WEST VIRGINIA CODE: §31-18-3

§31-18-3. Definitions.

As used in this article, unless the context otherwise requires:

(1) “Affordable Housing Fund” means the affordable housing fund created and established by the Housing Development Fund in accordance with §31-18-20d of this code.

(2) “Annual sinking fund payment” means the amount of money specified in the resolution or resolutions authorizing term bonds as payable into a sinking fund during a particular calendar year for the retirement of term bonds at maturity after such calendar year, but shall not include any amount payable by reason only of the maturity of a bond.

(3) “Development costs” means the costs approved by the Housing Development Fund as appropriate expenditures by the Housing Development Fund or by sponsors, for land development, residential housing, or nonresidential projects within this state, including, but not limited to:

(a) Payments for options to purchase proposed sites, necessary easements, and other related property rights, deposits on contracts of purchase, or, with prior approval of the Housing Development Fund, payments for the purchase of such properties;

(b) Legal and organizational expenses, including payments of attorneys’ fees, utility and governmental application and filing fees and expenses, project manager and clerical staff salaries, office rent, and other incidental expenses;

(c) Payment of fees and expenses for preliminary feasibility studies and costs estimates and advances for planning, engineering, and architectural work;

(d) Expenses for tenant surveys and market analyses; and

(e) Necessary application, approval, and other fees.

(4) “Eligible persons and families” means:

(a) Persons and families of low and moderate income; or

(b) Persons or families of higher income to the extent the Housing Development Fund shall find and determine, by resolution, that construction of new or rehabilitated residential housing for occupancy by them will cause to be vacated existing sanitary, decent, and safe residential housing available at prices or rentals which persons and families of low and moderate income can afford; or

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(c) Persons or families of higher income to the extent the Housing Development Fund shall find and determine, by resolution, that construction of new or rehabilitated multifamily rental housing or new, rehabilitated, or existing home ownership housing in the state for occupancy by them will further economic growth, increase the housing stock in the state by eliminating substandard or deteriorating housing conditions, or provide additional housing opportunities in the state; or

(d) Persons who because of age or physical disability are found and determined by the Housing Development Fund, by resolution, to require residential housing of a special location or design in order to provide them with sanitary, decent, and safe residential housing; or

(e) Persons and families for whom, as found and determined by the Housing Development Fund by resolution, construction of new or rehabilitated residential housing in some designated area or areas of the state is necessary for the purpose of retaining in, or attracting to, such area or areas qualified manpower resources essential to modern mining, industrial and commercial operations, and development in such area or areas.

(5) "Federally insured construction loan" means a construction loan for land development, residential housing, or nonresidential projects, which are either secured or guaranteed, in whole or in part, by a federally insured mortgage or a federal mortgage, or which are insured or guaranteed, in whole or in part, by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to insure such loan.

(6) "Federally insured mortgage" means a mortgage loan for land development, residential housing, or nonresidential projects with a commitment by the United States or an instrumentality thereof to insure or guarantee such a mortgage.

(7) "Federal mortgage" means a mortgage loan for land development, residential housing, or nonresidential projects made by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to make such a mortgage loan.

(8) "Housing Development Fund" means the West Virginia Housing Development Fund heretofore created and established by §31-18-4 of this code.

(9) "Land development" means the process of acquiring land for residential housing construction or nonresidential projects or of making, installing, or constructing improvements, including waterlines and water supply installations, sewer lines and sewage disposal installations, steam, gas, telephone, and telecommunications and electric lines and installations, roads, railroad spurs, docking and shipping facilities, streets, curbs, gutters, sidewalks, drainage, and flood control facilities, whether on or off the site, which the Housing Development Fund deems necessary or desirable to prepare such land for construction within this state.

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(10) “Land Development Fund” means the land development fund which may be created and established by the Housing Development Fund in accordance with §31-18-20a of this code.

(11) “Minimum bond insurance requirement” means, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future calendar year, of annual debt service of the Housing Development Fund on all outstanding mortgage finance bonds, such annual debt service for any calendar year being the amount of money equal to the aggregate of: (a) All interest payable during such calendar year on such mortgage finance bonds on said date of computation; plus (b) the principal amount of such mortgage finance bonds outstanding which matures during such calendar year, other than mortgage finance bonds for which annual sinking fund payments have been or are to be made in accordance with the resolution authorizing such bonds; plus (c) the amount of all annual sinking fund payments payable during such calendar year with respect to any such mortgage finance bonds, all calculated on the assumption that bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due and application in accordance with the resolution authorizing such bonds of all such sinking fund payments payable at or after said date of computation.

(12) “Mortgage finance bonds” means bonds issued or to be issued by the Housing Development Fund and secured by a pledge of amounts payable from the mortgage finance bond insurance fund in the manner and to the extent provided in §31-18-20b of this code.

(13) “Mortgage Finance Bond Insurance Fund” means the special trust fund created and established in the State Treasury in accordance with §31-18-20b of this code.

