

Economic Development Authority of the City of Newport News

- Created: 1972 Acts of Assembly, c. 726 as Oyster Point Development Corporation.
- Amended: 1976 Acts of Assembly, c. 524
Amended (§ 9)
- 1979 Acts of Assembly, c. 285
Amended (§§ 1, 5, 9, 17, 18, 19)
- 1980 Acts of Assembly, c. 46
Amended (§§ 4 through 7, 9, 12)
- 1987 Acts of Assembly, c. 58
Amended (§ 3)
- 1988 Acts of Assembly, c. 717
Amended (§ 19)
- 1992 Acts of Assembly, c. 233
Amended (§§ 1, 3, 4, 7, 9, 11)
Repealed (§ 14)
- 1993 Acts of Assembly, c. 682
Amended (§§ 1 through 10, 12, 13, 15 through 19; changed name to Economic Development Authority of the City of Newport News).

§ 1. There is hereby created within the city of Newport News, Virginia, a political subdivision of the Commonwealth to be called the Economic Development Authority of the City of Newport News, Virginia.

The Economic Development Authority of the City of Newport News, Virginia is created with the express purpose of developing for sale or lease that property currently owned by the authority called the "Oyster Point Tract," said property being in the city of Newport News and any other property or interests in property assigned by the city of Newport News to the authority or acquired by the authority. (1972, c. 726; 1979, c. 285; 1992, c. 233; 1993, c. 682)

§ 2. The authority shall be governed by a Board of Directors composed of seven members. The members appointed by the governing body of the city to serve as the Board of Directors of the Industrial Development authority of the City of Newport News, Virginia, shall serve as the members and directors of the authority. All powers and duties of the authority shall be exercised and performed by the directors. Each director shall, before entering on his duties, take and subscribe the oath presented by § 49-1 of the Code of Virginia. At the discretion of the governing body of the city, the City Manager of the City of Newport News, Virginia, shall serve, ex officio, as a nonvoting member of the authority's Board of Directors. (1972, c. 726; 1993, c. 682)

§ 3. The Board shall elect from its membership a chairman and vice-chairman. The City Manager of the City of Newport News or his designee shall serve as secretary-

treasurer of the Board. The directors shall meet regularly at such times as may be required. The directors and members of any committee appointed by the Board may be paid such salary as may be specified by the council of the City of Newport News. Any such salary shall be funded by the authority. The Board shall hold regular meetings at such times and places as may be established by its bylaws, and may meet jointly with the Industrial Development Authority for the City of Newport News, Virginia. The Board shall keep detailed minutes of its proceedings which shall be open to public inspection at all times. It shall keep suitable records of all its financial transactions, and shall arrange to have the same audited annually by the internal auditors of the City of Newport New, or by other independent auditors. Such audit shall be furnished to the governing body of the city, and shall be open to public inspection. (1972, c. 726; 1987, c. 58; 1992, c. 233; 1993, c. 682)

§ 4. The authority shall have the following powers:

(a) To contract and be contracted with, to sue and to be sued, and to adopt and use a corporate seal and to alter the same at pleasure.

(b) To acquire, construct, improve, hold and dispose of real or personal property necessary for its purposes; to acquire by purchase or lease real property, or rights, easements or estates therein necessary for its purposes; all to sell, lease and dispose of the same or any portion thereof of interest therein.

(c) To employ a director and such other agents and employees as may be necessary to serve at the pleasure of the Board, and to fix their compensation and prescribe their duties.

(d) To do all acts and things which may be reasonably necessary and convenient to carry out its purpose and powers.

(e) In addition and supplemental to any other powers conferred upon the authority by this act, to exercise all or any powers and authority vested in an industrial development authority established under the Industrial Development and Revenue Bond Act (Chapter 33, Title 15.1 of the Code of Virginia) as amended from time to time, either alone or in conjunction with the powers provided in this Act, including without limitation the power to issue its bonds to pay all or a part of the "cost" of any "facilities" as such terms are defined in the said Industrial Development and Revenue Bond Act.

