

# Code of Virginia

§ 15.2-2600. Short title.

This chapter shall be known and may be cited as the "Public Finance Act of 1991."

(Code 1950, § 15-666.13; 1958, c. 640; 1962, c. 623, § 15.1-170; 1971, Ex. Sess., c. 224; 1991, c. 668, § 15.1-227.1; 1997, c. 587.)

§ 15.2-2601. Chapter not to affect general, special and local acts and charters under which bonds are issued or validated.

Unless expressly stated to the contrary nothing in this chapter repeals, amends, impairs or in any way affects (i) any act under the provisions of which bonds have heretofore been issued and are outstanding as of June 30, 1991, (ii) any act, general or special, validating bonds or any proceedings in connection with the issuance of bonds, or (iii) any special rights, privileges, restrictions or limitations now contained in any locality's charter.

Nothing in this chapter repeals, amends, impairs or in any way affects any of the provisions of any charter or special or local act authorizing or regulating the issuance of bonds by a locality. The provisions of this chapter are in addition to the powers conferred by any charter or special or local act, and a locality may issue bonds, at the election of its governing body, under either (i) the provisions of this chapter without regard to the requirements, restrictions or other provisions contained in any charter or local or special act applicable to the locality or (ii) the provisions of such charter or local or special act; however, after July 1, 1992, notwithstanding the foregoing, any referendum requirement for the issuance of bonds or debt limit contained in any charter or local or special act shall control over the provisions of this chapter.

(Code 1950, § 15-666.14; 1958, c. 640; 1962, c. 623, § 15.1-171; 1991, c. 668, § 15.1-227.2; 1997, c. 587.)

§ 15.2-2602. Definitions.

As used in this chapter, the following words and terms have the following meanings, unless some other meaning is plainly intended:

"Bonds" mean any obligations of a locality for the payment of money.

"Cost" as applied to any project or to extensions or additions to any project, includes the purchase price of any project acquired by the locality or the cost of acquiring all of the capital stock of the corporation owning the project and the amount to be paid to discharge any obligations in order to vest title to the project or any part of it in the locality, the cost of improvements, property or equipment, the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all land, property, rights, easements and franchises acquired, financing charges, interest before and during construction and for up to one year after completion of construction, start-up costs and

operating capital, the cost of plans and specifications, surveys and estimates of cost and of revenues, the cost of engineering, legal and other professional services, expenses incident to determining the feasibility or practicability of the project, payments by a locality of its share of the cost of any multi-jurisdictional project, administrative expense, any amounts to be deposited to reserve or replacement funds, and other expenses as may be necessary or incident to the financing of the project. Any obligation or expense incurred by the locality in connection with any of the foregoing items of cost may be regarded as a part of the cost and reimbursed to the locality out of the proceeds of bonds issued to finance the project.

"General obligation bonds" mean the bonds of a locality for the payment of which the locality is required to levy ad valorem taxes, including any obligations which may be additionally secured by a pledge of revenues, special assessments or funds derived from any other source.

"Governing body" means the board of supervisors, council, or other local legislative body, board, commission or authority having charge of the finances of any locality, and when the separate concurrence or approval of two or more sets of authorities is required by law for the making of appropriations, to the extent so required "governing body" includes both or all of them.

"Project" means any public improvement, property or undertaking for which the locality is authorized by law to appropriate money, except for current expenses, and specific undertakings from which the locality may derive revenues (sometimes called "revenue-producing undertakings") including, without limitation, water, sewer, sewage disposal, and garbage and refuse collection and disposal systems and facilities as defined in § 15.2-5101, recycling facilities, facilities for the production of energy from waste, gasworks, electric light and other lighting systems, airports, off-street parking facilities, and facilities for public transit or transportation systems.

"Revenue bonds" mean bonds of a locality for which only the specified revenues of the locality are pledged and to which no ad valorem or other taxes of the locality are pledged, including, without limitation bonds of a locality for which only the revenues of a revenue producing undertaking or undertakings, or such revenues together with a mortgage or deed of trust lien on the undertaking or undertakings, are pledged to their payment.

(Code 1950, § 15-666.15; 1958, c. 640; 1962, c. 623, § 15.1-172; 1970, c. 268; 1973, c. 513; 1991, c. 668, § 15.1-227.3; 1997, c. 587.)

§ 15.2-2603. Disposition of unclaimed funds due on matured bonds or coupons.

Any locality having bonds outstanding on which principal, premium or interest has matured for a period of more than five years may pay any money being held to pay the matured principal, premium or interest into the general fund of the locality. The locality shall maintain a record of the bonds for which the funds were held. Thereafter the owners of the matured bonds may look only to the locality for payment.

(Code 1950, § 15-666.17; 1958, c. 640; 1962, c. 623, § 15.1-174; 1991, c. 668, § 15.1-227.6; 1997, c. 587.)

§ 15.2-2604. Powers generally.

Subject to the provisions of Articles 3 (§ 15.2-2632 et seq.) and 4 (§ 15.2-2638 et seq.) of this chapter, any locality may:

1. Acquire, construct, reconstruct, improve, extend, enlarge, equip, maintain, repair and operate any project which is located within or outside the locality;
2. Contract debts for any project, borrow money for any project, and issue its bonds to pay all or any part of the cost of acquiring, constructing, reconstructing, improving, extending, enlarging and equipping any project;
3. Refund any bonds previously issued by the locality or for which the locality is responsible or may assume responsibility for payment;
4. Provide for the rights of the owners of bonds issued by the locality;
5. Secure bonds issued by the locality as permitted by law;
6. Issue bonds to create any self-insurance reserve fund;
7. Issue bonds to pay all or any part of the cost of satisfying a final judgment imposed against the locality (including its local school board) by a court of competent jurisdiction;
8. Acquire in the name of the locality, by purchase, gift or the exercise of the power of eminent domain, land and rights and interests in land, including land under water and riparian rights, and acquire personal property as the governing body of the locality may deem necessary in connection with any project;
9. Enter on any land, water or premises located within or outside the locality for the purpose of making surveys, borings, soundings or examinations in connection with any project; any such entry shall not be deemed a trespass or an entry under any eminent domain proceedings, but the locality shall make reimbursement for any actual damages resulting from the entry;
10. Receive and accept from any federal or state agency grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied for the purposes for which the aid or contributions may be made; and comply with any conditions not inconsistent with the Constitution of Virginia or provision of law imposed by any federal or state agency as a prerequisite to obtaining any grant, including, but not limited to, the execution of any required contracts or arrangements;

11. Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents as may be necessary;

12. Acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;

13. Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

14. Do all things necessary or convenient to carry out the powers expressly given in this chapter and to carry out any project;

15. Assess, levy and collect unlimited ad valorem taxes on all property subject to taxation to pay the principal of and premium, if any, and interest on any bonds issued under the provisions of this chapter, subject to and in accordance with the provisions of any ordinance, resolution, trust agreement, indenture or other instrument providing for the issuance of the bonds; and

16. Fix and collect rates, rents, fees and other charges for the services and facilities furnished by, or for the use of, or in connection with any revenue-producing undertaking or undertakings, subject to and in accordance with the provisions of any ordinance, resolution, trust agreement, indenture or other instrument providing for the issuance of the bonds.

(Code 1950, § 15-666.18; 1958, c. 640; 1962, c. 623, § 15.1-175; 1986, cc. 379, 468; 1991, c. 668, § 15.1-227.7; 1994, cc. 432, 714; 1997, c. 587.)

§ 15.2-2605. Collection of rents and charges; liens on real estate; discharge and enforcement of liens.

The rates, rents, fees or charges when made for the use of any revenue-producing undertaking may be collected by distress, levy, garnishment, attachment or as otherwise provided by law. Any unpaid rate, rent, fee or charge shall become a lien superior to the interest of any owner, lessee or tenant, and next in succession to taxes, on the real property on or for which the use of any such undertaking was made and for which the rate, rent, fee or charge was imposed. However, the lien shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien, until amount of the rate, rent, fee or charge is entered in the judgment records kept in the clerk's office where deeds are recorded with respect to the real estate against which the lien is asserted. It shall be the duty of the clerk in such office to keep, preserve and hold available for public inspection the judgment records and to cause entries to be made and indexed in them from time to time upon certification by the locality.

