

Rec., Mar. 19, 1934

256
257

ENROLLED BILL
(SECOND EXTRAORDINARY SESSION, 1933)

House Bill No. 267

(By Mr. March 7 Ohio)

Passed March 16th 1934

In Effect from Passage

Originated in the..... Takes effect..... Passage

Clerk House of Delegates.

CORRECTLY ENROLLED

Chairman Senate Committee.

Chairman House Committee.

ENROLLED BILL

(H. B. No. 251)

[Passed March 16, 1934; in effect from passage.]

AN ACT to define certain terms used herein ; to declare the necessity of creation of bodies corporate and politic, to be known as housing authorities to engage in slum clearance and low-cost housing projects; to provide for the appointment, qualification and removal of housing authority commissioners, and the creation and organization of housing authorities; to define the powers of housing authorities and provide for the exercise of such powers, including the right of eminent domain ; to provide for the incurring of indebtedness and the issuing and securing of bonds, notes and other evidences of indebtedness, the execution of agreements, the keeping of books and records and the making of reports; to provide that no indebtedness of an authority shall constitute a debt or obligation of a municipality or the state; to provide for the making of grants and the lending of money to housing authority by the city, and the

CORRECTLY ENROLLED

Thomas A. Hays

Chairman Senate Committee.

James E. Smith

Chairman House Committee.

James E. Smith

repayment of such loans; to exempt the property of the authority and its securities and interest thereon from taxes; to authorize banks, bankers, trust companies or other persons carrying on a banking business to give security for the repayment of sums deposited by housing authorities; to provide for dissolution of housing authorities and the disposition of their property; to provide for conflict with other existing laws and for the invalidity of any provisions of this act and to declare an emergency.

Be it enacted by the Legislature of West Virginia:

Section 1. The following terms, wherever used or referred to in this act, shall have the following respective meanings, unless in any case a different meaning clearly appears from the context:

(a) "Authority" or "housing authority" shall mean a corporate body organized in accordance with the provisions of this act for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(b) "Mayor" shall mean the chief executive of the city, whether the official designation of his office be mayor, city manager or otherwise.

CORRECTLY ENROLLED

James E. Smith
Henry A. Hays

Chairman House Committee.

Chairman Senate Committee.

Enrolled H. B. No. 251] 3

12 (c) "Council" shall mean the chief legislative body of the
13 city.

14 (d) "Commissioner" shall mean one of the members of an
15 authority appointed in accordance with the provisions of this
16 act.

17 (e) "Government" shall include the state and federal gov-
18 ernments and any subdivisions, agency or instrumentality, cor-
19 porate or otherwise, of either of them.

20 (f) The "state" shall mean the state of West Virginia.

21 (g) "National recovery act" shall mean the act of Congress
22 of the United States of America approved June sixteenth, one
23 thousand nine hundred thirty-three, entitled "An act to en-
24 courage national industry, to foster fair competition, and to
25 provide for construction of certain useful public works, and
26 for other purposes", and any acts amendatory thereof or sup-
27 plemental thereto.

28 (h) "Slum clearance" shall include the removal of housing
29 conditions which shall be considered by the housing authority
30 of the city in which such conditions exist to be unsanitary or
31 substandard or a menace to public health, and shall also include

CORRECTLY ENROLLED

James A. McGraw

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

32 such other activities as may, at any time, be embraced within
33 said term as used in the national recovery act.

34 (i) "Low-cost housing" shall include any housing accom-
35 modations which are or are to be rented at not in excess of a
36 maximum rate per room, or maximum average rate per room,
37 which shall be specified or provided by the housing authority of
38 the city in which such housing accommodations are or are to
39 be located, or the Legislature, or a duly constituted agency of
40 the state, or of the United States of America.

41 (j) "Project" shall include all lands, buildings, and im-
42 provements, acquired, owned, leased, managed or operated by
43 a housing authority, and all buildings and improvements con-
44 structed, reconstructed or repaired by a housing authority,
45 designed to provide housing accommodations, or stores, offices
46 and community facilities appurtenant thereto, which are
47 planned as a unit, whether or not acquired or constructed at
48 one time, and which ordinarily are contiguous or adjacent
49 to one another. The term "project" may also be applied to
50 the planning of buildings and improvements, the acquisition of
51 property, the demolition of existing structures, the clearing of

CORRECTLY ENROLLED

James A. Smith

Chairman Senate Committee.