(f) To establish bylaws and make all rules and regulations deemed expedient for the management of the authority's affairs. (1972, c. 726; 1980, c. 46; 1992, c. 233; 1993, c. 682)

§ 5. The authority shall participate in marketing, economic development and the development of the property within the city of Newport News. The property may be sold or leased for industrial, manufacturing, commercial, business, residential, governmental and any other similar or related purpose or any combination of the purposes herein listed. The governing body of the city is authorized and empowered to transfer to the authority property of the "Oyster Point Tract", and any other property, in such amounts and at such times as it deems necessary to carry out the purpose of this act. The city is authorized and empowered to make appropriations and to provide funds for the operation of the authority and to further its purposes. The city of Newport News is further authorized and empowered to enter into agreements with the authority and under such agreements to contract obligations, both contingent and absolute, to appropriate, donate or contribute, from tax revenues or from any other sources, funds to assist the authority in the financing

of any of its projects or the carrying out of any of the purposes of this act. Such agreements and contract obligations may provide for the payment or the guarantee of payment of all or any part of the principal of and interest and redemption premium, if any, on bonds or any part of the principal of and interest and redemption premium, if any, on bonds or other debt obligations issued by the authority. (1972, c. 726; 1979, c. 285; 1980, c. 46; 1993, c. 682)

§ 6. The authority shall have the power to issue bonds from time to time in its discretion for any of its purposes or to carry out any of its powers, including the payment or retirement of bonds previously issued by it. Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government, Commonwealth of Virginia, the city of Newport News, or any political subdivision of the Commonwealth of Virginia which is a part of the authority, or a pledge of any income or revenues of the authority, or a mortgage of any particular facility or facilities or other property of the authority. (1972, c. 726; 1980, c. 46; 1993, c. 682)

§ 7. Neither the directors of the authority nor any person executing bonds issued under the provisions of this act shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the authority shall not be a debt of the Commonwealth or of any political subdivision thereof, and neither the Commonwealth nor any political subdivision thereof, other than the authority, shall be liable thereon nor shall such bond or obligations be payable out of any funds or properties other than those of the authority except in instances where a political subdivision guarantees such bonds as provided in § 5 hereof. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. (1972, c. 726; 1980, c. 46; 1992, c. 233; 1993, c. 682)

§ 8. The bonds of the authority are declared to be issued for an essential public and governmental purpose. (1972, c. 726; 1993, c. 682)

§ 9. The bonds of the authority shall be authorized by resolution adopted by the Board, and may be issued in one or more series and shall bear such date or dates and mature at such time or times, bear interest at such rate or rates, including variable rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution or its trust indenture or mortgage may provide. The authority may provide for credit enhancement of or liquidity for bonds issued by the authority, upon such terms and conditions as it deems appropriate. The bonds may be sold at public or private sale at such price or prices and upon such terms and conditions as the Board shall deem appropriate. (1972, c. 726; 1976, c. 524; 1979, c. 285; 1980, c. 46; 1992, c. 233; 1993, c. 682)

§ 10. In case any of the directors or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such director or officer, before the delivery of such bonds such signatures shall nevertheless be valid and sufficient for all purposes the same as if such directors or officers have remained in office until such delivery. (1972, c. 726; 1993, c. 682)

§ 11. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this act, shall be fully negotiable as provided in § 15.1-1379 of the Code of Virginia. (1972, c. 726; 1992, c. 233)

§ 12. In order to secure the payment of such bonds by the authority, they shall be secured by a pledge of the revenues and receipts out of which the same may be made payable, and may be secured by a trust indenture covering all or any part of the authority facilities from which revenues or receipts so pledged may be derived, including any enlargements of and additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the authority to others, the creation and maintenance of special funds from such revenues, and the rights and remedies available in the event of default, all as the Board of Directors shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement and trust indenture made for the benefit of security of any of the bonds of the authority shall continue effective until the principal and interest of the bonds for the benefit for which the same were made shall have been fully paid or provided for. (1972, c. 726; 1980, c. 46; 1993, c. 682)

