



APPENDIX G
Heart of the Appalachia Tourism Authority (HOATA)
aka Virginia Coalfield Regional Tourism Development Authority
Legislation and By-Laws

Below is the legislation that created HOATA which serves as the umbrella organization for the Virginia Coal Heritage Trail Authority. Also included are the Articles of Incorporation and its by-laws. For more about the make-up of the organization and those who serve on the Coal Heritage Trail Authority, see Chapter IX.

Code of Virginia Legislation that created the Authority

§ 15.2-6000. Authority created; name.

The Virginia Coalfield Economic Development Authority, hereinafter referred to as the Authority, is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter. (1988, c. 833, § 15.1-1635; 1997, c. 587.)

§ 15.2-6001. Findings of fact.

The economy of Southwest Virginia has not kept pace with that of the rest of the Commonwealth. The economic problems of Southwest Virginia are due in large part to its present inability to diversify. The Southwest has suffered, and continues to suffer, widespread unemployment in great disproportion to the rest of the Commonwealth.

The Virginia Coalfield Economic Development Authority will assist the seven county and one city coal producing areas of the Commonwealth to achieve some degree of economic stability. It is hereby further declared that the foregoing is a public purpose and use for which public moneys may be spent and such activity will serve a public purpose in providing jobs to the citizens of the Commonwealth. (1988, c. 833, § 15.1-1636; 1997, c. 587.)

§ 15.2-6002. Purpose of Authority; performs governmental function.

The primary purpose of the Authority is to enhance the economic base for the seven county and one city coalfield region of Virginia (Lee, Wise, Scott, Buchanan, Russell, Tazewell and Dickenson Counties and the City of Norton).

The Authority shall provide financial support for the purchase of real estate, construction of buildings for sale or lease, installation of utilities, direct loans and grants to private for-profit basic employers; may apply for matching funds from the state or federal government, or the private sector; and any other support improvements it deems necessary, including flood control dams. All such loans and grants may be managed by the LENOWISCO and Cumberland Plateau Planning District Commissions in their respective service areas.

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth, particularly the aforesaid seven county and one city areas, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity. (1988, c. 833, § 15.1-1637; 1990, c. 341; 1992, c. 32; 1997, c. 587.)

§ 15.2-6003. Board of Authority; members and officers; staff; annual report.

All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Virginia Coalfield Economic Development Authority, hereinafter referred to as the Board or the Board of the Authority. Board members shall serve for terms of four years except that all vacancies shall be filled for the unexpired term. All terms shall commence July 1 of the year of appointment. Initial appointments shall begin July



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1, 1988. The Board shall consist of sixteen members, residents of the Commonwealth, as follows:

- Three initial members shall be the sitting chairmen of the county boards of supervisors of the three counties which are the three largest contributors to the coal and gas road improvement fund for the fiscal year immediately preceding July 1, 1988, as reported by the treasurers of the affected counties and city. Every four years thereafter, the three members shall be supervisors from the county boards of supervisors of the three counties which are the three largest contributors to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin. Such supervisors shall be selected by their respective county boards of supervisors.
- Five members shall be appointed by the Governor at large; however, if there is any participating county or city in which there resides no member of the Board appointed by the other methods herein specified, the Governor shall include at least one member who is a resident of each such county or city among his appointees. For the first four-year terms these five members shall be selected to the extent possible from former members of the Southwest Virginia Economic Development Commission who reside in Planning District 1 or 2.
- One member shall be a representative of the Virginia Economic Development Partnership, as designated by the Chief Executive Officer of the Partnership.
- One member shall be a representative named by the Virginia Coal Association.
- Two members shall be the Executive Directors of the LENOWISCO and Cumberland Plateau Planning District Commissions.
- Three initial members shall be representatives named by the three largest coal producers determined by the dollar value of their contribution to the respective county coal and gas road improvement funds for the fiscal year immediately preceding July 1, 1988, as reported by the treasurers of the affected counties and city. Every four years thereafter, the three members shall be representatives named by the three largest coal producers determined by the dollar value of their contributions to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin.
- One member shall be a representative named by the largest oil and gas producer determined by the dollar value of its contributions to the Virginia Coalfield Economic Development Fund for the fiscal year immediately preceding July 1 of the year in which new terms of members are to begin.