The lien on any real estate may be discharged by the payment to the locality of the total amount of the lien, plus interest at the judgment rate of interest provided for in § 6.1-

330.54 from the date the rate, rent, fee or charge was due and payable to the date of payment. It shall be the duty of the locality to deliver a certificate of payment to the person paying the lien. Upon presentation of the certificate, the clerk having the record of the lien shall mark the lien satisfied.

Jurisdiction to enforce any lien shall be in equity, and the court may order any real estate subject to the lien, or any part of it, sold and the proceeds applied to the payment of the lien and the interest which may accrue to the date of payment.

Nothing contained in this section shall be construed to prejudice the right of the locality to recover the amount of any lien, or of the rate, rent, fee or charge, and the interest which may accrue, by action at law or otherwise.

(Code 1950, § 15-666.18; 1958, c. 640; 1962, c. 623, § 15.1-175; 1986, cc. 379, 468; 1991, c. 668, § 15.1-227.7; 1994, cc. 432, 714; 1997, c. 587.)

§ 15.2-2606. Public hearing before issuance of bonds.

A. Notwithstanding any contrary provision of law, general or special, but subject to subsection B of this section, before the final authorization of the issuance of any bonds by a locality, the governing body of the locality shall hold a public hearing on the proposed bond issue. Notice of the hearing shall be published once a week for two successive weeks in a newspaper published or having general circulation in the locality. The notice shall state the general purpose or purposes and the estimated maximum amount of the bonds proposed to be issued and shall specify the time and place of the hearing at which persons may appear and present their views. The hearing shall not be held less than six nor more than twenty-one days after the date the second notice appears in the newspaper.

B. No notice or public hearing shall be required for (i) bonds which have been approved by a majority of the voters of the issuing locality voting on the issuance of such bonds or (ii) obligations issued pursuant to §§ 15.2-2629, 15.2-2630 or § 15.2-2643.

(1987, c. 402, § 15.1-171.1; 1990, c. 175; 1991, c. 668, § 15.1-227.8; 1994, c. 714; 1997, c. 587.)

§ 15.2-2607. Provisions which may be embodied in bond ordinances or resolution; adoption; filing copy with court.

The governing body of any locality, subject to the approval of a majority of the qualified voters of the locality voting on the issuance of such bonds if required by the Constitution of Virginia or by this chapter, is authorized to provide by ordinance or resolution for the issuance, at one time or from time to time, of bonds of the locality for the purposes set forth in and subject to the provisions of this chapter.

Any such ordinance or resolution may contain provisions which shall be a part of the contract with the owners of the bonds as to:

1. The payment of the principal of and premium, if any, and the interest on bonds from ad valorem taxes to be levied without limitation as to rate or amount on all property subject to taxation and the pledging of the full faith and credit of the locality to secure the payment of bonds;
2. The pledge of specified revenues of the locality, other than taxes, ad valorem or otherwise, including, without limitation, the pledge of the revenues of any revenue-producing undertaking or undertakings, to the payment of the principal of and premium, if any, and interest on bonds;
3. The granting of a mortgage or deed of trust lien on any specific revenue-producing undertaking or undertakings to secure the payment of the principal of and premium, if any, and interest on bonds issued to finance in whole or in part the costs of the undertaking or undertakings, but only if the full faith and credit of the locality is not pledged to the payment of the bonds;
4. The securing of the payment of the principal of and premium, if any, and interest on bonds by an ordinance resolution, trust agreement, indenture or other instrument, which may (i) appoint any trust company or bank having the powers of a trust company within or outside the Commonwealth as corporate trustee, (ii) set forth the rights and remedies of the bondholders and of the trustee, (iii) restrict the individual right of action by bondholders, and (iv) contain any other provisions as the governing body of the locality deems reasonable and proper for the security of the bondholders;
5. The payment of the principal of and premium, if any, and the interest on bonds from any one or more of the sources of funds provided for in this section or any combination of them and the pledging of any one or more of the sources of funds or any combination of them to secure the payment of the principal of and premium, if any and interest on bonds;
6. The rates, rents, fees, charges, taxes and other revenues or receipts of any revenue-producing undertaking or undertakings and the amounts to be raised in each year by them, and the use and disposition of such rates, rents, fees, charges, taxes and other revenues and receipts of any undertaking or undertakings;
7. The setting aside of reserves or sinking funds and the regulation and disposition of them;
8. Limitations on the right of the locality to restrict and regulate the use of any project;
9. Limitations on the purpose to which the proceeds of sale of any bonds may be applied;
10. Limitations on issuance of additional revenue bonds;

11. The procedure, if any, by which the terms of any contract with bondholders may be amended or discharged, the amount of bonds the owners of which shall consent to the amendment or abrogation, and the manner in which the consent must be given;

12. Conferring upon the bondholders or the trustee under any ordinance, resolution, trust agreement, indenture or other instrument remedies for enforcing the rights of the bondholders and requiring the governing body to carry out any agreement with the bondholders;

13. Any other matter required by any state or federal agency as a condition precedent to the obtaining of a direct grant or grants of money for or in aid of any project or to defray or partially to defray the cost of the labor and materials employed upon any project, or to obtain a loan or loans of money for or in aid of any project from any state or federal agency; and

14. Any provisions necessary to qualify the interest on the bonds for exclusion from gross income for federal income tax purposes and to maintain that exclusion.

Any ordinance or resolution authorizing the issuance of bonds may be finally adopted at the meeting at which it is introduced, which may be a regular or special meeting, by a majority of the members of the governing body. A certified copy of each such ordinance or resolution shall be filed in the circuit court having jurisdiction over the locality. When any town is situated partly in two or more counties, the certified copy of the ordinance or resolution may be presented to the circuit court for any of the counties. Except as expressly required by this article, the ordinance or resolution need not be published, posted or advertised.

(Code 1950, § 15-666.40; 1958, c. 640; 1962, c. 623, § 15.1-199; 1973, c. 513; 1991, c. 668, § 15.1-227.9; 1994, c. 714; 1997, c. 587.)

§ 15.2-2608. Bonds for revenue-producing undertakings.

The governing body of any locality may, in accordance with the provisions of Article VII, Section 10 of the Constitution of Virginia, issue bonds for any revenue-producing undertaking.

(Code 1950, § 15-666.21; 1958, c. 640; 1962, c. 623, § 15.1-178; 1971, Ex. Sess., c. 224; 1991, c. 668, § 15.1-227.10; 1997, c. 587.)

§ 15.2-2609. Covenants relating to issuance of revenue bonds.

The governing body of any locality proposing to issue bonds for any revenue-producing undertaking may covenant in the ordinance, resolution, trust agreement, indenture or other instrument providing for the issuance of the bonds that the rates, rents, fees or other charges for the services and facilities furnished by, for the use of, or in connection with the undertaking shall be fixed and maintained at the level that will produce sufficient

revenue to pay the cost of operation and administration, the cost of insurance against loss by injury to persons or property, and the principal of and premium, if any, and interest on the bonds when due and payable, and to provide reserves for such purposes. The ordinance, resolution, trust agreement, indenture or other instrument, in order to assure the faithful observance of such covenant, may provide for the creation of a commission, or the appointment of a receiver, vested with such powers as to the management of the undertaking, or the fixing of rates, rents, fees or other charges, or both, as the governing body may deem proper.

(Code 1950, § 15-666.27; 1958, c. 640; 1962, c. 623, § 15.1-184; 1991, c. 668, § 15.1-227.11; 1997, c. 587.)

§ 15.2-2610. Request for referendum filed with court; order for election; notice.

If voter approval of any bond issue by a locality is required by the Constitution of Virginia or this chapter or any charter provision, a copy of the resolution or ordinance adopted by the governing body of the locality, certified by the clerk of the governing body, requesting that a referendum on the question of the issuance of the bonds be held, shall be filed with the circuit court for the locality or in the case of a town the circuit court for the county in which the town is located. The circuit court shall order a special election, in accordance with § 24.2-681 et seq., requiring the election officers of the locality on the day fixed in the order to open the polls and take the sense of the voters of the locality on the question of contracting the debt and issuing bonds for the purpose or purposes set forth in the resolution or ordinance. When any town is situated partly in two or more counties, the certified copy of the resolution or ordinance may be presented to the circuit court for any of the counties and the court shall order an election to be held in the town in accordance with the provisions of §§ 24.2-601 and 24.2-681 et seq. Notice of the election in the form prescribed by the court shall be published at least once but not less than ten days before the election in a newspaper published or having general circulation in the locality.

