approval. Where appropriate, draft documents may be provided prior to pricing in order to speed the process.
- **Issues requiring the execution of any document by the Governor (i.e. Consent of the Governor, Governor's Certificate, such as for TEFRA approval, etc.) will require additional time to allow for review and execution by the Governor.**
- As soon as possible after closing, provide the Authority with a copy of transcript of the final documents prepared by bond counsel.

### **Role of Treasury Staff**

The Department of the Treasury acts as staff to the Authority for the sole purpose of processing applications, issuing meeting notices to members of the Authority, providing a place to hold such meetings, reporting the issuance of debt to any state or federal agency desirous of monitoring the issuance of such obligations, and providing general direction to institutions seeking financing from the Authority. The Department is not responsible for the procurement of any services needed in the sale of bonds, for the maintenance of any lists of bondholders, for the payment of any expenses associated with servicing outstanding bonds, or for providing credit information or continuing disclosure to the investment community or the rating agencies concerning the institutions that have participated in the Authority's Private College Financing Program.

### **Costs of the Authority's Private College Financing Program**

All costs incurred in connection with the issuance of the Authority's obligations will be paid out of the proceeds of the obligations or directly by the institution (including cases where for any reason obligations are not issued by the Authority).

The State Treasurer is authorized to charge institutions of higher education participating in the Authority's Private College Financing Program an administrative fee of up to 10 basis points of the amount financed for each project in addition to the direct costs of issuance incurred by the Authority and the Department of the Treasury. **In calculating the cost of issuance for the bond issue, institutions should include a 10 basis point fee payable at closing unless otherwise notified by the State Treasurer.**

The Authority may consult with its counsel or financial advisor for advice concerning the proposal of the institution and such costs incurred will be the responsibility of the institution, regardless of whether the Authority issues the proposed obligations.

### **Not Debt of the Commonwealth**

**The obligations issued by the Authority are in no way to be construed as obligations of the Commonwealth, legal, moral or otherwise.** The Authority has been created by an Act of the General Assembly of Virginia for the sole purpose of providing a mechanism for higher educational institutions located in the Commonwealth to obtain tax-exempt financing as permitted by federal law.

# CODE OF VIRGINIA

Current through the 2001 Regular Session and  
2001 Special Session I of the General Assembly

## Chapter 3.3. Educational Facilities Authority Act.

Sec.

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**§ 23-30.39. Declaration of policy.** It is hereby declared that for the benefit of the people of the Commonwealth, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential that institutions for higher education within the Commonwealth be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities; and that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable institutions for higher education in the Commonwealth to provide the facilities and structures which are sorely needed to accomplish the purposes of this chapter, all to the public benefit and good, to the extent and manner provided herein. (1972, c. 686.)

**§ 23-30.40. Title of chapter.** This chapter may be cited as the "Educational Facilities Authority Act." (1972, c. 686.)

**§ 23-30.41. Definitions.** In this chapter, the following words and terms shall, unless the context otherwise requires, have the following meanings: (a) "Authority," the Virginia College Building Authority created by § 23-30.25. (b) "Project," in the case of a participating institution for higher education, a structure or structures suitable for use as a dormitory or other multi-unit housing facility for students, faculty, officers or employees, a dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, maintenance, storage or utility facility and other structures or facilities related to any of the foregoing or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or

convenient for the operation of a particular facility or structure in the manner for which its use is intended but shall not include such items as books, fuel, supplies or other items the costs of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination. (c) "Costs," as applied to a project or any portion thereof financed under the provisions of this chapter embraces all or any part of the cost of construction, acquisition, alteration, enlargement, reconstruction and remodeling of a project including all lands, structures, real or personal property, rights, rights-of-way, air rights, franchises, easements and interests acquired or used for or in connection with a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period after completion of such construction and acquisition, provisions for reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of architectural, engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project and such other expenses as may be necessary or incident to the construction and acquisition of the project, the financing of such construction and acquisition and the placing of the project in operation. (d) "Bonds" or "revenue bonds," revenue bonds of the Authority issued under the provisions of this chapter, including revenue refunding bonds, notes and other obligations, notwithstanding that the same may be secured by mortgage or by the full faith and credit or by any other lawfully pledged security of either one or more participating institutions for higher education. (e) "Institution for higher education," a nonprofit educational institution within the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education. (f) "Participating institution for higher education," an institution for higher education which, pursuant to the provisions of this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in this chapter. (1972, c. 686; 1973, c. 205.)