Should a member who is a member solely by virtue of his office as member of a board of supervisors or executive director of a planning district commission cease to hold such office, then an immediate vacancy shall occur, and the vacancy shall be filled for the remainder of the term by his successor selected by the board of supervisors of his county or as executive director.

Each member of the Board shall, before entering upon the discharge of the duties of this office, take and subscribe the oath prescribed in § 49-1. They shall receive their expenses spent on business of the Authority.

Ten members of the Authority shall constitute a quorum and the affirmative vote of a majority of the quorum present shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board shall elect from its membership a chairman, a vice-chairman, a treasurer and a secretary for each calendar year. The secretary shall keep the minutes of the Board and affix



the seal of the Authority. The Board may also appoint an executive director, an assistant treasurer and an assistant secretary, and staff to assist same, who shall discharge such functions as may be directed by the Board. Staff functions of the Authority may be undertaken by the LENOWISCO and Cumberland Plateau Planning District Commissions, as agreed by the Board and participating Commissions.

The Board, promptly following the close of the calendar year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, the boards of supervisors of the seven coalfield counties and the Norton City Council. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year. The Authority shall cause an audit of its books and accounts to be made at least once each year by a certified public accountant and the cost thereof may be treated as part of the expense of operation. (1988, c. 833, § 15.1-1638; 1989, c. 281; 1990, c. 341; 1995, c. 334; 1996, cc. 590, 598, 607; 1997, c. 587; 2010, c. 869.)

§ 15.2-6004. Office of Authority; title to property.

The Authority shall have and maintain its principal office as determined by the Board, within the participating counties and one city at which all of its records shall be kept, and from which its business shall be transacted. The title to all property of every kind belonging to the Authority shall be titled to the Authority, which shall hold it for the benefit of the member localities and the Commonwealth. (1988, c. 833, § 15.1-1639; 1990, c. 341; 1997, c. 587.)

§ 15.2-6005. General powers of Authority; regulations; enforcement of statutes, rules, etc.

In order to enable it to carry out the purposes of this chapter, the Authority acting through its Board:

1. Is vested with the powers of a body corporate, including the power to sue and be sued, to plead and be impleaded, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;
2. May retain legal counsel to represent the Authority in hearings, controversies, or matters involving the interests of the Authority and the furtherance of its purpose; and
3. Is vested with power to adopt, alter or repeal its own bylaws, regulations governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of such committees, and the functions thereof, as the Authority may deem necessary to facilitate its business. Such committees shall consist of such number of persons as the Authority shall deem advisable. Members of committees shall receive no compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on business of the Authority. The Authority may set flat fees for expenses for a member's attendance at all meetings of the Authority or at its other functions. Such fees shall not exceed \$100 per day. (1988, c. 833, § 15.1-1640; 1990, c. 341; 1997, c. 587.)

§ 15.2-6006. Further powers.

The Authority, to accomplish its general purpose, is given the following powers, namely:

1. To enter into contractual agreements in furtherance of its purpose;
2. To rent, lease, buy, own, acquire and dispose of such property, real or personal, as the Authority deems proper to carry out any of the purposes and provisions of this chapter, including the execution of leases with option to purchase;
3. To apply for and accept grants or loans of money or other property from any federal agency for any of the purposes authorized in this chapter, and to expend or use the same in accordance with the directions and requirements attached thereto or imposed thereon by any such federal agency;



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4. To engage in economic development marketing and business attraction activities and to pay from the Authority's funds any and all expenses incurred in connection with such economic development marketing and business attraction activities;
5. To pay from the Authority's funds any and all expenses incurred by the Authority including, but not limited to, administrative, operational, personnel, consultant, legal, marketing, business attraction, advertising, promotional, and any other expenses incurred in furtherance of the purposes of this chapter; and
6. To do and perform any act or function that is in accord with the purposes of the chapter, including (i) borrowing money and (ii) employing such persons as the Board deems necessary to carry on the business of the Authority. (1988, c. 833, § 15.1-1641; 1990, c. 341; 1997, c. 587; 2004, cc. 36, 177.)