§ 13. In the event of default in such payment or in any agreements of the authority made as a part of the contract under which the bonds were issued, whether contained in the proceeding authorizing the bonds, trust or indenture executed as security thereof, the remedy for such default may be enforced by mandamus or by other suit or action at law or equity to compel the authority and the directors, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any trust indenture of the authority by the appointment of a receiver in equity or by foreclosure of any such trust indenture or any one or more of said remedies. (1972, c. 726; 1993, c. 682)

§ 14. [Repealed.] (1992, c. 233)

§ 15. The authority is hereby declared to be performing a public function in behalf of the municipality with respect to which the authority is created and to be a public instrumentality of such municipality. Accordingly, the income, including any profit made on the sale or from all bonds issued by the authority shall at all times be exempt from all taxation by the Commonwealth or any political subdivision thereof. The authority shall be nonprofit and no part of its net earnings remain after payment of its expenses shall inure to the benefit of any individual, firm or authority, except that in the event the Board of Directors of the authority shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the authority, that any net earnings of the authority thereafter accruing shall be paid to the municipality with respect to which the authority was created; provided, however, that nothing herein contained shall prevent the Board of Directors from transferring all or any part of its profits in accordance with the terms of any lease entered into by the authority or any contract laid to said lease. (1972, c. 726; 1993, c. 682)

§ 16. Whenever the Board of Directors of the authority shall, by resolution, determine that the purposes for which the authority was formed have been substantially complied with, and all bonds theretofore issued and all obligations theretofore incurred by the authority have been fully paid, the then members of the Board of Directors of the authority shall thereupon execute and file for record with the governing body of the

municipality in which is located the authority, a resolution declaring such facts. If the governing body of the municipality is of the opinion that the facts stated in the authority's resolution are true and that the authority should be dissolved, it shall so dissolve and the authority shall stand dissolved. Upon such dissolution, the title to all funds and properties owned by the authority at the time of such dissolution shall vest in the municipality wherein the authority was created, and the possession of such funds and properties shall forthwith deliver to such municipality. (1972, c. 726; 1993, c. 682)

§ 17. The city of Newport News may transfer property located within the city of Newport News, to the authority by sale, lease or gift. Such transfer may be authorized by a resolution of the governing body of the municipality without submission of the question to the voters and without regard to the requirements, restrictions, limitations or other provisions contained in any other general, special or local law. Such conveyance may contain restrictions and covenants as set forth and required by the municipality. (1972, c. 726; 1979, c. 285; 1993, c. 682)

§ 18. Nothing contained in this act shall be deemed to authorize the authority to occupy, use or develop or plan or in any way control any other property other than the property referred to in this act. (1972, c. 726; 1979, c. 285; 1993, c. 682)

§ 19. In addition to other powers conferred in this act, the authority shall have the power to borrow money and accept contributions, grants, and other financial assistance from the federal government and agencies or instrumentalities thereof for or in aid of the construction and development of the property referred to herein or for the retirement or refunding of its bonds. To these ends the authority shall have the power to comply with such conditions and to execute such mortgages, trust indentures and agreements as may be necessary, convenient or desirable. The powers granted and the dues imposed in this act shall be construed to be independent and severable.

Furthermore, the authority shall have the ability to acquire property by condemnation proceedings in the manner and in accordance with the procedure provided in Title 25 of the Code of Virginia.

Furthermore, the authority, by a resolution duly adopted by the Board, shall have the authority to transfer moneys by gift or by loan to the City of Newport News upon such terms and conditions as are mutually agreed upon. (1972, c. 726; 1979, c. 285; 1988, c. 717; 1993, c. 682)

§ 20. If any one or more sections, subdivisions, sentences or parts of any of this act shall be adjudged unconstitutional or invalid, such judgment 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. (1972, c. 726)