WEST VIRGINIA CODE: §31-18-6

§31-18-6. Corporate Powers.

The Housing Development Fund is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose, including, but not limited to, the following:

(1) To make or participate in the making of federally insured construction loans to sponsors of land development, residential housing, or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(2) To make temporary loans, with or without interest, but with such security for repayment as the Housing Development Fund determines reasonably necessary and practicable, from the operating loan fund, if created, established, organized, and operated in accordance with the provisions of §31-18-19 of this code, to defray development costs to sponsors of land development, residential housing, or nonresidential projects which are eligible or potentially eligible for federally insured construction loans, federally insured mortgages, federal mortgages or uninsured construction loans or uninsured mortgage loans;

(3) To make or participate in the making of long-term federally insured mortgage loans to sponsors of land development, residential housing, or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(4) To establish residential housing and nonresidential and land development projects for counties declared to be in a disaster area by the Federal Emergency Management Agency or other agency or instrumentality of the United States or this state;

(5) To accept appropriations, gifts, grants, bequests, and devises and to utilize or dispose of the same to carry out its corporate purpose;

(6) To make and execute contracts, releases, compromises, compositions, and other instruments necessary or convenient for the exercise of its powers, or to carry out its corporate purpose;

(7) To collect reasonable fees and charges in connection with making and servicing loans, notes, bonds, obligations, commitments, and other evidences of indebtedness, and in connection with providing technical, consultative, and project assistance services;

(8) To invest any funds not required for immediate disbursement in any of the following

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securities:

(i) Direct obligations of or obligations guaranteed by the United States of America or for the payment of the principal and interest on which the full faith and credit of the United States of America is pledged;

(ii) Bonds, debentures, notes, or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Tennessee Valley Authority; United States Postal Service; Inter-American Development Bank; International Bank for Reconstruction and Development; Small Business Administration; Washington Metropolitan Area Transit Authority; General Services Administration; Federal Financing Bank; Federal Home Loan Mortgage Corporation; Student Loan Marketing Association; Farmer's Home Administration; the Federal National Mortgage Association or the Government National Mortgage Association; or any bond, debenture, note, participation certificate or other similar obligation to the extent such obligations are guaranteed by the Government National Mortgage Association or Federal National Mortgage Association or are issued by any other federal agency and backed by the full faith and credit of the United States of America;

(iii) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes, preliminary loan notes, or project notes issued by public agencies or municipalities, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(iv) Certificates of deposit, time deposits, investment agreements, repurchase agreements, or similar banking arrangements with a member bank or banks of the federal reserve system or a bank the deposits of which are insured by the federal deposit insurance corporation, or its successor, or a savings and loan association or savings bank the deposits of which are insured by the federal savings and loan insurance corporation, or its successor, or government bond dealers reporting to, trading with and recognized as primary dealers by a federal reserve bank: *Provided*, That such investments shall only be made to the extent insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or to the extent that the principal amount thereof shall be fully collateralized by obligations which are authorized investments for the Housing Development Fund pursuant to this section;

(v) Direct obligations of or obligations guaranteed by the State of West Virginia;

(vi) Direct and general obligations of any other state, municipality, or other political subdivision within the territorial United States: *Provided*, That at the time of their purchase, such obligations are rated in either of the two highest rating categories by a nationally recognized bond-rating agency;

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(vii) Any bond, note, debenture, or annuity issued by any corporation organized and operating within the United States: *Provided*, That such corporation shall have a minimum net worth of $15 million and its securities or its parent corporation's securities are listed on one or more of the national stock exchanges: *Provided, however*, That: (1) Such corporation has earned a profit in eight of the preceding 10 fiscal years as reflected in its statements; and (2) such corporation has not defaulted in the payment of principal or interest on any of its outstanding funded indebtedness during its preceding 10 fiscal years; and (3) the bonds, notes, or debentures of such corporation to be purchased are rated "AA" or the equivalent thereof or better than "AA" or the equivalent thereof by at least two or more nationally recognized rating services such as Standard and Poor's, Dunn & Bradstreet, Best's, or Moody's;

(viii) If entered into solely for the purpose of reducing investment, interest rate, liquidity, or other market risks in relation to obligations issued or to be issued or owned or to be owned by the Housing Development Fund, options, futures contracts (including index futures but exclusive of commodities futures, options, or other contracts), standby purchase agreements or similar hedging arrangements listed by a nationally recognized securities exchange or a corporation described in §31-18-6(8)(vii) of this code;

(ix) Certificates, shares, or other interests in mutual funds, unit trusts or other entities registered under section eight of the United States Investment Company Act of 1940, but only to the extent that the terms on which the underlying investments are to be made prevent any more than a minor portion of the pool which is being invested in to consist of obligations other than investments permitted pursuant to this section; and

(x) To the extent not inconsistent with the express provisions of this section, obligations of the West Virginia State Board of Investments or any other obligation authorized as an investment for the West Virginia State Board of Investments under §12-6-1 *et seq*. of this code or for a public housing authority under §16-15-1 *et seq*. of this code;

