WEST VIRGINIA CODE: §31-15-8

§31-15-8. Insurance fund.

(a) There is hereby created an insurance fund which shall be a continuing, nonlapsing, revolving fund that consists of:

(1) Moneys appropriated by the state to the insurance fund;

(2) Premiums, fees, and any other amounts received by the authority with respect to financial assistance provided by the authority from the insurance fund;

(3) Upon the satisfaction of any indebtedness or other obligation owed on any property held or acquired by the authority, such proceeds as designated by the authority from the sale, lease, or other disposition of such property;

(4) Income from investments made from moneys in the insurance fund; and

(5) Any other moneys transferred to the insurance fund or made available to it for the purposes described under this section, under this article, or pursuant to any other provisions of this code.

(b) Subject to the provisions of any outstanding insurance agreements entered into by the authority under this section, the authority may enter into covenants or agreements with respect to the insurance fund and establish accounts within the insurance fund which may be used to implement the purposes of this article. If the authority elects to establish separate accounts within the insurance fund, the authority may allocate its revenues and receipts among the respective accounts in any manner the authority considers appropriate.

(c) If the authority at any time finds that more money is needed to keep the reserves of the insurance fund at an adequate level, the authority, with the consent of the chair, shall send a written request to the Legislature for additional funds.

(d) The insurance fund shall be used for the following purposes by the authority to financially assist projects so long as such financial assistance will, as determined by the authority, fulfill the public purposes of this article:

(1) To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or penalties on, and interest on bonds or notes whether issued under this article or under the Industrial Development and Commercial Development Bond Act, the West Virginia Hospital Finance Authority Act or, with respect to health care facilities only, §8-33-1 *et seq*. of this code;

(2) To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or penalties on, and interest on any instrument executed, obtained, or

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delivered in connection with the issuance and sale of bonds or notes whether under this article or under the Industrial Development and Commercial Development Bond Act, the West Virginia Hospital Finance Authority Act or, with respect to health care facilities only, §8-33-1 *et seq*. of this code;

(3) To 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 enterprise, public body, or authority of the state with a financial institution, including, but not limited to, banks, insurance companies and other institutions in the business of lending money, which debt instruments shall include, but not be limited to, instruments relating to loans for working capital and to the refinancing of existing debt: *Provided*, That nothing contained in this subsection or any other provision of this article shall be construed as permitting the authority to insure the refinancing of existing debt except when such insurance will result in the expansion of the enterprise whose debt is to be refinanced or in the creation of new jobs;

(4) To pay or insure the payment of any fees or premiums necessary to obtain insurance, guarantees, letters of credit, or other credit support from any person or financial institution in connection with financial assistance provided by the authority under this section;

(5) To pay any and all expenses of the authority, including, but not limited to:

(A) Any and all expenses for administrative, legal, actuarial, and other services related to the operation of the insurance fund; and

(B) All costs, charges, fees, and expenses of the authority related to the authorizing, preparing, printing, selling, issuing, and insuring of bonds or notes (including, by way of example, bonds or notes, the proceeds of which are used to refund outstanding bonds or notes) and the funding of reserves; and

(6) To insure, for up to 20 years, the payment or repayment of all or any part of the principal of and interest on any form of debt instrument entered into by an eligible broadband provider with a financial institution, including, but not limited to, banks, insurance companies, and other institutions in the business of lending money, which debt instruments are to be solely for capital costs relating to the purposes authorized in §31-15-8a of this code: *Provided*, That loan moneys shall not be transferred to the fund except as authorized by §12-6C-11a or §31-15-23a of this code. All moneys transferred to the fund for the purpose of issuing broadband loan insurance shall be held in accounts that are separate and segregated from other moneys in the fund. Moneys transferred to the fund pursuant to §31-15-23a of this code which are no longer required for outstanding loan insurance obligations may be returned to the Economic Development Project Fund, along with any interest or earnings accruing to the account in which said moneys are held.

(e) Except as relating to insured portions of debt instruments under subdivision (6), subsection (d) of this section the total aggregate amount of insurance from the insurance

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fund with respect to the insured portions of principal of bonds or notes or other instruments may not exceed at any time an amount equal to five times the balance in the insurance fund.

(f) The authority may, in its sole and absolute discretion, set the premiums and fees to be paid to it for providing financial assistance under this section. The premiums and fees set by the authority shall be payable in the amounts, at the time, and in the manner that the authority, 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.

(g) The authority 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 described in subdivisions (1) through (4), subsection (d) of this section.

(h) The authority may itself approve the form of any insurance agreement entered into under this section or may authorize the chair or his or her designee to approve the form of any such agreement. Any payment by the authority under an agreement entered into by the authority under this section shall be made at the time and in the manner that the authority, in its sole and absolute discretion, determines.

(i) The obligations of the authority 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 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.

(j) On or before the 30th day of January, April, July, and October of each year, the authority shall prepare and submit to the Joint Committee on Government and Finance and the Governor a quarterly report which shall include, at a minimum:

(1) The aggregate outstanding amount of insurance issued from the insurance fund; and

(2) For each agreement to insure a debt or security instrument, the name of the parties to the agreement; the lending financial institution to which any insured debt or security instrument is owed; the total value of any insured debt or security interest; the maturity date of the insured debt or security instrument; and the status of the insured debt or security instrument, including whether the party to the insurance agreement is delinquent or in default on any insured debt or security instrument.

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