**§ 23-30.42. Powers and duties of Authority.** The Authority shall assist institutions for higher education in the acquisition, construction, and financing, and the refinancing of projects begun after July 1, 1972, and for this purpose the Authority is authorized and empowered. In addition to such other powers as are granted to the Authority by law, it is further empowered: (a) To determine the location and character of any project to be financed under the provisions of this chapter, and to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, to enter into contracts for any or all of such purposes, to enter into contracts for the management and operation of a project, and to designate a participating institution for higher education as its agent to determine the location and character of a project undertaken by such participating institution for higher education under the provisions of this chapter and, as the agent of the Authority, to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, and, as the agent of the Authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project; (b) To issue bonds, bond anticipation notes and other obligations of the Authority for any of its corporate purposes, and to fund or refund the same all as provided in this chapter; (c) Generally, to fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with any person, partnership, association or corporation or other body public or private in respect thereof and to designate a participating institution for higher education or a participating hospital as its agent to fix, revise, charge and collect such rates, rents, fees and charges and to make such contracts; (d) To

establish rules and regulations for the use of a project or any portion thereof and to designate a participating institution for higher education as its agent to establish rules and regulations for the use of a project in which such participating institution for higher education is participating; (e) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment, and to fix their compensation; (f) To receive and accept from any public agency loans or grants for or in aid of the construction of a project or any portion thereof, and to receive and accept loans, grants, aid or contributions from any source of either money, property, labor or other things of value to be held, used and applied only for the purposes for which such loans, grants, aid and contributions are made; (g) To mortgage any project and the site thereof for the benefit of the holders of revenue bonds issued to finance such project; (h) To make loans to any participating institution for higher education for the cost of a project in accordance with an agreement between the Authority and one or more participating institutions for higher education; provided that no such loan shall exceed the total cost of the project as determined by such participating institution or institutions for higher education and approved by the Authority; (i) To make loans to participating institutions for higher education to refund outstanding obligations, mortgages or advances issued, made or given by such participating institutions for higher education for the cost of a project; (j) To charge to and equitably apportion among participating institutions for higher education its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter; (k) To do all things necessary or convenient to carry out the purposes of this chapter.

In carrying out the purposes of this chapter, the Authority may undertake a joint project for two or more participating institutions for higher education and, thereupon, all other provisions of this chapter shall apply to and for the benefit of the Authority and the participants in such joint project or projects. (1972, c. 686.)

**§ 23-30.43. Expenses of administering chapter.** All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this chapter. (1972, c. 686.)

**§ 23-30.44. Acquisition of property.** The Authority is authorized and empowered, directly or by and through a participating institution for higher education, as its agent, to acquire by purchase solely from funds provided under the authority of this chapter, or by gifts or devise, such lands, structures, property, real or personal, rights, rights-of-way, air rights, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the Commonwealth as it may deem necessary or convenient for the acquisition, construction or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the Authority or in the name of one or more participating institutions for higher education as its agent. (1972, c. 686.)

**§ 23-30.45. Execution of deeds and conveyances.** When the principal of and interest on revenue bonds of the Authority issued to finance the cost of a particular project or projects for one or more participating institutions for higher education, including any revenue refunding bonds issued to refund and refinance such revenue bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same, and all other conditions of the resolution or trust agreement authorizing and securing the same have been satisfied and the lien of such resolution or trust agreement has been released in accordance with the provisions thereof, the Authority shall promptly do such things and execute such deeds and conveyances as are necessary and required to convey title to such project or projects to such participating institution or institutions for higher education, free and clear of

all liens and encumbrances, all to the extent that title to such project or projects is not, at the time, vested in such participating institution or institutions for higher education. (1972, c. 686.)