Where voter approval is required by the Constitution of Virginia, this chapter or any charter provision, a locality may, at its option, provide in the ordinance or resolution that any two or more purposes and amounts of the bonds proposed to be issued for such purposes be combined into a single question for the election and referred to as "capital improvement bonds" in an aggregate principal amount equal to the sum of the amounts for the purposes so combined.

(Code 1950, §§ 15-666.25, 15-666.30; 1958, c. 640; 1962, c. 623, §§ 15.1-182, 15.1-187; 1968, c. 579; 1971, Ex. Sess., c. 224; 1975, c. 517; 1982, c. 181; 1991, c. 668, § 15.1-227.12; 1997, c. 587.)

§ 15.2-2611. Holding of election; order authorizing bonds; authority of governing body.

The regular election officers of the locality at the time designated in the order authorizing the vote shall open the polls at the various voting places in the locality and conduct the

election in the manner provided by law for other elections. At the election, each voter may cast his or her vote for or against the bond issue. The votes shall be counted, the returns made and canvassed and the results certified as provided in § 24.2-681 et seq. If it appears from the returns that a majority of the voters of the locality voting on the question at the election are against the proposed bond issue, an order shall be entered by the court to such effect. If a majority of the voters of the locality voting on the question approve the bond issue, the court shall enter an order to such effect, a copy of which shall be promptly certified by the clerk of the court to the governing body of the locality. The locality may then proceed to prepare, issue and sell its bonds up to the amount so authorized and in doing so shall have all of the powers granted to the locality by this chapter with respect to incurring debt and issuing bonds. Bonds authorized by a referendum may not be issued by a locality more than eight years after the date of the referendum; however, this eight-year period may, at the request of the governing body of the locality, be extended to up to ten years after the date of the referendum by order of the circuit court for the locality, or in the case of a town the circuit court for the county in which the town is located, entered before the expiration of the eight-year period. The court shall grant such extension unless the court is shown by clear and convincing evidence that the extension is not in the best interests of the locality.

(Code 1950, § 15-666.31; 1958, c. 640; 1962, c. 623, § 15.1-188; 1982, c. 181; 1991, c. 668, § 15.1-227.13; 1997, c. 587.)

§ 15.2-2612. Dating; rate of interest; maturity; denomination; place of payment.

The bonds of a locality may be dated, may mature at such time or times not exceeding forty years from their date or dates, may be subject to redemption or repurchase, at such price or prices and under such terms and conditions, and may contain such other provisions, all as determined before their issuance by the governing body or in such manner as the governing body may provide. The bonds may bear interest payable at such time or times and at such rate or rates as determined by the governing body or in such manner as the governing body may provide, including the determination by reference to indices or formulas or by agents designated by the governing body under guidelines established by it. The governing body may fix the denomination or denominations of the bonds and the place or places of payment.

(Code 1950, § 15-666.41; 1958, c. 640; 1962, cc. 496, 623, § 15.1-200; 1984, c. 451; 1991, c. 668, § 15.1-227.14; 1997, c. 587.)

§ 15.2-2613. Form and manner of execution; signature of person ceasing to be officer.

The governing body shall determine the form and the manner of execution of bonds. Any bonds issued under the provisions of this chapter, and any bonds previously or hereafter authorized to be issued by any locality under the provisions of any general or special law, if so authorized by the governing body of the locality, may bear or be executed with the facsimile signature of any official authorized to sign or execute them. If any law provides for the sealing of bonds with the official or corporate seal of the locality or of its

governing body, a facsimile of the seal may be imprinted on the bonds, if so authorized by the governing body of the locality, and it will not be necessary in such case to impress the seal physically on the bonds.

In case any officer whose signature or a facsimile of whose signature appears on any bonds ceases to be such officer before the delivery of the bonds, the signature or facsimile will nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery. Any bond may bear the facsimile signature of, or may be signed by, the person who at the actual time of the execution of the bond is the proper officer to sign the bond although at the date of the bond the person may not have been such officer.

When all signatures on bonds are facsimiles, the bonds must be authenticated by an agent appointed by the governing body of the locality issuing the bonds or in such manner as the governing body may provide.

(Code 1950, § 15-666.42; 1958, c. 640; 1962, c. 623, § 15.1-201; 1983, c. 607; 1991, c. 668, § 15.1-227.15; 1997, c. 587.)

§ 15.2-2614. Bearer, registered or book entry form.

The bonds may be issued in bearer, registered or book entry form, or any combination of such forms, as the governing body may determine.

(Code 1950, § 15-666.43; 1958, c. 640; 1962, c. 623, § 15.1-202; 1991, c. 668, § 15.1-227.16; 1997, c. 587.)

§ 15.2-2615. Bonds deemed negotiable instruments.

Notwithstanding any of the foregoing provisions of this chapter or any recitals in any bonds issued under the provisions of this chapter, all bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth.

(Code 1950, § 15-666.44; 1958, c. 640; 1962, c. 623, § 15.1-203; 1991, c. 668, § 15.1-227.17; 1997, c. 587.)

§ 15.2-2616. Interim receipts or temporary bonds exchangeable for definitive bonds.

Before the preparation of definitive bonds, the governing body of a locality may, subject to the same provisions of this chapter as are applicable to the issuance of definitive bonds, issue interim receipts or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(Code 1950, § 15-666.45; 1958, c. 640; 1962, c. 623, § 15.1-204; 1991, c. 668, § 15.1-227.18; 1997, c. 587.)

§ 15.2-2617. Sale of bonds.

Any locality may sell any bonds authorized under the provisions of this chapter in such manner, either at public or private sale, and for such price as the governing body of the locality may determine.

(Code 1950, § 15-666.46; 1958, c. 640; 1962, c. 623, § 15.1-205; 1991, c. 668, § 15.1-227.19; 1997, c. 587.)

§ 15.2-2618. Disposition of proceeds; separate fund.

Unless otherwise specifically provided by the governing body of a locality or in the ordinance, resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, all proceeds received from the sale of the bonds of any locality issued under the provisions of this chapter shall be paid to, or at the direction of, the treasurer or chief financial officer of the locality who shall promptly deposit the funds in a bank or other depository to the credit of the locality as prescribed by general law or the provisions of the charter applicable to the locality. The treasurer or chief financial officer shall account for the money through a fund, separate from all other funds, in the system of accounting of the locality.

(Code 1950, § 15-666.47; 1958, c. 640; 1962, c. 623, § 15.1-206; 1991, c. 668, § 15.1-227.20; 1997, c. 587.)

§ 15.2-2619. Investment of proceeds pending application to authorized purpose.

Pending the application of the proceeds of any bonds authorized under the provisions of this chapter to the purpose or purposes for which the bonds have been authorized, all or any part of the proceeds may be invested, in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2. Any security purchased as an investment of the proceeds of bonds shall be deemed at all times to be a part of the proceeds, and the interest accruing on the investment and any profit realized from it shall be credited to the proceeds; provided, however, if authorized by resolution of the governing body, the locality may apply the interest accruing on the investment and any profit realized from it to pay costs as defined by this chapter.

(Code 1950, § 15-666.48; 1958, c. 640; 1960, c. 92; 1962, c. 623, § 15.1-207; 1988, c. 834; 1991, c. 668, § 15.1-227.21; 1997, c. 587.)

§ 15.2-2620. Bonds made legal investments.

Bonds issued under this chapter are made securities in which public officers and bodies of the Commonwealth, counties, cities and towns and municipal subdivisions of the Commonwealth, insurance companies and associations, savings banks, savings institutions, savings and loan associations, trust companies, beneficial and benevolent

associations, administrators, guardians, executors, trustees and other fiduciaries in the Commonwealth may properly and legally invest funds under their control.

(Code 1950, § 15-666.49; 1958, c. 640; 1962, c. 623, § 15.1-208; 1991, c. 668, § 15.1-227.22; 1997, c. 587.)