James E. Smith

Chairman House Committee.

Enrolled H. B. No. 251]

5

52 land, the construction, reconstruction and repair of improve-
53 ments and all other work in connection therewith.

54 (k) "Community facilities" shall include lands, buildings
55 and equipment for recreation or social assembly, for educa-
56 tional, health or welfare activities and other necessary utilities
57 primarily for use and benefit of the occupants of housing ac-
58 commodations to be constructed and operated hereunder.

Sec. 2. It is hereby declared as a matter of legislative deter-
2 mination that in order to promote and protect the health, safety,
3 morals and welfare of the public, it is necessary in the public
4 interest to provide for the creation of public corporate bodies
5 to be known as housing authorities, and to confer upon and
6 vest in said housing authorities all powers necessary or appro-
7 priate in order that they may engage in low-cost housing and
8 slum clearance projects; and that the powers herein conferred
9 upon the housing authorities, including the power to acquire
10 property, to remove unsanitary or substandard conditions, to
11 construct and operate housing accommodations and to borrow,
12 expend and repay moneys for the purpose herein set forth, are
13 public objects essential to the public interest.

Sec. 3. Whenever the council in any city shall have deter-

CORRECTLY ENROLLED

James A. Hyman

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

2 mined that there is need for the creation of an authority therein,
3 it shall cause notice of such determination to be given to the
4 mayor, and as soon as possible thereafter an authority shall be
5 created by the appointment of five commissioners who shall
6 constitute the authority, such commissioners to be appointed by
7 the mayor for initial terms of one, two, three, four and five
8 years respectively; a certificate stating that such appointment
9 has been made shall be filed in the office of the county clerk and
10 shall be conclusive evidence of the due and proper creation of
11 the authority. At the expiration of the term of each commis-
12 sioner and of each succeeding commissioner, or in the event of
13 a vacancy, the mayor shall appoint a commissioner who shall
14 hold office in the case of a vacancy for the unexpired term, or
15 in case of succession, for a term of five years or until his suc-
16 cessor shall have been appointed and qualified. The mayor may
17 remove a member of the authority for official misconduct, neg-
18 lect of duty or incompetence, but only after the member shall
19 have been given a copy of the charges against him and an op-
20 portunity to be heard in person or by counsel in his own de-
21 fense. Pending the determination of charges against a member,
22 the mayor may suspend him from office.

CORRECTLY ENROLLED

James A. Byrnes

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

Enrolled H. B. No. 251]

7

Sec. 4. No commissioner or employe of an authority shall
2 acquire any interest direct or indirect in any project or in any
3 property included or planned to be included in any project, nor
4 shall he have any interest direct or indirect in any contract or
5 proposed contract for materials or services to be furnished or
6 used in connection with any project. If any member or empoooye
7 of any authority owns or controls an interest direct or indirect
8 in any property included in any project, which was acquired
9 prior to his appointment or employment, he shall disclose the
10 same in writing to the authority and such disclosure shall be
11 entered upon the minutes of the authority.

Sec. 5. As soon as possible after the creation of an authority
2 the commissioners shall organize for the transaction of business
3 by choosing from among their number a chairman and a vice-
4 chairman and by adopting by-laws and rules and regulations
5 suitable to the purposes of this act. Three commissioners shall
6 constitute a quorum for the purpose of organizing the authority
7 and conducting the business thereof. The commissioners shall,
8 from time to time, select and appoint such officers and employes,
9 including engineering, architectural and legal assistants, as
10 they may require for the performance of their duties, and shall

CORRECTLY ENROLLED

James L. Smith
Chairman House Committee.
James A. Hays
Chairman Senate Committee.

11 prescribe the duties and compensation of each officer and em-
12 ploye.

Sec. 6. No commissioner shall receive any compensation
2 whether in form of salary, per diem allowances or otherwise,
3 for or in connection with his services as such commissioner.
4 Each commissioner shall, however, be entitled to reimbursement,
5 to the extent of appropriations or other funds available there-
6 for, for any necessary expenditures in connection with the per-
7 formance of his genereal duties or in connection with the con-
8 struction or operation of any project. The authority may allo-
9 cate such expenses among its projects in such manner as it may
10 consider proper.