**§ 23-30.46. Issuance of negotiable notes.** The Authority may from time to time issue negotiable notes for any corporate purpose and may from time to time renew any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The Authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the Authority or any issue thereof may contain any provisions which the Authority is authorized to include in any resolution or resolutions authorizing revenue bonds of the Authority or any issue thereof, and the Authority may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be payable solely from the revenues of the Authority, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding. (1972, c. 686.)

**§ 23-30.47. Issuance of revenue bonds.** (a) The Authority may from time to time issue revenue bonds for any corporate purpose and all such revenue bonds, notes, bond anticipation notes or other obligations of the Authority issued pursuant to this chapter shall be and are hereby declared to be negotiable for all purposes notwithstanding their payment from a limited source and without regard to any other law or laws. In anticipation of the sale of such revenue bonds, the Authority may issue negotiable bond anticipation notes and may renew the same from time to time, but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of the original note. Such notes shall be paid from any revenues of the Authority available therefor and not otherwise pledged, or from the proceeds of sale of the revenue bonds of the Authority in anticipation of which they were issued. The notes shall be issued in the same manner as the revenue bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the Authority may contain. (b) The revenue bonds and notes of every issue shall be payable solely out of revenues to the Authority, subject only to any agreements with the holders of particular revenue bonds or notes pledging any particular revenues and subject to any agreements with any participating institution for higher education. Notwithstanding that revenue bonds and notes may be payable from a special fund, they shall be and be deemed to be, for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds and notes for registration. (c) The revenue bonds may be issued as serial bonds or as term bonds, or the Authority, in its discretion, may issue bonds of both types. The revenue bonds shall be authorized by resolution of the members of the Authority and shall bear such date or dates, mature at such time or times, not exceeding fifty years from their respective dates, bear interest at such rate or rates, payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The revenue bonds or notes may be sold at public or private sale for such price or prices as the Authority shall determine. Pending preparation of the definitive bonds, the Authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds. (d) Any resolution or resolutions authorizing any revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the revenue bonds to be authorized, as to: (1) Pledging all or any part of the revenues of a project or projects, any revenue producing contract or contracts made by the Authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the revenue bonds or of any particular issue of revenue bonds, subject to such agreements with bondholders as may then exist; (2) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues; (3) the establishment and setting aside of reserves or sinking

funds, and the regulation and disposition thereof; (4) limitations on the right of the Authority or its agent to restrict and regulate the use of the project; (5) limitations on the purpose to which the proceeds of sale of any issue of revenue bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the revenue bonds or any issue of the revenue bonds; (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds; (7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; (8) limitations on the amount of moneys derived from the project to be expended for operating, administrative or other expenses of the Authority; (9) defining the acts or omissions to act which shall constitute a default in the duties of the Authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default; (10) the duties, obligations and liabilities of any trustee or paying agent; and (11) the mortgaging of a project and the site thereof for the purpose of securing the bondholders. (e) Neither the members of the Authority nor any person executing the revenue bonds or notes shall be liable personally on the revenue bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof. (f) The Authority shall have power out of any funds available therefor to purchase its bonds or notes. The Authority may hold, pledge, cancel or resell such bonds or notes subject to and in accordance with agreements with bondholders. (1972, c. 686.)

**§ 23-30.48. Security for revenue bonds.** In the discretion of the Authority any revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the Authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within the Commonwealth. Such trust agreement or the resolution providing for the issuance of such revenue bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. Such trust agreement or resolution providing for the issuance of such revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the Authority authorizing revenue bonds thereof. Any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project. (1972, c. 686.)

**§ 23-30.49. Revenue bonds not obligations of Commonwealth or political subdivision.** Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt or liability of the Commonwealth or of any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or of any such political subdivision, but shall be payable solely from the funds herein provided therefor from revenues. All such revenue bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth of Virginia nor the Authority shall be obligated to pay the same or the interest thereon except from revenues of the project or projects or the portion thereof for which they are issued and that neither the faith and credit nor the taxing power of the Commonwealth of Virginia or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth or any political subdivision thereof

to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. (1972, c. 686.)