§ 15.2-2621. Bonds mutilated, lost or destroyed.

If any bond is mutilated, destroyed or lost, the governing body of the locality obligated to pay the bond may cause a new bond of like date, number and tenor to be executed and delivered in exchange and substitution for and upon the cancellation of the mutilated bond, or in lieu of and in substitution for the bond destroyed or lost, upon the owner paying the reasonable expense and charges in connection therewith. In the case of a bond destroyed or lost, its owner may be required to file with the person having custody of the funds from which the bond is to be paid evidence satisfactory to that person that the bond was destroyed or lost, and evidence of the ownership of the bond and may be required to furnish indemnity satisfactory to that person.

(Code 1950, § 15-666.50; 1958, c. 640; 1962, c. 623, § 15.1-209; 1986, c. 468; 1991, c. 668, § 15.1-227.23; 1997, c. 587.)

§ 15.2-2622. Destruction of bonds and coupons after payment in full.

A. Whenever the fiscal agent for any locality pays in full any bonds representing an obligation of the locality, the fiscal agent may, by agreement with the locality, destroy the bond and certify the facts of the payment and destruction to the treasurer or director of finance, as the case may be, of the locality.

B. The certification required by this section shall set forth the issue, series, number and maturity date of each bond, together with any additional facts as are necessary to specifically identify each bond paid and destroyed. However, the treasurer or director of finance may waive the requirement that the number of each interest coupon be supplied.

C. Every certification shall be in such form as is prescribed by the Auditor of Public Accounts and shall be acknowledged in the manner prescribed by law for the acknowledgment of deeds.

D. Whenever any certification, appearing on its face to have been executed and acknowledged as prescribed by this section, has been delivered to the treasurer or director of finance of any locality by the fiscal agent, the treasurer or director of finance shall, in the absence of actual knowledge of any misrepresentation or irregularity as to the certification, be relieved of all further liability for all the bonds represented in the certificate to have been paid and destroyed. For accounting purposes, every such certification which appears on its face to have complied with the requirements of this section shall constitute sufficient evidence of the facts set forth in it.

(Code 1950, § 15-666.27:1; 1962, c. 310, § 15.1-184.1; 1966, c. 574; 1983, c. 30; 1991, c. 668, § 15.1-227.24; 1997, c. 587.)

§ 15.2-2623. Defeasance of indebtedness; rights of owners.

The governing body of any locality is authorized to provide by resolution or ordinance for the defeasance of any bonds of the locality now or hereafter outstanding, to the extent that the defeasance of such bonds is not otherwise provided for in the resolution, ordinance, indenture or other document governing the issuance of such bonds. Bonds to be defeased pursuant to this section shall be deemed defeased and no longer outstanding when there has been established with a bank or trust company designated by the locality an escrow or sinking fund consisting of cash and noncallable obligations of, or unconditionally guaranteed by, the United States of America or noncallable obligations of, or unconditionally guaranteed by, the Commonwealth in an amount which together with interest to be earned on such obligations will be sufficient to pay all bonds to be defeased either at maturity or upon redemption; however, if such bonds are to be defeased either at maturity or upon redemption, notice of the redemption of such bonds shall have been duly given or irrevocable instructions to redeem such bonds shall have been given by the locality.

Any escrow fund established pursuant to this section shall be irrevocably pledged to the payment of the bonds to be defeased and shall be used solely to pay such bonds at maturity or upon earlier redemption. It is the intent that any escrow fund established pursuant to this section shall constitute a special fund for the payment of the defeased bonds and that the defeased bonds shall not be included for the purpose of determining any limitation upon the amount of indebtedness of the locality which is imposed by law.

The owners of any outstanding bonds to be defeased shall be divested of all rights and security relating to the bonds, except the right to payment due to principal, premium, if any, and interest, which shall be paid solely from the escrow fund.

(1994, c. 714, § 15.1-227.24:1; 1997, c. 587.)

§ 15.2-2624. Tax to pay principal and interest.

Notwithstanding any other provision of law or any charter provision, the governing body is authorized and required to levy and collect annually, at the same time and in the same manner as other taxes of the locality are assessed, levied and collected, a tax upon all taxable property within the locality, over and above all other taxes, authorized or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and premium, if any, and interest on any general obligation bonds of the locality issued under the provisions of this chapter to the extent other funds of the locality are not lawfully available and appropriated for such purpose.

(1991, c. 668, § 15.1-227.25; 1997, c. 587.)

§ 15.2-2625. Deposit of funds; security; investment of funds.

Unless otherwise provided in the ordinance, resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, all money collected and required to be set aside for the payment of bonds issued under the provisions of this chapter, whether from the proceeds of taxes levied for such purpose or from revenues or special assessments pledged for such purpose, shall be deposited in escrow with some solvent bank or trust company in the Commonwealth which is acceptable to the governing body and shall be secured pursuant to the Virginia Security for Public Deposits Act, Chapter 44 (§ 2.2-4400 et seq.) of Title 2.2. In lieu of retaining the money on deposit, all or part of the money may be invested in securities that are legal investments under the laws of the Commonwealth, which mature, or which are subject to redemption by the owner at the option of the owner, not later than the date upon which the money shall be required to make the payments for which it has been designated.

(Code 1950, § 15-666.52; 1958, c. 640; 1960, c. 92; 1962, c. 623, § 15.1-211; 1978, c. 389; 1988, c. 834; 1991, c. 668, § 15.1-227.26; 1997, c. 587.)

§ 15.2-2626. Contracts concerning interest rates, currency, cash flow or other basis.

A. Any locality may enter into any contract which the governing body of the locality determines to be necessary or appropriate to place the obligation or investment of the locality, as represented by the bonds or the investment of their proceeds, in whole or in part, on the interest rate, cash flow or other basis desired by the locality, which contract may include without limitation, contracts commonly known as interest rate swap agreements, and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the locality in connection with, or incidental to, entering into, or maintaining any (i) agreement which secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the governing body of the locality, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate.

B. Any money set aside and pledged to secure payments of bonds or any of the contracts entered into pursuant to this section, may be invested in accordance with Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 and may be pledged to and used to service any of the contracts or agreements entered into pursuant to this section.

(1991, c. 668, § 15.1-227.27; 1997, c. 587.)

§ 15.2-2627. Time for contesting validity of proposed bond issue; when bonds presumed valid.

For a period of thirty days after the date of the filing with the circuit court having jurisdiction over the locality of a certified copy of the initial ordinance or resolution of the governing body of the locality authorizing the issuance of bonds, any person in interest has the right to contest the validity of the bonds, the taxes to be levied for the payment of the bonds, the rates, rents, fees and other charges for the services and facilities furnished by, for the use of, or in connection with, any revenue-producing undertaking, the pledge of the revenues of any revenue-producing undertaking, any provisions which may be recited in any ordinance, resolution, trust agreement, indenture or other instrument authorizing the issuance of bonds, or any matter contained in, provided for or done or to be done pursuant to the foregoing. If such contest is not begun within the thirty-day period, the authority to issue the bonds, the validity of the taxes or the pledge of revenues necessary to pay the bonds, the validity of any other provision contained in the ordinance, resolution, trust agreement, indenture or other instrument, and all proceedings in connection with the authorization and the issuance of the bonds shall be conclusively presumed to have been legally taken and no court shall have authority to inquire into such matters and no such contest shall thereafter be instituted.

Upon the delivery of any bonds reciting that they are issued pursuant to this chapter and an election held or ordinance or resolution adopted under this chapter, the bonds shall be conclusively presumed to be fully authorized by all the laws of the Commonwealth and to have been sold, executed and delivered by the locality in conformity with such laws, and the validity of the bonds shall not be questioned by a party plaintiff, a party defendant, the locality, any taxpayer of the locality, or any other interested party in any court, anything in this chapter or in any other statutes to the contrary notwithstanding.

(Code 1950, § 15-666.53; 1958, c. 640; 1962, c. 623, § 15.1-212; 1991, c. 668, § 15.1-227.28; 1997, c. 587.)

§ 15.2-2628. Notes in anticipation of bond issue.

