WEST VIRGINIA CODE: §20-5A-3

§20-5A-3. State Parks Enhancement Loan Insurance Program.

(a) Legislative findings and purpose.

(1) The Legislature finds that certain areas of the state currently have existing developments or attractions, including, but not limited to, developments in West Virginia State Parks and resorts that are constructed on U.S. Army Corps of Engineers property, wherein such attractions and developments are unable to serve as collateral for loans. Because of this, the expansion of tourism and development projects in these areas is severely restricted or significantly impeded.

(2) The purpose of this section is to establish the State Parks Enhancement Loan Insurance Program, which may provide for the guarantee of a loan made to an eligible entity to be used exclusively for further development on these properties to encourage economic development and tourism.

(b) Terms defined. – As used in this section, unless the context clearly indicates otherwise:

(1) Board of trustees means the board provided for in §20-5A-2 of this code.

(2) Development project means any new project, or any project at any existing development or attraction, being pursued by a private entity, which has established a partnership or agreement with the division to operate on U.S. Army Corps of Engineers property, State Parks and resorts property, any other property under the jurisdiction of the division, or on a hybrid tourism destination, for the purpose of increasing recreational opportunities, tourism, and economic development.

(3) Director means the director of the Division of Natural Resources.

(4) Division means the Division of Natural Resources.

(5) Eligible entity means any corporation, limited liability company, partnership, limited liability partnership, sole proprietorship, business trust, joint venture, or any other entity operating or intending to operate a development project, whether owned or leased, that receives the approval pursuant to this section to apply for an insurance agreement under the State Parks Enhancement Loan Insurance Program.

(6) Program means the State Parks Enhancement Loan Insurance Program.

(c) The State Parks Enhancement Loan Insurance Program is established. The program may insure the payment or repayment of all or any part of the principal of, prepayment premiums or penalties on, and interest on any form of debt instrument entered into by an eligible entity with a financial institution, including, but not limited to, banks, insurance companies and

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other institutions in the business of lending money. Eligible entities shall submit applications for loan insurance to the board of trustees. By a majority vote, the board of trustees may approve or deny any application. If approved, the board of trustees shall enter into an insurance agreement with the eligible entity and any necessary financial institution.

(d) In order to effectuate the purposes of this section, the board of trustees shall cooperate with the West Virginia Economic Development Authority pursuant to §31-15-8b of this code. The board of trustees may utilize the staff and resources of the authority for guidance and assistance in administering the program.

(e) The board of trustees may, subject to a recommendation by the director, establish additional requirements and procedures for the issuance of loan insurance; including, but not limited to, setting the premiums and fees to be paid to it for providing financial assistance under this section. The premiums and fees set by the board of trustees shall be payable in the amounts, at the time, and in the manner that the board of trustees, in its sole and absolute discretion, requires. The premiums and fees need not be uniform among transactions and may vary in amount: (1) Among transactions; and (2) at different stages during the terms of transactions.

(f) The board of trustees may, in its sole and absolute discretion, require the security it believes sufficient in connection with its insuring of the payment or repayment of any bonds, notes, debt, or other instruments: *Provided*, That the board of trustees may not require a security interest in the real property or permanent improvements which are part of the development project when the eligible entity will not hold ownership on the real or personal property of the development project.

(g) The obligations of the board of trustees under any insurance agreement entered into pursuant to this article shall not constitute a debt or a pledge of the faith and credit or taxing powers of this state, the division, or of any county, municipality, or any political subdivision of this state for the payment of any amount due thereunder or pursuant thereto, but the obligations evidenced by such insurance agreement shall be payable solely from the funds pledged for their payment.

(h) The board of trustees may not authorize any amount of loan insurance through the program that exceeds $10 million in the aggregate of the assets existing in the West Virginia State Parks and Recreation Endowment Fund: *Provided*, That no more than $5 million may be authorized for any project: *Provided, however*, That no amount of the fund's income from investments may be used to provide loan insurance. However, any amount of loan insurance issued by the board of trustees shall not require the encumbrance or otherwise segregation of funds within the West Virginia State Parks and Recreation Endowment Fund.

(i) The board of trustees may establish an application and additional procedures or guidelines for the program. Prior to submission of an application to the board of trustees, an eligible entity must receive approval in writing from the Secretary of the Department of Commerce, the Secretary of the Department of Economic Development, and the Secretary of

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the Department of Tourism.

(j) The West Virginia Department of Commerce shall maintain a list of approved projects using this loan insurance program and shall submit this list to the Joint Committee on Government and Finance in the form of an annual report for legislative review.

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