Sec. 7. An authority shall constitute a body both corporate and
2 politic, exercising public powers, and having all the powers
3 necessary or convenient to carry out and effectuate the pur-
4 poses and provisions of this act, including the following powers
5 in addition to others herein granted:

6 To investigate into living and housing conditions in the city
7 and into the means and methods of improving such conditions;
8 to determine where unsanitary or substandard housing condi-
9 tions exist; to study and make recommendations concerning the

CORRECTLY ENROLLED

James A. McGraw

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

Enrolled H. B. No. 251]

9

10 city plan in relation to the problems of clearing, replanning
11 and reconstruction of areas in which unsanitary or substandard
12 conditions exist, and the providing of housing accommodations
13 for persons of low income, and to cooperate with any city or
14 regional planning agency, to prepare, carry out and operate
15 projects; to provide for the construction, reconstruction, im-
16 provement, alteration or repair of any project or any part
17 thereof; to take over by purchase, lease or otherwise any project
18 undertaken by any government; to act as agent for the federal
19 government in connection with the acquisition, construction,
20 operation and/or management of a project or any part thereof;
21 to arrange with the city or with a government for the furnishing,
22 planning, replanning, opening or closing of streets, roads, road-
23 ways, alleys or other places or facilities, or for the acquisition by
24 the city or by the city, state or federal government or any
25 agency, instrumentality or subdivision thereof, including,
26 specifically, the federal emergency administration of public
27 works and the public works emergency housing corporation, of
28 property, options or property rights or for the furnishing of
29 property or services in connection with a project; to lease or
30 rent any of the housing or other accommodations of any of the

CORRECTLY ENROLLED

James A. Smith

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

31 lands, buildings, structures or facilities embraced in any project,
32 and to establish and revise the rents or charge therefor; to enter
33 upon any building or property in order to conduct investiga-
34 tions or to make surveys or soundings; to purchase, lease, ob-
35 tain options upon, acquire by eminent domain or otherwise, sell,
36 exchange, transfer, assign or mortgage any property real or
37 personal or any interest therein; to acquire any property real
38 or personal or any interest therein from any person, firm, cor-
39 poration, or the city, state or federal government or agency,
40 instrumentality or subdivision thereof, including, specifically,
41 the federal emergency administration of public works and the
42 public works emergency housing corporation, by gift, grant,
43 bequest or devise; to own, hold, clear and improve property;
44 in its discretion, to insure or provide for the issuance of the
45 property or operations of the authority against such risks as
46 the authority may deem advisable; to borrow money upon its
47 bonds, notes, debentures or other evidences of indebtedness, and
48 to secure the same by mortgages upon property held or to be
49 held by it or by pledge of its revenues, or in any other manner;
50 to invest any funds held in reserves or sinking funds, or any
51 funds not required for immediate disbursement in property or

CORRECTLY ENROLLED

James L. Smith
Henry D. Rogers

Chairman House Committee.

Chairman Senate Committee.

Enrolled H. B. No. 251]

11

52 securities in which savings bank may legally invest funds sub-
53 ject to their control; to sue and be sued; to have a seal, and to
54 alter the same at pleasure; to have perpetual succession; to
55 make and execute contracts and other instruments necessary
56 or convenient to the exercise of the powers of the authority; to
57 make and from time to time amend and repeal by-laws, rules
58 and regulations not inconsistent with this act, to carry into
59 effect the powers and purposes of the authority; to conduct
60 examinations and investigations and to hear testimony and take
61 proof under oath at public or private hearings on any matter
62 material for its information; to issue subpoenas requiring the
63 attendance of witnesses or the production of books and papers
64 and to issue commissions for the examination of witnesses
65 who are out of the state or unable to attend before the authority,
66 or excused from attendance; and to do all things necessary or
67 convenient to carry out the powers given in this act. Any of
68 the investigations or examinations provided for in this act may
69 be conducted by the authority or by a committee appointed by
70 it, consisting of one or more members thereof, or by counsel,
71 or by an officer or employe specifically authorized by the au-
72 thority to conduct it. Any member of the authority, its counsel,

CORRECTLY ENROLLED

James A. Byrnes

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

73 or any person designated by it to conduct an investigation or
74 examination, shall have power to administer oaths, take affi-
75 davits and issue subpoenas or commissions.