In anticipation of the issuance of bonds under the provisions of this chapter and of the receipt of the proceeds from the sale of bonds, any locality may borrow money and issue its notes for any purpose for which bonds of the locality have been authorized in a principal amount not to exceed the principal amount of the authorized bonds. The notes shall mature and be paid within five years of the date of their original issuance. Any notes may be extended or refinanced from time to time, provided that no extension or refinancing matures later than five years from the date of the original issuance of the notes.

The locality may, in its discretion, retire any notes by means of current revenues, special assessments, or other funds, in lieu of retiring them by the issuance of bonds, provided that the maximum amount of bonds that has been authorized must be reduced by the amount of the notes retired in such manner.

(Code 1950, § 15-666.64; 1958, c. 640; 1962, cc. 220, 623, § 15.1-223; 1966, c. 161; 1970, c. 144; 1991, c. 668, § 15.1-227.29; 1997, c. 587.)

§ 15.2-2629. Loans to meet appropriations for current year.

Any locality may borrow money and issue its notes in anticipation of the collection of the taxes and revenues of the locality for the current year, but the principal amount of the notes may not exceed the anticipated revenues for such year. Such notes shall mature and be paid within one year from the date they are issued. No extension of such notes shall be valid and no additional notes shall be issued under this section until all notes issued during preceding years have been paid.

(1991, c. 668, § 15.1-227.30; 1997, c. 587.)

§ 15.2-2630. Loans in anticipation of federal and state funds.

Any locality may borrow money and issue its notes in advance of grants and reimbursements due the locality from the federal or state government for the purpose of meeting appropriations made for the then fiscal year. "Grants" means grants which the locality has been formally advised in writing it will receive and "reimbursements" means money which either the federal or state government is obligated to pay the locality on account of expenditures made in anticipation of receiving the payment from the federal or state government. The locality may borrow the full amount of the grant or reimbursement that the federal or state government is obligated to pay at the time the notes are issued. The notes shall be repaid by the earlier of thirty days after the grant or reimbursement is received or one year from the date of their issuance.

(1991, c. 668, § 15.1-227.31; 1997, c. 587.)

§ 15.2-2631. Terms of temporary loans.

The temporary loans authorized by §§ 15.2-2628, 15.2-2629, and 15.2-2630, shall be evidenced by bonds or notes issued under and governed by the provisions of this chapter insofar as they are applicable. The bonds or notes may be extended or refinanced from time to time, but shall mature within the time limits prescribed by §§ 15.2-2628, 15.2-2629, and 15.2-2630.

(1991, c. 668, § 15.1-227.32; 1997, c. 587.)

§ 15.2-2632. Certain debts that may be contracted by city on transition from town.

Any city may, within one year from the date of its transition from a town to a city pursuant to the provisions of Chapter 38 (§ 15.2-3800 et seq.) of this title, contract debts, borrow money, and authorize the issuance of its bonds in the principal amount of its proportionate share of all state, county, and district levies on property within the territory occupied by the city actually collected by the county treasurer pursuant to § 15.2-3828 in the year in which the transition takes place, and which does or would constitute credit against the amount of the assumption of county indebtedness by the city pursuant to § 15.2-3829.

(Code 1950, § 15-666.18:1; 1962, c. 558, § 15.1-175.1; 1991, c. 668, § 15.1-227.33; 1997, c. 587.)

§ 15.2-2633. Borrowing by certain cities to pay expenses.

Notwithstanding any provision of law to the contrary, any city may contract debts by borrowing money and authorizing the issuance of its bonds maturing more than one year after their date to pay the expenses associated with it becoming a city, including without limitation, payments to any county for educational services pending the establishment of its school system, provided:

1. The debts shall not be created after five years from the date it became a city, and
2. The debts shall not at any time during the five-year period exceed one percent of the assessed valuation of the real estate in the city subject to taxation, as shown by the last preceding assessment for taxes.

(1978, c. 524, § 15.1-175.2; 1991, c. 668, § 15.1-227.34; 1997, c. 587.)

§ 15.2-2634. Limitation on amount of outstanding bonds.

Subject to §§ 15.2-2601 and 15.2-2635, no municipality may issue any bonds or other interest-bearing indebtedness which, including existing indebtedness, at any time exceeds ten percent of the assessed valuation of the real estate in the municipality subject to taxation, as shown by the last preceding assessment for taxes.

(Code 1950, § 15-666.19; 1958, c. 640; 1962, c. 623, § 15.1-176; 1971, Ex. Sess., c. 224; 1985, c. 56; 1991, c. 668, § 15.1-227.35; 1997, c. 587.)

§ 15.2-2635. What indebtedness not included in determining limitation.

In determining the limitation contained in § 15.2-2634, there shall not be included the classes of indebtedness described in clauses (1) through (4) of Article VII, Section 10 (a) of the Constitution of Virginia.

(1991, c. 668, § 15.1-227.36; 1997, c. 587.)

§ 15.2-2636. Ordinance or resolution to provide for issue of bonds.

Except as otherwise provided in this section, whenever any municipality proposes to borrow money and issue its bonds under the provisions of Article VII, Section 10 (a), of the Constitution of Virginia and this chapter, the governing body shall adopt an ordinance or resolution, stating the maximum principal amount of the bonds to be issued and in brief and general terms the purpose or purposes for which the proceeds of the bonds are to be used. Subject to § 15.2-2601, if the proposed bond issue is pursuant to the provisions of Article VII, Section 10 (a) of the Constitution of Virginia (other than

subsection (2) thereof), the governing body may authorize and issue bonds in accordance with the applicable provisions of this chapter, without submission of the question of the issuance of the bonds to the voters for approval. If the bonds are being issued under the provisions of Article VII, Section 10 (a) (2) of the Constitution of Virginia, and are not to be included within the otherwise authorized indebtedness of the municipality, the bonds shall be authorized by an ordinance which shall state that fact, as well as the specific undertaking for which the money is proposed to be borrowed and the bonds are to be issued, and request that a referendum on the issuance of the bonds be held in accordance with §§ 15.2-2610 and 15.2-2611. Any ordinance or resolution authorizing the issuance of bonds by a municipality must be passed by the recorded affirmative vote of a majority of all the members elected to its governing body. If the ordinance or resolution is vetoed by the mayor, where the power of veto exists, it may be adopted notwithstanding the veto in the manner prescribed by Article VII, Section 7 of the Constitution of Virginia.

(Code 1950, § 15-666.22; 1958, c. 640; 1962, c. 623, § 15.1-179; 1971, Ex. Sess., c. 224; 1973, c. 144; 1991, c. 668, § 15.1-227.37; 1997, c. 587.)

§ 15.2-2637. Danville to incur indebtedness only in accordance with charter.

In the City of Danville no money shall be borrowed, no bonds issued and no indebtedness incurred under this chapter except in accordance with the terms of its charter.

(Code 1950, § 15-666.24; 1958, c. 640; 1962, c. 623, § 15.1-181; 1970, c. 209; 1991, c. 668, § 15.1-227.38; 1997, c. 587.)

§ 15.2-2638. Powers of counties generally; approval of voters required.

A. Except as provided in subsection B of this section, no county has the power to contract any debt or to issue its bonds unless a majority of the voters of the county voting on the question at an election held in accordance with §§ 15.2-2610 and 15.2-2611 approve contracting the debt, borrowing the money and issuing the bonds.

B. Voter approval is not required for a county (i) to contract debt or to issue bonds described in Article VII, Section 10 (a) (1) and (3) of the Constitution of Virginia, (ii) to issue refunding bonds, or (iii) to issue bonds, with the consent of the school board and the governing body of the county, for capital projects for school purposes which are sold to the Literary Fund, the Virginia Retirement System, or other state agency prescribed by law.

(Code 1950, § 15-666.28; 1958, c. 640; 1962, c. 623, § 15.1-185; 1971, Ex. Sess., c. 224; 1991, c. 668, § 15.1-227.39; 1997, c. 587.)

§ 15.2-2639. County may elect to be treated as city for issuing bonds.

Any county may, upon approval by the affirmative vote of the voters of the county voting in an election on the question, elect to be treated as a city for the purpose of incurring

debt and issuing bonds under this chapter. If a county so elects, it will thereafter be subject to all of the benefits and limitations of Article VII, Section 10 (a) of the Constitution of Virginia and all provisions of this chapter relating to bonded indebtedness applicable to municipalities, but in determining the debt limitation for such county under § 15.2-2634 there shall be included, unless otherwise excluded under Article VII, Section 10 (a) of the Constitution of Virginia, indebtedness of any town or district in that county empowered to levy taxes on real estate.