§ 15.2-6007. Acceptance of funds, property and grants or loans.

The Authority may accept funds and property from the federal government, the Commonwealth, persons and localities, and may use the same for any of the purposes for which the Authority is created.

Localities are hereby authorized to lend or donate money or other property to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality. (1988, c. 833, § 15.1-1642; 1990, c. 341; 1997, c. 587.)

§ 15.2-6008. Forms of accounts and records; audit of same.

The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes, provided that such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by corporate enterprises. The accounts and records of the Authority shall be subject to audit by the Auditor of Public Accounts on an annual basis and the costs of such audit services shall be borne by the Authority. The Authority's fiscal year shall be the same as the Commonwealth's. (1988, c. 833, § 15.1-1643; 1997, c. 587.)

§ 15.2-6009. Capitalization of Authority.

On September 1, 1988, and on the first day of each month thereafter, each county and city shall remit to the Virginia Coalfield Economic Development Fund twenty-five percent of the revenues collected during the next to last calendar month from the coal and gas road improvement tax pursuant to § 58.1-3713. (1988, c. 833, § 15.1-1644; 1997, c. 587.)

§ 15.2-6010. Proceeds held.

The treasurer may invest and reinvest funds of the Authority pending their need. All moneys received by the Authority pursuant to § 15.2-6009, together with any matching funds received from state or federal sources, shall be applied and used only in the county or city from which the funds were received, unless the governing body of the county or city consents to their use in another county or city.

Moneys received pursuant to § 58.1-3713.4 may be used at the discretion of the Authority for purposes and projects as determined by the Authority. (1988, c. 833, § 15.1-1645; 1990, c. 341; 1997, c. 587.)

§ 15.2-6011. Eligible use of funds.

The Authority is hereby empowered to pledge its funds, and make loans and grants to or for the benefit of for-profit enterprises or entities; governmental or corporate instrumentalities in the coalfield region of Virginia (including any political subdivision of the Commonwealth and the



Breaks Interstate Park); not-for-profit enterprises or entities; nonprofit industrial development corporations; economic development authorities; or industrial development authorities for financing the following:

1. Purchase of real estate;
2. Grading of site(s);
3. Construction of flood control dams;
4. Water, sewer, natural gas and electrical line replacement and extensions;
5. Construction or rehabilitation or expansion of buildings;
6. Construction of parking facilities;
7. Access roads construction and street improvements;
8. Purchase, lease, or relocation of machinery, tools, equipment, furniture, software, or other personal property;
9. Construction of improvements outside the Commonwealth if in the Breaks Interstate Park;
10. Feasibility studies, site studies, preliminary engineering or architectural reports, and other studies and plans;
11. Such other improvements, projects, activities, or purposes as the Authority deems necessary to accomplish its purpose; and
12. Costs and expenses associated with any item listed in subdivisions 1 through 11, including, but not limited to, architectural, engineering, consulting, legal, closing, installation, delivery, and assembly expenses. (1988, c. 833, § 15.1-1646; 1990, c. 341; 1992, c. 32; 1993, c. 771; 1994, cc. 615, 674; 1997, c. 587; 2004, cc. 36, 177.)

§ 15.2-6012. Dissolution of Authority.

Whenever the Board determines that the purpose for which the Authority was created has been substantially fulfilled or is impractical or impossible of accomplishment and that all obligations incurred by the Authority have been paid or that cash or a sufficient amount of United States government securities has been deposited for their payment or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the Board may adopt resolutions declaring and finding that the Authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving the Authority may be introduced in the General Assembly. The dissolution of the Authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by the Authority at the time of such dissolution shall vest in the counties and cities which have contributed to the fund in proportion to their respective contributions. (1988, c. 833, § 15.1-1647; 1997, c. 587.)

