

COUNTIES, CITIES AND TOWNS: INDUSTRIAL DEVELOPMENT AND REVENUE BOND ACT.

Appalachian School of Law is nonstock, nonprofit corporation located in Buchanan County. Act permits industrial development authorities to make loans to corporations to promote development of facilities that provide graduate education in Commonwealth. Buchanan County Industrial Development Authority has legal authority to make loan to Appalachian School of Law to enable completion of law library.

The Honorable Jackie T. Stump

Member, House of Delegates

January 18, 1999

You ask whether the Industrial Development Authority of Buchanan County may make a loan to the Appalachian School of Law, which is located in Buchanan County.

You advise that the Appalachian School of Law was organized in 1995 as a Virginia nonstock, nonprofit corporation and that the first class of students matriculated in 1997.¹ You also advise that the purpose of the loan will be to enable the school to complete its law library. You indicate that completion of the law library is an essential step in the process of securing accreditation from the American Bar Association.

The Industrial Development and Revenue Bond Act, §§ 15.2-4900 through 15.2-4920 of the *Code of Virginia* (the "Act"), authorizes localities to create industrial development authorities.² One of the purposes of the General Assembly in authorizing the creation of industrial development authorities is to enable such authorities to "make loans ... to promote industry and develop trade by inducing manufacturing, industrial, governmental, nonprofit and commercial enterprises and institutions of higher education to locate in or remain in this Commonwealth."³ Section 15.2-4901 explicitly states that it is the intent of the legislature and the policy of the Commonwealth to authorize industrial development authorities to exercise the powers granted by the Act "with respect to facilities for private, accredited and nonprofit institutions of collegial education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education." The Act defines "facilities" to include

facilities for private, accredited and nonprofit institutions of collegiate, elementary, or secondary education in the Commonwealth whose primary purpose is to provide collegiate, elementary, secondary, or graduate education and not to provide religious training or theological education, such facilities being for use as academic or administration buildings or any other structure or application usual and customary to a college, elementary or secondary school campus other than chapels and their like.⁴

Section 15.2-4905(13) expressly grants an industrial development authority the power "[t]o make loans ... to any person, partnership, association, corporation, business, or governmental entity in furtherance of the purposes of [the Act] including for the purposes of promoting economic development."⁵ Finally, § 15.2-4901 provides that the Act is to be liberally construed in conformity with the stated intentions of the legislature.

It is clear from the language of §§ 15.2-4901 and 15.2-4902⁶ that one of the legislatively approved purposes of an industrial development authority is to promote the development of

facilities that provide graduate education in the Commonwealth. It is likewise clear from the language of § 15.2-4905(13)⁷ that an authority may make a loan to a corporation in furtherance of any of the purposes of the Act. Accordingly, it is my opinion that, subject to compliance with the conditions specified in the Act, the Buchanan County Industrial Development Authority has the legal authority to make a loan to the Appalachian School of Law to enable the school to complete its law library.

¹You state that the school is exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code.

²See § 15.2-4901.

³*Id.*

⁴Section 15.2-4902 (defining "authority facilities" or "facilities").

⁵The loans are to be made "only from revenues of the authority which have not been pledged or assigned for the payment of any of the authority's bonds." Section 15.2-4905(13). Section 15.2-4902 defines "loans" as "any loans made by the authority in furtherance of the purposes of [the Act] from the proceeds of the issuance and sale of the authority's bonds and from any of its revenues or other moneys available to it as provided herein." You state that the source of the funds for the loan to the Appalachian School of Law will be a loan to the county industrial development authority from the Virginia Coalfield Economic Development Authority. Section 15.2-4905(12) authorizes an authority to borrow money from political subdivisions of the Commonwealth "in order to make loans in furtherance of the purposes of [the Act]."

⁶The primary goal of statutory interpretation is to ascertain and give effect to the intent of the legislature. See *Turner v. Commonwealth*, 226 Va. 456, 459, 309 S.E.2d 337, 338 (1983). Analysis of legislative intent includes appraisal of the subject matter and purpose of the statute, in addition to its express terms. *Vollin v. Arlington Co. Electoral Bd.*, 216 Va. 674, 222 S.E.2d 793 (1976). The purpose underlying a statute's enactment is particularly significant in construing it. *VEPCO v. Prince William Co.*, 226 Va. 382, 388, 309 S.E.2d 308, 311 (1983). Moreover, under well-accepted principles of statutory construction, when the language of a statute is plain and unambiguous and its meaning is clear and definite, it must be given effect. *Temple v. City of Petersburg*, 182 Va. 418, 29 S.E.2d 357 (1944); 1997 Op. Va. Att'y Gen. 16, 17.

⁷See *id.*