(1971, Ex. Sess., c. 224, § 15.1-185.1; 1991, c. 668, § 15.1-227.40; 1997, c. 587.)

§ 15.2-2640. Resolution for bond issue; contents; request for bonds for school purposes.

Whenever the governing body of any county determines that it is advisable to contract a debt and issue general obligation bonds of the county, it shall adopt an ordinance or resolution setting forth in brief and general terms the purpose or purposes for which the bonds are to be issued and the maximum amount of the bonds to be issued.

Where voter approval is required or permitted by the Constitution of Virginia or this chapter, the ordinance or resolution shall request the circuit court to order an election to be held pursuant to §§ 15.2-2610 and 15.2-2611 on the question of contracting the debt and issuing the proposed bonds.

Before the adoption of an ordinance or resolution by the governing body of any county requesting the ordering of an election on the question of contracting a debt and issuing bonds for school purposes, or, if no referendum is required, adopting an ordinance or resolution authorizing the issuance of bonds for school purposes, the school board of the county must first request, by resolution, the governing body of the county to take such action.

If voter approval is not required by the Constitution of Virginia or the provisions of this chapter, the governing body of the county has all the powers granted by this chapter to the governing bodies of municipalities with respect to incurring debt and issuing bonds.

(Code 1950, § 15-666.29; 1958, c. 640; 1960, c. 563; 1962, c. 623, § 15.1-186; 1971, Ex. Sess., c. 224; 1980, c. 559; 1989, c. 177; 1991, c. 668, § 15.1-227.41; 1997, c. 587.)

§ 15.2-2641. Subsequent resolutions.

If the question of contracting a debt, borrowing money and issuing bonds for the purpose or purposes set forth in the ordinance or resolution is approved at the election called and held for such purpose, the governing body of the county, subsequent to the recording of the results of the election, may, by ordinance or resolution, at one time or from time to time, authorize the issuance of bonds. A copy of each ordinance or resolution authorizing the issuance of bonds, certified by the clerk of the governing body of the county, shall be filed with the clerk of the circuit court for the county.

(Code 1950, § 15-666.32; 1958, c. 640; 1962, c. 623, § 15.1-189; 1980, c. 559; 1991, c. 668, § 15.1-227.42; 1997, c. 587.)

§ 15.2-2642. School district bonds.

The governing body of any county, acting for and on behalf of any school district in the county, or acting for and on behalf of two or more school districts jointly, may provide for the issuance of general obligation bonds of the school district or districts for school purposes. Where voter approval is required by the Constitution of Virginia or the provisions of this chapter, the bonds shall not be issued unless a majority of the voters of the district voting in the election held pursuant to §§ 15.2-2610 and 15.2-2611 on the question in the district, or in each of the districts separately, approve the contracting of the debt and the issuing of the bonds. The bonds of two or more school districts shall be issued as joint obligations of such school districts. Any school district, or any school districts jointly, shall constitute a locality. For the purpose of this section, each magisterial district in each county shall constitute a school district, but any such school district shall not include a town constituting a separate school district. In any county where an incorporated town constitutes both a school district and an entire magisterial district, the remaining magisterial districts shall, upon the adoption of resolutions by the governing body and the school board, constitute a single school district which may thereafter issue general obligation bonds for school purposes after approval by a majority of all the voters of the district voting in an election on the question. The issuance of the bonds shall be governed by the provisions of this chapter.

(Code 1950, § 15-666.32:1; 1958, c. 640; 1962, cc. 76, 623, § 15.1-190; 1964, c. 133; 1968, c. 611; 1971, Ex. Sess., c. 224; 1991, c. 668, § 15.1-227.43; 1997, c. 587.)

§ 15.2-2643. Authority for issuance; resolutions or ordinances.

The governing body of any locality is authorized to provide by resolution or ordinance for the issuance of bonds of the locality for the purpose of refunding any or all bonds of the locality now or hereafter outstanding, other than obligations issued in anticipation of the collection of the revenue of the locality for the then current year, and for the purpose of paying the cost of issuing the refunding bonds, whether the locality created the indebtedness or assumed or became liable for it and whether or not the indebtedness to be refunded has matured or is then subject to redemption.

This article shall without reference to any other sections of the Code or acts of the General Assembly be full authority for the issuance, sale, or exchange of bonds authorized under it, and no order, resolution or proceeding in respect of the issuance of the bonds shall be necessary except as required by this article. No approval of the authorization, sale, or exchange of bonds under this article shall be required by any official, court, board, or body and no publication of any notice, order, resolution, or proceeding relating to the issuance of refunding bonds shall be necessary, except as expressly required in this article. The authorization and issuance of refunding bonds shall not be subject to referendum.

(Code 1950, § 15-666.33; 1958, c. 640; 1962, c. 623, § 15.1-192; 1977, c. 442; 1991, c. 668, § 15.1-227.44; 1997, c. 587.)

§ 15.2-2644. Issuance or exchange for indebtedness to be retired; sale and disposition of proceeds; rights of owners.

Any refunding bonds may be issued or exchanged for the indebtedness to be retired by them, including indebtedness not matured, redeemable or surrendered for retirement. Unless so exchanged, any locality may sell refunding bonds authorized under the provisions of this article in such manner, either at public or private sale, and for such price as the governing body of the locality may determine. The proceeds of any refunding bonds may be applied to (i) the payment of matured or redeemable indebtedness, including any redemption premium, (ii) the payment of unmatured indebtedness the evidences of which are on deposit with a bank or trust company designated by the locality for surrender to the locality upon receipt of payment in an amount not exceeding the amount of the indebtedness, or (iii) the establishment of an escrow or sinking fund consisting of cash and noncallable obligations of, or unconditionally guaranteed by, the United States of America or noncallable obligations of, or unconditionally guaranteed by, the Commonwealth in an amount which together with interest to be earned on such obligations shall be sufficient to pay all indebtedness to be refunded either at maturity or upon redemption as provided for upon the creation of the escrow or sinking fund. Any escrow or sinking fund established, in whole or in part, from the proceeds of the sale of refunding bonds shall be irrevocably pledged to the payment of the indebtedness to be refunded and shall be used solely to pay the indebtedness at maturity or upon redemption or for the purchase of not less than all of the indebtedness to be refunded. It is the intent that any escrow or sinking fund established pursuant to this section shall constitute a special fund for the payment of the refunded indebtedness and that the refunded indebtedness shall not be included for the purpose of determining any limitation upon the amount of indebtedness of the locality which is imposed by law.

The owners of any outstanding indebtedness to be refunded shall be divested of all rights and security relating to the indebtedness, except the right to payment when due of principal, premium, if any, and interest, which shall be paid solely from the escrow or sinking fund; provided that, in the case of debt issued before March 27, 1977, the governing body of the locality may provide that if the escrow or sinking fund is in any respect insufficient to make payment of principal, premium, if any, and interest, the original rights and security relating to the indebtedness shall be restored to the extent necessary to provide full payment.

(Code 1950, § 15-666.34; 1958, c. 640; 1962, c. 623, § 15.1-193; 1977, c. 442; 1985, c. 196; 1991, c. 668, § 15.1-227.45; 1994, c. 714; 1997, c. 587.)

§ 15.2-2645. Amount of bonds.

No refunding bonds shall be issued in a principal amount exceeding that necessary to amortize the principal of and premium, if any, and interest on the bonds to be refunded

and pay all expenses reasonably incurred in the issuance of the refunding bonds less the amount then in any sinking, escrow and other funds which are available for the payment of the principal, premium, if any, or interest on the bonds to be refunded.

(Code 1950, § 15-666.35; 1958, c. 640; 1962, c. 623, § 15.1-194; 1977, c. 442; 1991, c. 668, § 15.1-227.47; 1997, c. 587.)

§ 15.2-2646. Participation in funds donated by the Commonwealth.