§ 15.2-6013. Chapter liberally construed.

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof. (1988, c. 833, § 15.1-1648; 1997, c. 587.)

§ 15.2-6014. Inconsistent laws inapplicable.

All other general or special laws inconsistent with any provision of this chapter are hereby declared to be inapplicable to the provisions of this chapter. (1988, c. 833, § 15.1-1649; 1997, c. 587.)

§ 15.2-6015. City of Norton deemed contributing jurisdiction of Wise County.

For the purpose of this chapter the City of Norton shall be deemed a contributing jurisdiction of Wise County and moneys collected from Wise County may be used in the City of Norton. (1988, c. 833, § 15.1-1650; 1997, c. 587.)



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By-Laws for the Authority

Article I. Organization and Purpose

- A.** Chapter 33.3 Section 15-1399.18 of the Code of Virginia establishes a Regional Tourism Development Authority for the LENOWISCO and Cumberland Plateau Planning Districts. The Code provides that the Authority shall promote, expand and develop as a whole the tourism industries of the seven counties and one city within these Planning Districts.
- B.** All these functions shall be carried out without bias for or prejudice toward any community, county, or city in the region.
- C.** The Authority's voting Board of Directors shall consist of the eight (8) individuals elected Chair of their respective county's Tourism Development Committees which was established by law in the counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, Wise and the City of Norton.
- D.** The Authority is a tax-exempt organization under Section 115 of the Internal Revenue Service Code, which states that income of states, their agencies and their instrumentality's are not subject to Federal taxation. Gifts made to the Authority are treated as charitable contributions in the same manner as if the Authority were a 501 (3) (c) nonprofit corporation, under provisions of the IRS Code pertinent to instrumentality's of state governments.

Article II. Officers

- A.** The Board of Directors shall elect from its membership a Chair, Vice Chair, and Treasurer. These officers shall serve a one-year term and may be re-elected for one additional term, and after one year has elapsed between terms, may then be elected for an additional term or terms.
- B.** The Executive Director of the Authority, if one is employed, shall serve as Secretary and Assistant Treasurer of the Authority. The Board may appoint a Secretary and Treasurer, or Secretary-Treasurer, from within or outside its membership, subject to the term limitations above.
 - 1.** The Chair shall preside over meeting of the Board of Directors and shall be an ex officio member of any standing committees appointed by the Board. He or she shall chair the Authority's Program and Planning Committee established herein. The Chair shall speak for the Authority regarding policies and programs approved by the Board of Directors.
 - 2.** The Vice Chair shall preside over meetings of the Board in the absence of the Chair, and shall chair the Personnel Committee.
 - 3.** The Treasurer shall chair the Budget and Finance Committee and shall oversee all financial transactions and accounts maintained in the Authorities behalf by the Executive Director, serving as Assistant Treasurer. The Treasurer shall ensure that all accounts are independently audited annually or as otherwise directed by the Board of Directors, any appropriate Agency of the Commonwealth of Virginia, or federal or private agency requiring such in relation to grants made to the Authority.
 - 4.** The Secretary shall maintain all records of the Authority in a safe manner, shall ensure that minutes of meetings of the Board and its standing committees are recorded, and shall conduct all correspondence on behalf of the Authority.