Sec. 8. Whenever it shall be deemed necessary by an au-
2 thority in connection with the exercise of its powers herein con-
3 ferred to take or acquire any lands, structures or buildings or
4 other rights, either in fee or as easements for any housing or
5 slum clearance project, such authority may purchase the same
6 directly or through its agents from the owner or owners thereof,
7 or failing to agree with the owner or owners thereof, such au-
8 thority may exercise the power of eminent domain in the man-
9 ner provided for condemnation proceedings, in chapter seventy-
10 four, acts of the Legislature of West Virginia, regular session,
11 one thousand nine hundred seven, and chapter twenty-three,
12 acts of one thousand nine hundred fifteen.

Sec. 9. All projects of an authority shall be subject to the
2 planning, zoning, sanitary and building laws, ordinances and
3 regulations applicable to the locality in which the project is
4 situated. No provisions with respect to the acquisition, oper-
5 ation or disposition of property by public bodies shall be ap-
6 plicable to an authority unless the Legislature shall specifically

CORRECTLY ENROLLED

James L. Smith
James A. McGraw

Chairman House Committee.

Chairman Senate Committee.

Enrolled H. B. No. 251]

13

7 so state. No authority shall be required to offer its securities
8 to the state sinking fund commission at any time, nor shall any
9 authority be required to turn over any surplus or sinking
10 funds to the state sinking fund commission.

Sec. 10. Subject to the restrictions set forth in this act, the
2 authority may incur any indebtedness and issue any obligations
3 and give any security therefor which it may deem necessary
4 or advisable in connection with any project undertaken by it
5 hereunder. No statutory limitation with respect to the nature
6 or amount of indebtedness which may be incurred by municipi-
7 palities or other public bodies shall apply to indebtedness of an
8 authority, unless the Legislature shall specifically so provide.
9 No indebtedness of any nature of an authority shall constitute
10 a debt or obligation of a municipality or the state or any other
11 subdivision or agency or instrumentality thereof, or a charge
12 against any property of such municipality, the state, or other
13 subdivision, agency or instrumentality thereof. No obligation
14 incurred by the authority shall give any right against any
15 commissioner of such authority, but a commissioner shall be
16 liable only for his own malfeasance. The rights of creditors of
17 an authority shall be solely against such authority as a corpo-

CORRECTLY ENROLLED

James L. Smith
Spencer A. Rogers

Chairman House Committee.

Chairman Senate Committee.

18 rate body and shall be satisfied only out of property held by
19 it in its corporate capacity, and the enforcement of such rights
20 shall be subject to all the provisions of this act.

Sec. 11. An authority may, in connection with the borrow-
2 ing of funds, or otherwise, enter into any agreement with the
3 federal government or any agency or subdivision thereof, in-
4 cluding, specifically, the federal emergency administration of
5 public works and the public works emergency housing corpora-
6 tion, providing for supervision and control of the authority or
7 of any project, and containing such other covenants, terms and
8 conditions as the authority may deem advisable.

Sec. 12. An authority shall keep its books and records in
2 such form as may be prescribed by, or as shall be satisfactory
3 to, the mayor, and such books and records shall be open for in-
4 spection at any hour during any business day by any represen-
5 tative of the mayor or council. The accounts of the authority
6 shall be kept in such manner that they shall show at all times
7 the income from and all sums chargeable against each project.
8 The authority shall, on or before January thirty-one in each
9 year after the year of its creation, make a report to the mayor
10 and the council, in such form and setting forth such informa-

CORRECTLY ENROLLED

James L. Smith
Chairman House Committee.

Chairman Senate Committee.

Enrolled H. B. No. 251]

15

11 tion with respect to its financial condition and its activities
12 during the preceding calendar year and during the entire period
13 from its creation as the mayor or the council shall require. Each
14 authority shall make such further reports as may from time to
15 time be required by the mayor or the council.