(9) To sue and be sued;

(10) To have a seal and alter the same at will;

(11) To make, and from time to time, amend, and repeal bylaws and rules and regulations not inconsistent with the provisions of this article;

(12) To appoint such officers, employees, and consultants as it deems advisable and to fix their compensation and prescribe their duties;

(13) To acquire, hold, and dispose of real and personal property for its corporate purposes;

(14) To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association, or organization;

(15) To acquire real property, or an interest therein, in its own name, by purchase or

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foreclosure, where such acquisition is necessary or appropriate to protect any loan in which the Housing Development Fund has an interest and to sell, transfer, and convey any such property to a buyer and, in the event of such sale, transfer, or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

(16) To purchase or sell, at public or private sale, any mortgage or other negotiable instrument or obligation securing a construction, rehabilitation, improvement, land development, mortgage, or temporary loan;

(17) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(18) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other terms, of mortgage loan, mortgage loan commitment, construction loan, rehabilitation loan, improvement loan, temporary loan, contract, or agreement of any kind to which the Housing Development Fund is a party;

(19) To make and publish rules and regulations respecting its federally insured mortgage lending, uninsured mortgage lending, construction lending, rehabilitation lending, improvement lending and lending to defray development costs and any such other rules and regulations as are necessary to effectuate its corporate purpose;

(20) To borrow money to carry out and effectuate its corporate purpose and to issue its bonds or notes as evidence of any such borrowing in such principal amounts and upon such terms as shall be necessary to provide sufficient funds for achieving its corporate purpose, except that no notes shall be issued to mature more than 20 years from date of issuance and no bonds shall be issued to mature more than 50 years from date of issuance;

(21) To issue renewal notes, to issue bonds to pay notes and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured except that no such renewal notes shall be issued to mature more than 20 years from date of issuance of the notes renewed and no such refunding bonds shall be issued to mature more than 50 years from the date of issuance;

(22) To apply the proceeds from the sale of renewal notes or refunding bonds to the purchase, redemption, or payment of the notes or bonds to be refunded;

(23) To make grants and provide technical services to assist in the purchase or other acquisition, planning, processing, design, construction, or rehabilitation, improvement, or operation of residential housing, nonresidential projects, or land development: *Provided*, That no such grant or other financial assistance shall be provided except upon a finding by the Housing Development Fund that such assistance and the manner in which it will be provided will preserve and promote residential housing in this state or the interests of this state in maintaining or increasing employment or the tax base;

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(24) To provide project assistance services for residential housing, nonresidential projects, and land development, including, but not limited to, management, training, and social and other services;

(25) To promote research and development in scientific methods of constructing low-cost land development, residential housing, or nonresidential projects of high durability including grants, loans, or equity contributions for research and development purposes: *Provided*, That no such grant or other financial assistance shall be provided except upon a finding by the Housing Development Fund that such assistance and the manner in which it will be provided will preserve and promote residential housing in this state or the interests of this state in maintaining and increasing employment and the tax base;

(26) With the proceeds from the issuance of notes or bonds of the Housing Development Fund, including, but not limited to, mortgage finance bonds, or with other funds available to the Housing Development Fund for such purpose, to participate in the making of or to make loans to mortgagees approved by the Housing Development Fund and take such collateral security therefor as is approved by the Housing Development Fund and to invest in, purchase, acquire, sell, or participate in the sale of, or take assignments of, notes and mortgages, evidencing loans for the construction, rehabilitation, improvement, purchase, or refinancing of land development, residential housing, or nonresidential projects in this state: *Provided*, That the Housing Development Fund shall obtain such written assurances as shall be satisfactory to it that the proceeds of such loans, investments, or purchases will be used, as nearly as practicable, for the making of or investment in long-term federally insured mortgage loans or federally insured construction loans, uninsured mortgage loans, or uninsured construction loans, for land development, residential housing, or nonresidential projects or that other moneys in an amount approximately equal to such proceeds shall be committed and used for such purpose;

(27) To make or participate in the making of uninsured construction loans for land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(28) To make or participate in the making of long-term uninsured mortgage loans for land development, residential housing, or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(29) To obtain options to acquire real property, or any interest therein, in its own name, by purchase, or lease or otherwise, which is found by the Housing Development Fund to be suitable, or potentially suitable, as a site, or as part of a site, for land development or the construction of residential housing or nonresidential projects; to hold such real property or to acquire by purchase or otherwise and to transfer by sale or otherwise any ownership or

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equity interests in any other legal entity which holds such real property; to finance the performance of land development, residential housing, or nonresidential projects on or in connection with any such real property or to perform land development, residential housing, or nonresidential projects on or in connection with any such real property; to own, operate, and sponsor or participate in the sponsorship of land development, residential housing, or nonresidential projects; or to sell, transfer and convey, lease, or otherwise dispose of such real property, or lots, tracts, or parcels of such real property, for such prices, upon such terms, conditions, and limitations, and at such time or times as the Housing Development Fund shall determine;