The issuance of refunding bonds for the retirement of bonds which are now or may hereafter be entitled to participate in funds donated by the Commonwealth, or funds receivable from any source other than local taxes levied for such purposes, shall not be construed to deprive the bonds of the right to continue to participate in the distribution of those funds, and the refunding bonds after their issuance shall enjoy all rights as would have been enjoyed by the bonds refunded.

(Code 1950, § 15-666.36; 1958, c. 640; 1962, c. 623, § 15.1-195; 1991, c. 668, § 15.1-227.48; 1997, c. 587.)

§ 15.2-2647. Expenses of authorization and issuance; agent to assist in refunding transaction.

The governing body may authorize the payment by any locality of all expenses reasonably incurred by it in connection with the authorization and issuance of refunding bonds. The governing body may appoint or retain an agent for the purpose of assisting it in the refunding transaction and in obtaining the surrender of its outstanding bonds and may pay a fee to the agent as it may consider proper.

(Code 1950, § 15-666.37; 1958, c. 640; 1962, c. 623, § 15.1-196; 1991, c. 668, § 15.1-227.49; 1997, c. 587.)

§ 15.2-2648. Purchase in open market.

Provision may be made in the proceedings authorizing refunding bonds for the purchase of the refunded bonds in the open market or pursuant to tenders made from time to time when there is available in the escrow or sinking fund for the payment of the refunded bonds a surplus in an amount or amounts to be fixed in such proceedings.

(Code 1950, § 15-666.38; 1958, c. 640; 1962, c. 623, § 15.1-197; 1991, c. 668, § 15.1-227.50; 1997, c. 587.)

§ 15.2-2649. District refunding bonds.

The governing body of any county, acting for and in behalf of any road district, magisterial district, sanitary district, or school district in the county, may provide for the issuance of refunding bonds of the district for the purpose of refunding any bonds of the

district. The issuance of the refunding bonds shall be governed by the provisions of this chapter insofar as they may be applicable.

(Code 1950, § 15-666.39; 1958, c. 640; 1962, c. 623, § 15.1-198; 1991, c. 668, § 15.1-227.51; 1997, c. 587.)

§ 15.2-2650. Article controlling as to proceedings involving validity.

The provisions of this article apply to all suits, actions and proceedings of whatever nature involving the validity of bonds of any locality or other political subdivision, agency or instrumentality of the Commonwealth or of any locality, whether the bonds are to be issued following an election on the question of their issuance or without necessity of an election. These provisions supersede all other acts and statutes on the subject and are controlling in all cases, notwithstanding the provisions of any other law or charter to the contrary.

(Code 1950, § 15-666.54; 1958, c. 640; 1962, c. 623, § 15.1-213; 1991, c. 668, § 15.1-227.52; 1997, c. 587; 2003, c. 570.)

§ 15.2-2651. Proceeding by political subdivision to establish validity; procedure; parties defendant.

The governing body of any locality or other political subdivision, agency or instrumentality of the Commonwealth or of any locality proposing to issue bonds may bring at any time a proceeding in any court of the county or city having general jurisdiction and in which the issuer is located to establish the validity of the bonds, the legality of all proceedings taken in connection with the authorization or issuance of the bonds, the validity of the tax or other means provided for the payment of the bonds, and the validity of all pledges of revenues and of all covenants and provisions which constitute a part of the contract between the issuer and the owners of the bonds. The proceeding shall be brought by filing a motion for judgment describing the bonds and the proceedings taken in connection with their issuance and alleging that the bonds when issued shall be valid and legal obligations of the issuer. In the motion for judgment the taxpayers, property owners and citizens of the jurisdiction where the issuer is located, including nonresidents owning property in or subject to taxation by it, and all other persons interested in or affected in any way by the issuance of the bonds shall be made parties defendant.

(Code 1950, § 15-666.55; 1958, c. 640; 1962, c. 623, § 15.1-214; 1991, c. 668, § 15.1-227.53; 1997, c. 587; 2003, c. 570.)

§ 15.2-2652. Service by publication of motion for judgment; parties defendant.

Upon the filing of the motion for judgment the court shall fix the time and place for hearing the proceeding and shall enter an order requiring the publication of the motion for judgment or a summary of it approved by the court, together with the order setting forth

the time and place of the hearing, once a week for two consecutive weeks in a newspaper published or having general circulation in the jurisdiction where the issuer is located. The date fixed for the hearing shall not be sooner than ten days after the date the second publication of the motion for judgment or summary and the order appears in the newspaper.

By the publication of the motion for judgment or summary and the order, all taxpayers, property owners and citizens of the jurisdiction where the issuer is located, including nonresidents owning property in or subject to taxation by it, and all other persons having or claiming any right, title or interest in any property or funds affected in any way by the issuance of the bonds, or having or claiming to have any right or interest in the subject matter of the motion for judgment, shall be considered parties defendant in the proceedings, and the court shall have jurisdiction of them the same as if each of them were named individually as a defendant in the motion for judgment and personally served with process.

(Code 1950, § 15-666.56; 1958, c. 640; 1962, c. 623, § 15.1-215; 1991, c. 668, § 15.1-227.54; 1997, c. 587.)

§ 15.2-2653. Contesting issuance of bonds; notice and hearing; service on member of governing body, etc.

Any person, corporation, or association desiring to contest the issuance of any bonds pursuant to the provisions of this chapter, or any other law, general or special, shall proceed by filing a motion for judgment within thirty days after the filing of the resolution or ordinance authorizing the issuance of the bonds with the circuit court having jurisdiction over the issuer, or in contesting the validity of a petition for or the results of a referendum, within thirty days after the date that the result of the election for the issuance of the bonds is certified, in the court having jurisdiction as provided in § 15.2-2651. For bonds which are not authorized pursuant to a referendum, or for which the authorizing resolution or ordinance is not required to be filed with the circuit court, the contestant shall proceed by filing a motion for judgment within thirty days after the adoption of the authorizing resolution or ordinance. Upon the filing of a motion for judgment, the court shall fix a time and place for hearing the proceeding and shall enter an order requiring the publication of the motion for judgment or a summary of it approved by the court, together with the order setting forth the time and place of the hearing, once a week for two consecutive weeks in a newspaper published or having general circulation in the jurisdiction where the issuer is located. The date fixed for the hearing shall not be sooner than ten days after the date the second publication of the motion for judgment or summary and the order appears in the newspaper. In addition to such publication, the plaintiff shall secure personal service on at least one member of the governing body of the issuer.

(Code 1950, § 15-666.57; 1958, c. 640; 1962, c. 623, § 15.1-216; 1979, c. 184; 1991, c. 668, § 15.1-227.55; 1994, c. 714; 1997, c. 587.)

§ 15.2-2654. Reply by party defendant; intervention by interested parties; determination of questions; orders; precedence over other business.

Any party defendant may reply to the motion for judgment within ten days after its second publication as required by §§ 15.2-2652 and 15.2-2653 but not thereafter. Any property owner, taxpayer, citizen or other person in interest may become a party to the proceedings by pleading to the motion for judgment on or before the time set for hearing as provided by § 15.2-2652 or § 15.2-2653, or such earlier time as may be specified in the order of the court, or thereafter by intervention upon leave of the court. At the time and place designated in the order for the hearing as provided for in § 15.2-2652 or § 15.2-2653, the judge shall proceed to hear and determine all questions of law and fact in the proceeding and may make such orders as to the proceeding and such adjournments as will enable the judge properly to try and determine the proceeding and to render a final decree with the least possible delay. The proceeding shall take precedence over all other business of the court.

(Code 1950, § 15-666.58; 1958, c. 640; 1962, c. 623, § 15.1-217; 1991, c. 668, § 15.1-227.56; 1997, c. 587.)

§ 15.2-2655. Consolidation of actions or proceedings.

Upon motion of the plaintiff or the issuer, the court in which the first proceeding to invalidate or sustain the bonds was instituted may enjoin the commencement by any person, corporation, or association of any other action or proceeding involving the validity of the bonds or any matter recited in the motion for judgment. The court may order a joint hearing before it of all issues then pending in any actions or proceedings in any court in the Commonwealth, may order all such actions or proceedings consolidated with the validation proceeding pending before it, and may make such orders as may be necessary or proper to effect consolidation and as may tend to avoid unnecessary costs or delays. Such orders shall not be appealable.