(14) “Nonresidential project” means a project in the state, whether or not directly related to the providing of residential housing, determined by the Housing Development Fund as likely to foster and enhance economic growth and development in the area of the state in which such project is developed, for retail, commercial, industrial, community improvement, or preservation or other proper purpose, including tourism and recreational housing, land, air, or water transportation facilities, facilities for vocational or other training or to provide medical care and other special needs of persons residing in the state, sports complexes and cultural, artistic, and other exhibition centers, industrial or commercial projects and facilities, mail order, wholesale, and retail sales facilities, and other real or personal properties including facilities which are owned or leased by this state, any county or municipality or other public body within the state, and includes, without limitation, the process of acquiring, holding, operating, planning, financing, demolition, construction, renovation, leasing, or otherwise disposing of such project or any part thereof or interest therein. Any such project may include appurtenant machinery and equipment.

(15) “Operating Loan Fund” means the operating loan fund which may be created and established by the Housing Development Fund in accordance with §31-18-19 of this code.

(16) “Persons and families of low and moderate income” means persons and families,

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irrespective of race, creed, national origin, or sex, determined by the Housing Development Fund to require such assistance as is made available by this article on account of personal or family income not sufficient to afford sanitary, decent, and safe housing, and to be eligible or potentially eligible to occupy residential housing constructed and financed, wholly or in part, with federally insured construction loans, federally insured mortgages, federal mortgages, or with other public or private assistance, or with uninsured construction loans, or uninsured mortgage loans, and in making such determination the fund shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs; (b) the size of the family; (c) the cost and condition of housing facilities available; (d) the eligibility of such persons and families for federal housing assistance of any type predicated upon low or moderate income basis; and (e) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent, and safe housing: Provided, That to the extent found and determined by the Housing Development Fund, by resolution, to be necessary or appropriate for the purposes of eliminating undesirable social conditions and permanently eliminating slum conditions, the income limitation requirements of this article may be waived as to any persons or families who are eligible to occupy residential housing constructed in whole, or in part, with federally insured construction loans, federally insured mortgages or federal mortgages under housing assistance or mortgage insurance programs of the United States, or an instrumentality thereof, predicated upon any low- or moderate-income basis.

(17) “Residential housing” means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction, or rehabilitation of land, buildings, and improvements thereto, for residential housing for occupancy by eligible persons and families, including, but not limited to, facilities for temporary housing and emergency housing, nursing homes and intermediate care facilities, and such other nonhousing facilities as may be incidental or appurtenant thereto.

(18) “Special bond insurance commitment fee” means a fee in the amount of one per centum of the total principal amount of each loan which is to be temporarily or permanently financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, or an amount equal to an equivalent discount on each loan purchased or invested in by the Housing Development Fund from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, and which may be payable from the proceeds of such bonds or any other source available to the Housing Development Fund for such use: Provided, That if the period of time between the first disbursement of proceeds of such loan and the date upon which it is specified that the first repayment of principal of such a loan shall be payable exceeds 12 months, an additional amount computed on the basis of one twelfth of one per centum per month on the total principal amount of such loan over the number of months of such period of time in excess of 12 months shall be included in such fee.

(19) "Special bond insurance premium" means: (i) A fee at the rate of one half of one percent per annum on the outstanding principal balance which the Housing Development Fund shall charge the borrower of a mortgage loan, or of a loan secured by a mortgage, financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, which shall accrue from a date which is one month prior to the date on which the first installment payment of principal of such a loan is payable and which shall be payable thereafter in monthly installments on the same day of each successive month that installment payments of principal of such a loan are payable; and (ii) with respect to any loan, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, purchased, or invested in with such proceeds, an equivalent amount which the Housing Development Fund shall set aside from payments it receives on such loan or from any other source available to the Housing Development Fund for such use.

(20) "State sinking fund commission" means the commission known as such and continued in existence pursuant to §13-3-1 et seq. of this code and any body, board, person, or commission which shall, by law, hereafter succeed to the powers and duties of such commission.

(21) "Temporary housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction, or rehabilitation of land, buildings, and improvements thereto, for temporary residential housing, including, but not limited to, shelters for homeless people, housing for victims of floods and other disasters, shelters for abused or battered persons and their children, housing for families with hospitalized family members, housing for students and student families, and housing for the handicapped and such other nonhousing facilities as may be incidental or appurtenant thereto.

(22) "Uninsured construction loans" means a construction loan for land development, residential housing or nonresidential projects which is not secured by either a federally insured mortgage or a federal mortgage, and which is not insured by the United States or an instrumentality thereof, and as to which there is no commitment by the United States or an instrumentality thereof to provide insurance.

(23) "Uninsured mortgage" and "uninsured mortgage loan" means mortgage loans for land development, residential housing or nonresidential projects which are not insured or guaranteed by the United States or an instrumentality thereof, and as to which there is no commitment by the United States or an instrumentality thereof to provide insurance.

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