Article III. Meetings

- A.** The Board shall meet monthly on or about the third Tuesday of each month and shall have a yearly meeting for the purpose of electing officers for the next fiscal year.
1. The Secretary shall issue a notice to all Board members, news media, and other interested parties, advising them of the date, time, place, and agenda of each monthly meeting no later than ten (10) days prior each meeting.
- a) The formal agenda shall provide for a report from each County or City Tourism Development Committee Chair so that the status of local planning, as it is provided for by law, may be made known for the purpose of regional planning.
- b) Any voting member may place an item on the agenda, by advising the Executive Director in writing or by fax at least fifteen (15) days before each regular meeting.
- c) The agenda will include an opportunity for public comment, provided that such comment is related to the scope of the Authority's responsibility.
- B.** In the event that a meeting must be canceled, the Executive Director shall contact board members and reschedule the meeting at the earliest date a quorum will be available. The media shall be advised accordingly.
- C.** Special or emergency meetings may be called at the direction of the Chairman, the Vice Chairman, or at the initiative of any three members of the Board who direct their request through the Secretary. Minutes shall be kept and the Secretary shall be responsible for adherence to any freedom of information laws and other requirements.
- D.** Telephone meetings may occur under special circumstances when the business of the Authority must be conducted, but members cannot travel to a central location. In this case, a roll call must occur and minutes of the meeting must be kept.
- E.** Robert's Rule's of Order shall govern meetings.
- F.** Board members and officers shall serve without compensation. Pursuant to the Code of Virginia, the Board of Directors is authorized to provide a per them payment of \$50 or less, as voted on by the Board, to all Board members or others who serve in an official capacity designated by the Board, and who are in attendance at meetings of the Board or one of its standing committees. Mileage and other reimbursement shall be provided to those Board members in attendance, according to prevailing State government policies and rates
- G.** Any board member who misses three (3) consecutive meetings will receive a letter from the Chair requesting a written explanation within 30 days. If no explanation is given, a letter to the Chair of the Board of Supervisors or City Council to the respective county will be sent requesting board member replacement.

Article IV. Quorum

- A.** A quorum of the Board shall exist if at least five members are present. A quorum of any standing committee shall exist if a majority of its members are present and provided at least one of those present is an Authority board member.
- B.** Members may send a proxy to vote on their behalf provided a written letter of vote confirmation accompanies them.



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C. In the event a quorum is not present, the Executive Committee has the authority to conduct business on behalf of the Board.

Article V. Fiscal Year

The fiscal year of the Authority shall be from July 1 - June 30.

Article VI. Board of Directors

A. The Board of Directors shall be the policy-making body of the Authority.

B. The term of office for a Board member is four years, and an individual may serve as many additional terms as reflect his or her continued Chairmanship of the County or City Tourism Development Committee.

C. In the event that a Board member ceases to chair a local Tourism Development Committee, his or her successor as local chair shall automatically become a Director of the Authority.

Article VII. Executive Director

A. The Board shall appoint, remove, set the salary of and establish the duties of the Executive Director, who shall serve at the will and pleasure of the Board.

B. The Executive Director shall be Chief Executive Officer of the Authority and if serving as Secretary and/or Assistant Treasurer, shall perform such duties as required by the boards by-laws and/or as designated by the Board. Such duties shall include:

1. promoting and cultivating reasonable and proper business of the Authority;
2. employing, supervising and dismissing any employees of the Authority subject to the approval of the Personnel Committee of the Board;
3. submitting reports as required by the Board;
4. serving as ex officio non-voting member of all committees;
5. maintaining financial records and minutes of the meetings of the Board and Committees; issue notices for all meetings; maintaining the Authority's official records and files; conducting correspondence on behalf of the Authority and carrying out all duties assigned by the Board.

Article VIII. Standing Committees

A. The Board of Director shall appoint the following Standing Committees:

1. Budget and Finance Committee shall be chaired by the Treasurer and shall consist of the Treasurer and two (2) additional board members.
 - a) The Committee shall by May of each year, submit to the Board for its approval a proposed operating budget for the fiscal year beginning next July 1.
 - b) The Committee shall oversee expenditures of the Authority and must be consulted prior to the expenditure of any funds not appropriated by the Board in the budget.
 - c) The Committee shall serve as the Board's Audit Committee for reporting purposes.
 - d) The Committee shall evaluate and recommend to the Board insurance coverage,



lease or rental agreements, contracts with other agencies or individuals, equipment purchases, and other items, which obligate the Authority financially.