(30) To make loans, with or without interest, but with such security for repayment as the Housing Development Fund determines reasonably necessary and practicable from the land development fund, if created, established, organized, and operated in accordance with the provisions of §31-18-20a of this code, to sponsors of land development, to defray development costs and other costs of land development;

(31) To exercise all of the rights, powers, and authorities of a public housing authority as set forth and provided in §16-15-1 *et seq*. of this code, in any area or areas of the state which the Housing Development Fund shall determine by resolution to be necessary or appropriate;

(32) To provide assistance to urban renewal projects in accordance with the provisions of §16-18-28 of this code and in so doing to exercise all of the rights, powers, and authorities granted in this article or in said article, in and for any communities of the state which the Housing Development Fund shall determine by resolution to be necessary or appropriate;

(33) To make or participate in the making of loans for the purpose of rehabilitating or improving existing residential and temporary housing or nonresidential projects, or to owners of existing residential or temporary housing for occupancy by eligible persons and families for the purpose of rehabilitating or improving such residential or temporary housing or nonresidential projects and, in connection therewith, to refinance existing loans involving the same property. Such loans shall be made only upon determination by the Housing Development Fund that rehabilitation or improvement loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(34) Whenever the Housing Development Fund deems it necessary in order to exercise any of its powers set forth in §31-18-6(29) of this code, and upon being unable to agree with the owner or owners of real property or interest therein sought to be acquired by the fund upon a price for acquisition of private property not being used or operated by the owner in the production of agricultural products, to exercise the powers of eminent domain in the acquisition of such real property or interest therein in the manner provided under §54-1-1 *et seq*. of this code, and the purposes set forth in said subdivision are hereby declared to be public purposes for which private property may be taken. For the purposes of this section, the determination of "use or operation by the owner in the production of agricultural products" means that the principal use of such real estate is for the production of food and fiber by agricultural production other than forestry, and the fund shall not initiate or

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exercise any powers of eminent domain without first receiving an opinion in writing from both the Governor and the Commissioner of Agriculture of this state that at the time the fund had first attempted to acquire such real estate or interest therein, such real estate or interest therein was not in fact being used or operated by the owner in the production of agricultural products;

(35) To acquire, by purchase or otherwise, and to hold, transfer, sell, assign, pool, or syndicate, or participate in the syndication of, any loans, notes, mortgages, securities, or debt instruments collateralized by mortgages or interests in mortgages or other instruments evidencing loans or equity interests in or for the construction, rehabilitation, improvement, renovation, purchase, or refinancing of land development, residential housing, and nonresidential projects in this state;

(36) To form one or more nonprofit corporations, whose board of directors shall be the same as the Board of Directors of the Housing Development Fund, which shall be authorized and empowered to carry out any or all of the corporate powers or purposes of the Housing Development Fund, including, without limitation, acquiring limited or general partnership interests and other forms of equity ownership;

(37) To receive and compile data into an electronic database and make available the raw mortgage foreclosure data that is required to be reported to county clerks by trustees pursuant to the provisions of §38-1-8a of this code, including all data that has been received by the banking commissioner pursuant to §31A-2-4c(a) of this code, as of the effective date of the amendments made to said section during the regular session of the 2010 Legislature. This information shall be periodically forwarded by county clerks to the Housing Development Fund, in accordance with the provisions of §44-13-4a of this code;

(38) Provide funding to increase the capacity of nonprofit community housing organizations to serve their communities;

(39) Notwithstanding any other provision of law, no loan may be made or purchased with proceeds of notes or bonds of the Housing Development Fund unless: (i) The related note or bond has received an investment grade rating from a nationally recognized bond-rating agency; or (ii) all payments of principal of and interest on such loan are the subject of credit enhancement that is a senior obligation of a bank, national bank, trust company, savings bank, savings and loan association, insurance company, governmental agency of the United States, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any combination thereof; or (iii) at or prior to the issuance of the related note or bond, permanent financing is in full force and effect which will be drawn upon to pay all unpaid amounts with respect to such loan remaining at its maturity; or (iv) all payments of principal and interest on the related note or bond are the subject of credit enhancement that is a senior obligation of a bank, national bank, trust company, savings bank, savings and loan association, insurance company, governmental agency of the United States, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any combination thereof; or (v) the related note or bond is fully cash-collateralized; or (vi) the

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related note or bond is a mortgage finance bond; and

(40) To allocate from time to time a portion of its state ceiling allocation under §13-2C-21(b) of this code to any political subdivision or city or county housing authority authorized to issue bonds or notes for qualified residential rental projects, upon such terms and conditions as the board of directors deems reasonable and appropriate: *Provided*, That any amounts so allocated by the Housing Development Fund that remain unused by December 31 in any year not otherwise subject to a carryforward pursuant to section 146(f) of the Internal Revenue Code shall be allocated to the Housing Development Fund, which shall be considered to have elected to carryforward the unused allocation for the purpose of issuing qualified mortgage bonds, qualified mortgage credit certificates or bonds for qualified residential rental projects, each as defined in the Internal Revenue Code.

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