Sec. 13. Any city in which an authority shall exist may, by
2 resolution of the council, lend to such authority a sum or sums
3 of money not exceeding at any time twenty thousand dollars in
4 the aggregate. All sums so advanced shall constitute an in-
5 debtedness of the authority and shall be repaid out of any funds
6 which the authority may have available for such purposes at
7 any time. The city is also authorized to sell, convey or lease
8 any of its interest in any property, or to grant easements,
9 licenses, or any other rights or privileges therein or with re-
10 spect thereto, to the authority, irrespective of the purposes for
11 which such property or such interest therein may have been ac-
12 quired. The city is authorized to sell any such property, prop-
13 erty rights, or interest therein, to the authority at private sale
14 without advertisement or competitive bidding and, in a case of
15 property, property rights, or interest therein, devoted or dedi-
16 cated to a public use, the city is authorized to make grants to the

CORRECTLY ENROLLED

A. H. Hays

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

17 housing authority on such terms and under such conditions as
18 it may deem advisable. The authority is authorized to acquire
19 and accept any such property, property rights, or interest there-
20 in as it may deem necessary or desirable in the development of a
21 project pursuant to this act.

Sec. 14. The authority shall be exempt from the payment
2 of any taxes or fees to the state or any subdivision thereof, or
3 to any officer or employe of the state or any subdivision there-
4 of. The property of an authority shall be exempt from all local
5 and municipal taxes. Bonds, notes, debentures and other evi-
6 dences of indebtedness of an authority are declared to be issued
7 for a public purpose and to be public instrumentalities and,
8 together with interest thereon, shall be exempt from taxes.

Sec. 15. In order to protect funds deposited by an authority,
2 all banks, bankers, trust companies or other persons carrying
3 on a banking business, organized under the laws of the state,
4 are authorized to give to the authority an undertaking with
5 such sureties as shall be approved by the authority, faithfully
6 to keep and pay over upon the order of the authority any such
7 deposits and agreed interest thereon, or in lieu of the said sure-
8 ties, to deposit with the authority as collateral such securities

CORRECTLY ENROLLED

James E. Smith
Frank A. Ogden

Chairman House Committee.

Chairman Senate Committee.

Enrolled H. B. No. 251]

17

9 and in such amounts as may be agreed upon with the authority
10 pursuant to a collateral deposit agreement in form and terms
11 satisfactory to the authority. The collateral to be deposited
12 shall consist of securities in which savings banks may legally
13 invest funds within their control.

Sec. 16. Whenever the authority desires to discontinue its
2 operations, it shall make application to the mayor for permis-
3 sion to dissolve. Permission to dissolve shall be given only
4 upon a showing satisfactory to the mayor that all projects
5 undertaken by the authority have been completed, or abandoned
6 with the approval of the mayor, that provision satisfactory to a
7 majority of its creditors, holding a majority in amount of
8 claims, has been made, and that the continued existence of the
9 authority would not serve the public interest. Notice of such
10 application for permission to dissolve shall be given to all credi-
11 tors of the authority in such manner as the mayor shall approve.
12 If the application to dissolve shall be granted, the mayor shall
13 designate an agent to take possession of the authority to dis-
14 pose of all its property in the manner authorized herein, and,
15 after paying or making provisions for the debts and liabilities of

CORRECTLY ENROLLED

James L. Smith
James A. Dwyer

Chairman House Committee.

Chairman Senate Committee.

16 the authority and the expenses of dissolution, to pay the balance
17 remaining, if any, into the general funds of the city.

Sec. 17. All acts or parts of acts, inconsistent with this act
2 or with any provision of this act be and the same are herewith
3 repealed to the extent of such inconsistency.

Sec. 18. The provisions of this act are severable, and if any
2 shall be held unconstitutional the decision of the court shall not
3 affect or impair any of the remaining provisions hereof. It is
4 hereby declared as a legislative intent that this act would have
5 been adopted had such unconstitutional provisions not been
6 included herein.

Sec. 19. This act is hereby declared to be an emergency
2 law and necessary for the immediate preservation of health,
3 morals, safety and public welfare.

Mr. Hays
Chairman Senate Committee.

Wm. Hays
.....
Speaker of the House of Delegates.

J. S. Hall
.....
Clerk of the House of Delegates.

W. M. Mauney
.....
President of the Senate.

W. M. Mauney
.....
Clerk of the Senate.

The within is.....*approved*.....

this...*22*...day of...*march*....., 1934.

H. S. Keen
.....
Governor.

CORRECTLY ENROLLED

James L. Smith
Chairman House Committee.