(Code 1950, § 15-666.59; 1958, c. 640; 1962, c. 623, § 15.1-218; 1991, c. 668, § 15.1-227.57; 1997, c. 587.)

§ 15.2-2656. Appeals.

An appeal from the final judgment of the circuit court in a bond validation proceeding may be taken to the Supreme Court of Virginia. No appeal shall be allowed unless a notice of appeal is filed in the circuit court within 15 days after the date on which the final judgment of the court is entered and unless the appealing party's petition for appeal is filed with the Supreme Court of Virginia within 30 days after the date on which the final judgment of the court is entered. When a notice of appeal is timely and properly filed with the clerk of the circuit court, the clerk shall certify and transmit the record to the Clerk of the Supreme Court of Virginia within 30 days after the date on which the final judgment of the circuit court is entered. Failure of the clerk to comply with this requirement shall not affect the jurisdiction of the Supreme Court of Virginia to consider

the appeal. If the Supreme Court of Virginia grants the petition for appeal, it shall be placed on the privileged docket.

(Code 1950, § 15-666.60; 1958, c. 640; 1962, c. 623, § 15.1-219; 1991, c. 668, § 15.1-227.58; 1997, c. 587; 2003, c. 679.)

§ 15.2-2657. Decree validating bonds binding and conclusive.

In the event the decree of the court validates the bonds and no appeal is taken within the time prescribed in § 15.2-2656, or if an appeal is taken and the decree of the court is affirmed, the decree shall be forever binding and conclusive as to the validity of the bonds, the validity of the tax or other means provided for the payment of the bonds, and the validity of all pledges of revenues and of all covenants and provisions contained in any ordinance, resolution, trust agreement, indenture, or other instrument authorizing or providing for the issuance of the bonds, the legality of proceedings taken in connection with the issuance of the bonds, and all matters adjudicated and all objections presented or which might have been presented in the proceeding, and shall constitute a permanent injunction against the institution by any person of any action or proceeding contesting the validity of the bonds or any other matter adjudicated or which might have been called in question in such proceedings.

(Code 1950, § 15-666.61; 1958, c. 640; 1962, c. 623, § 15.1-220; 1991, c. 668, § 15.1-227.59; 1997, c. 587.)

§ 15.2-2658. Bonds invalidated only for substantial defects, etc.; matters of form disregarded.

No court in which a proceeding to invalidate or sustain bonds is brought shall invalidate the bonds unless it finds substantial defects, material errors, and omissions in the bond issue. Matters of form shall be disregarded.

(Code 1950, § 15-666.62; 1958, c. 640; 1962, c. 623, § 15.1-221; 1991, c. 668, § 15.1-227.60; 1997, c. 587.)

§ 15.2-2659. Investigation by Governor of alleged defaults; withholding state funds from defaulting locality; payment of funds withheld; receipts, reports, etc.; magisterial and school district defaults included.

Whenever it appears to the Governor from an affidavit filed with him by or on behalf of the owner or owners of any general obligation bonds of any locality, or by any paying agent for the bonds that the locality has defaulted in the payment of the principal or premium, if any, or interest on any of its outstanding general obligation bonds, the Governor shall immediately make a summary investigation into the facts set forth in the affidavit.

If it is established to the satisfaction of the Governor that the locality is in default in the payment of its bonds or the interest on them, the Governor shall immediately make an order directing the Comptroller to withhold all further payment to the locality of all funds, or of any part of them, appropriated and payable by the Commonwealth to the locality for any and all purposes, until the default is cured. The Governor shall, while the default continues, direct in writing the payment of all sums withheld by the Comptroller, or as much of them as is necessary, to the owners of the bonds in default, or the paying agent for the bonds, so as to cure, or cure insofar as possible, the default as to the bonds or interest on them.

The Governor shall, as soon as practicable, give notice of the default and of the availability of funds with the paying agent or with the Comptroller by publication one time in a daily newspaper of general circulation in the City of Richmond and in the case of registered bonds, by mail, to the registered owners of the bonds. The cost of the publication and mailing shall be a further charge against the funds in the hands of the Comptroller payable to the locality. Any payment so made by the Comptroller to the owners of the bonds in default, or to the paying agent for the bonds, shall be credited as if made directly by the locality and shall be charged by the Comptroller against the first appropriations otherwise payable to the locality as if paid to the locality. The owners of the bonds in default, or the paying agent for the bonds, at the time of payment or at the time of each payment shall receipt for the payment and deliver to the Comptroller all bonds and interest coupons or assignments, in a form satisfactory to the Comptroller, of the right to receive the principal or interest satisfied by the payment. The Comptroller shall report each payment made to the governing body of the defaulting locality and deliver or send by registered mail to the governing body all bonds, interest coupons, and assignments received by the Comptroller under the provisions of this section.

If there is no paying agent for the bonds, the Comptroller shall hold for the benefit of the owners of the bonds in default who do not present their bonds, coupons or assignments for payment their pro rata share of the amounts so withheld and shall pay their share of such amounts when the bonds, coupons or assignments are presented.

For the purpose of this section, bonds of any magisterial district or school district of any county shall be treated as bonds of the county in which the magisterial district or school district is located.

Nothing in this section shall be construed to create any obligation on the part of the Comptroller or the Commonwealth to make any payment on behalf of the defaulting locality other than from funds appropriated and payable to the defaulting locality.

(Code 1950, § 15-666.66; 1958, c. 640; 1962, c. 623, § 15.1-225; 1964, c. 46; 1971, Ex. Sess., c. 224; 1988, c. 210; 1991, c. 668, § 15.1-227.61; 1997, c. 587.)

§ 15.2-2660. Bonds not affected by project undertaken.

The authorization and issuance of the bonds under this chapter shall not be dependent on or affected in any way by proceedings taken, contracts made, or acts performed or done in connection with, or in furtherance of, the project undertaken by the locality authorizing and issuing the bonds.

(Code 1950, § 15-666.67; 1958, c. 640; 1962, c. 623, § 15.1-226; 1991, c. 668, § 15.1-227.62; 1997, c. 587.)

§ 15.2-2661. Provisions of chapter controlling; powers conferred are additional.

Insofar as the provisions of this chapter are inconsistent with the provisions of any law, the provisions of this chapter shall be controlling. The powers conferred by this chapter are in addition to the powers conferred by any other law. Bonds may be issued under this chapter for any permitted purpose notwithstanding that any other law may provide for the issuance of bonds for like purposes and without regard to the requirements, restrictions or other provisions contained in any other law. Bonds may be issued under this chapter notwithstanding any debt or other limitation prescribed by any other law. The mode and method of procedure for the issuance of bonds under this chapter need not conform to the provisions of any other law.

Bonds may be issued under the provisions of this chapter without obtaining the consent of any commission, board, bureau or agency of the Commonwealth, and without any other proceeding or the happening of any other condition or thing except those proceedings, conditions or things which are specifically required by this chapter.

Notwithstanding anything in this section to the contrary, any referendum requirement for the issuance of bonds or debt limitation contained in any charter or local or special act shall control over the provisions of this chapter after July 1, 1992.

(Code 1950, § 15-666.68; 1958, c. 640; 1962, c. 623, § 15.1-227; 1991, c. 668, § 15.1-227.63; 1997, c. 587.)

§ 15.2-2662. Validation of bonds.

All proceedings taken before July 1, 1991, for or with respect to the authorization, issuance, sale, execution or delivery of bonds by or on behalf of any locality are validated, ratified, approved and confirmed, and any bonds so issued are valid, legal, binding and enforceable obligations of the locality.

All proceedings taken before July 1, 1992, for or with respect to the authorization, issuance, sale, execution or delivery of bonds by or on behalf of any locality are validated, ratified, approved and confirmed, and any bonds so issued, are valid, legal, binding and enforceable obligations of the locality.

(1991, c. 668, §§ 15.1-227.64; 1994, c. 714; 1997, c. 587.)

§ 15.2-2663. Transition.

If any proceedings with respect to the authorization, issuance, sale, execution or delivery of bonds have been commenced before July 1, 1991, the bonds may, at the election of the governing body of the locality issuing the bonds, be issued under the provisions of this chapter or under the provisions of law in effect immediately before July 1, 1991.

(1991, c. 668, § 15.1-227.65; 1997, c. 587.)

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