2. Planning and Programming Committee shall be chaired by the Chairman of the Board and shall consist of two (2) additional voting Board members and no more than five (5) other individuals from within the region.
 - a) The Committee shall assist in developing the goals, objectives and strategies, which will carry out the Authority's mission and shall recommend enabling actions to the Board.
 - b) The Committee shall assist, to the extent feasible, the individual County and City Tourism Development Committees in the pursuit of their legislated mandates.
 - c) The Committee shall sponsor planning workshops, seminars, retreats, forums and other media by which the broadest possible public participation may be encouraged throughout the region in the Authority's business.
3. Personnel Committee shall be chaired by the Vice Chairman of the Board and shall consist of two (2) additional voting Board members.
 - a) The Committee shall evaluate the performance of the Executive Director prior to the beginning of each fiscal year. The evaluation shall be based upon criteria established at the beginning of each fiscal year.
 - b) The Committee shall by May of each year, recommend to the Board any actions, which are required or merited, as to compensation and benefits of the Executive Director, to be effective during the next fiscal year.
 - c) The Committee shall recommend to the Board the establishment and compensation range of any employee positions, full or part-time, as may be required to carry out the Authority's mission and programs.
 - d) The Committee shall have the Authority to suspend, with or without cause, the Executive Director or any employee, if in its sole discretion it deems such action necessary. It shall bring such action to the Board's attention for any further action at its next regular meeting.
4. Marketing and Promotion Committee shall consist of no more than two (2) voting members of the Board and at least five (5) other individuals from within the region.
 - a) The non-board members of the Committee shall be appointed by the Board for the purpose of attracting specialized expertise and involvement from the tourism industry within the region.
 - b) The Committee may, subject to budgeted funds of the Authority, conduct marketing and promotion activities on behalf of the region as a whole. These activities may be undertaken solely by the Authority or in cooperation with other organizations and agencies with similar objectives subject to approval by the Board.
 - c) The Committee shall advise and assist the Executive Director in the public relations aspects of the Authority's work.



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5. The Executive Committee is comprised of the Chair, Vice-Chair, Treasurer and one other Board Member.
 - a) The Executive Committee has the authority to conduct the business of the Authority.
 - b) Actions of the Executive Committee must be ratified at the next Board Meeting where a quorum exists.

Article IX. Banking

- A. The Treasurer or Assistant Treasurer shall receive deposits of all monies received to the Authority's credit in banking institutions doing business in the region as selected by the Board.
- B. All withdrawals or checks from Authority bank accounts shall be signed by at least two (2) of the following four (4) agents: Executive Director, Chairman, Vice Chairman, or Treasurer.
- C. The Treasurer and Assistant Treasurer shall deposit funds in accounts, which earn the highest interest rate.

Article X. Authority Identification

The Board of Director shall adopt an identity and logotype, which identifies and promotes its purpose and/or activities. It shall be called, for marketing purposes, the Heart of Appalachia Tourism Authority

Article XI. Cooperation with Related Agencies

In compliance with State Law, the Authority is expected to maintain a cooperative relationship with any and all government or private organizations whose purposes are to develop and promote the economy of the Southwestern Virginia region, particularly tourism. As a matter of policy, the Authority shall also maintain a similar relationship with appropriate organization in bordering jurisdictions and states.

Article XII. Amendments to By-Laws

These By-Laws may be amended, or any part of them annulled, at any meeting or special meeting of the Authority provided that the proposed amendments or changes are disseminate to the Board at least ten (10) days prior to such meeting. A majority vote of the members present and voting is required for the proposed amendment(s) or change(s) to be adopted.

Article XIII. Disillusionment

In the event that the Virginia Coalfield Regional Tourism Development Authority is dissolved for any reason, its current assets shall be divided equally and distributed to the participating local governing bodies.

*May 1999
Revised July 20*