**§ 23-30.50. Rates, rents, fees and charges; sinking fund.** The Authority may fix, revise, charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by each project and to contract with any person, partnership, association or corporation, or other body, public or private, in respect thereof. Such rates, rents, fees and charges shall be fixed and adjusted in respect of the aggregate of rates, rents, fees and charges from such project so as to provide funds sufficient with other revenues, if any, (1) to pay the cost of maintaining, repairing and operating the project and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately provided for, (2) to pay the principal of and the interest on outstanding revenue bonds of the Authority issued in respect of such project as the same shall become due and payable and (3) to create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such revenue bonds of the Authority. Such rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this Commonwealth other than the Authority. A sufficient amount of the revenues derived in respect of a project, except such part of such revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves and for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of any revenue bonds of the Authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such revenue bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and 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 such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund shall be a fund for all such revenue bonds issued to finance a project or projects at one or more participating institutions for higher education, without distinction or priority of one over another; provided the Authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project at an institution for higher education and for the revenue bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of revenue bonds having a subordinate lien in respect of the security herein authorized to other revenue bonds of the Authority and, in such case, the Authority may create separate or other similar funds in respect of such subordinate lien bonds. (1972, c. 686.)

**§ 23-30.51. Moneys received deemed trust funds.** All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. Any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and the resolution authorizing the bonds of any issue or the trust agreement securing such bonds may provide. (1972, c. 686.)

**§ 23-30.52. Remedies of bondholders, etc.** Any holder of revenue bonds, notes, bond anticipation notes, other notes or other obligations of the Authority, issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds or other obligations, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the Authority or any officer, employee or agent thereof, including the fixing, charging and collecting of the rates, rents, fees and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established and collected. (1972, c. 686.)

**§ 23-30.53. Exemption from taxation.** The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of this Commonwealth, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a project by the Authority or its agent will constitute the performance of an essential public function, neither the Authority nor its agent shall be required to pay any taxes or assessments upon or in respect of a project or any property acquired or used by the Authority or its agent under the provisions of this chapter or upon the income therefrom, and any bonds issued under the provisions of this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the Commonwealth and by the municipalities and other political subdivisions in the Commonwealth. (1972, c. 686.)

**§ 23-30.54. Issuance of refunding bonds.** (a) The Authority is hereby authorized to provide for the issuance of revenue bonds of the Authority for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of such revenue bonds, and, if deemed advisable by the Authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project or any portion thereof. (b) The proceeds of any such revenue bonds issued for the purpose of refunding outstanding revenue bonds may, in the discretion of the Authority, be applied to the purchase or retirement at maturity or redemption of such outstanding revenue bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the Authority. (c) Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States of America, or in certificates of deposit or time deposits secured by direct obligations of the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding revenue bonds to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the Authority for use by it in any lawful manner. (d) The portion of the proceeds of any such revenue bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project may be invested and reinvested in direct obligations of the United States of America, or in certificates of deposit or time deposits secured by direct obligations of the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The

interest, income and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the Authority in any lawful manner. (e) All such revenue bonds shall be subject to the provisions of this chapter in the same manner and to the same extent as other revenue bonds issued pursuant to this chapter. (1972, c. 686.)

**§ 23-30.55. Bonds to be legal investments.** Bonds issued by [the] Authority under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is now or may hereafter be authorized by law. (1972, c. 686.)

**§ 23-30.56. Chapter supplemental; application of other laws; Authority not subject to supervision, etc., by other agencies.** The foregoing sections of this chapter shall be deemed to provide a complete, additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws; provided the issuance of revenue bonds and revenue refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. Except as otherwise expressly provided in this chapter, none of the powers granted to the Authority under the provisions of this chapter shall be subject to the supervision or regulation or require the approval or consent of any municipality or political subdivision or any department, division, commission, board, body, bureau, official or agency thereof or of the Commonwealth. (1972, c. 686.)

**§ 23-30.57. Chapter liberally construed.** This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof. (1972, c. 686.)

**§ 23-30.58. Severability; chapter controls inconsistent laws.** The powers granted and the duties imposed in this chapter shall be construed to be independent and severable. If any one or more sections, subsections, sentences, or parts of any of this chapter shall be adjudged unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid. To the extent that the provisions of this chapter are inconsistent with the provisions of any general statute or special act or parts thereof, the provisions of this chapter shall be deemed controlling. (1972, c. 686; 1973, c. 205.)