WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1962

ENROLLED
SENATE BILL NO. 7

(By Mr. Carson, Mr. President,
and Mr. Riley

PASSED January 29 1962

In Effect From Passage

Filed in Office of the Secretary of State
of West Virginia FEB 5 1962
JOE F. BURDETT
SECRETARY OF STATE
AN ACT to amend and reenact sections four, seven, nine and eleven, article fifteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia Industrial Development Authority.

Be it enacted by the Legislature of West Virginia:

That sections four, seven, nine and eleven, article fifteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and re-enacted to read as follows:

Section 4. Definitions.—The following terms, whenever used or referred to in this article, shall have the following meanings:
(a) The term "authority" shall mean the public corporation created by this article.

(b) The term "board" shall mean the governing body of the authority.

(c) The term "county" shall mean any county of this state.

(d) The term "critical economic area" shall mean the area encompassing any municipality or group of municipalities, county, group of counties or region of the state reasonably defined by the authority wherein critical conditions of unemployment, economic depression, widespread reliance on public assistance and unemployment compensation are found to exist by the authority. Prior to determination and designation of any area of the state as a critical economic area, the authority shall conduct such investigations of the area and of the records and statistical indices of the department of employment security, department of labor, department of natural resources, department of welfare and other applicable state agencies, as well as the declarations and statistics of any federal agencies as shall be necessary to establish the
existence of the above conditions in such area. No area
of the state shall be designated a critical economic area
without such investigations and findings having been
first made and certified to the permanent records of the
authority.

(e) The term "federal agency" shall mean and include
the United States of America, the president of the United
States of America, and any department of, or corporation,
agency or instrumentality heretofore or hereafter created,
designated or established by, the United States of
America.

(f) The term "government" shall mean the state and
federal governments, or any political subdivision, agency
or instrumentality, corporate or otherwise, of either of
them.

(g) The term "industrial development agency" shall
mean any incorporated organization, foundation, association
or agency, regardless of the particular name, and to
whose members or shareholders no profit shall inure,
which shall have as its primary function the promotion,
encouragement and development of industrial and manu-
facturing enterprises in a critical economic area.

(h) The term "industrial development fund" shall mean the account created by section nine of this article.

(i) The term "industrial development project" shall mean any site, structure, facility or undertaking comprising or being connected with or being a part of an industrial or manufacturing enterprise established or to be established by an industrial development agency in a critical economic area.

(j) The term "municipality" shall mean any city or town of the state.

(k) The term "responsible buyer" shall mean any person, partnership, firm, company or corporation organized for profit deemed by the authority, after proper investigation, to be financially responsible to assume all obligations prescribed by the authority in the acquisition of an industrial development project from an industrial development agency, and in the operation of an industrial or manufacturing enterprise therein or thereon.

(l) The term "responsible tenant" shall mean any person, partnership, firm, company or corporation organized
for profit deemed by the authority, after proper investigation, to be financially responsible to assume all rental and all other obligations prescribed by the authority in the leasing of an industrial development project and in the operation of an industrial or manufacturing enterprise therein or thereon.

(m) The words "cost of establishing an industrial development project" shall embrace any or all of the following: The cost of construction, the cost of all lands, property rights, easements, and in cases of demonstrated need, machinery and equipment, if said demonstrated need shall have been shown to the satisfaction of the 'authority', which are deemed necessary for such construction, financing charges, interest prior to and during construction, cost of engineering and legal expense, plans, specifications, surveys, estimates of costs and other expenses necessary or incidental to determining the feasibility or practicability of any industrial development project, together with such other expenses as may be necessary or incidental to the financing and the construction of the
industrial development project and the placing of the same in operation.

Sec. 7. Loans to Industrial Development Agencies.—

When it has been determined by the authority upon application of an industrial development agency and upon hearing thereon in the manner hereinafter provided that the establishment of a particular industrial development project (of such industrial development agency) in a critical economic area has accomplished or will accomplish the public purposes of this article, the authority may contract to loan such industrial development agency an amount not in excess of thirty per cent of the cost, or estimated cost, of such industrial development project, as established or to be established, subject, however, to the following conditions:

(A) Industrial development projects to be established.

1. The authority shall have first determined that the industrial development agency holds funds in an amount equal to, or property of a value equal to, not less than twenty per cent of the estimated cost of establishing the industrial development project, which funds or property
are available for and shall be applied to the establish-

ment of such project; and

2. The authority shall have also determined that the
industrial development agency has obtained from other
independent and responsible sources, such as banks and
insurance companies or otherwise, a firm commitment
for all other funds, over and above the loan of the au-
thority and such funds or property as the industrial de-
velopment agency may hold, necessary for payment of
all the estimated cost of establishing the industrial de-
velopment project, and that the sum of all these funds
is adequate to insure completion and operation of the
industrial development project.

(B) Industrial development projects established with
initial authority loan participation.

1. The authority shall have first determined that the
industrial development agency has expended funds in
an amount equal to, or has applied property of a value
equal to, not less than twenty per cent of the cost of
establishing the industrial development project; and

2. The authority shall have also determined that the
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industrial development agency obtained from other independent and responsible sources, such as banks and insurance companies or otherwise, other funds necessary for payment of all the cost of establishing the industrial development project, and that the industrial development agency participation and these funds, has been adequate to insure completion and operation of the industrial development project: Provided, however, That the proceeds of any loan made by the authority to the industrial development agency pursuant to this subsection (B) shall be used only for the establishment of additional industrial development projects in furtherance of the public purposes of this article.

Any such loan of the authority shall be for such period of time and shall bear interest at such rate as shall be determined by the authority and shall be secured by bond of the industrial development agency and by deed of trust on the industrial development project for which such loan was made, such deed of trust to be second and subordinate only to the deed of trust securing the first lien obligation issued to secure the commitment of funds
from the aforesaid independent and responsible sources and used in the financing of the industrial development project.

Moneys so loaned by the authority to industrial development agencies shall be withdrawn from the industrial development fund and paid over to the industrial development agency in such manner as shall be provided and prescribed by the rules and regulations of the authority.

All payments of interest on said loans and the principal thereof shall be deposited by the authority in the industrial development fund.

Loans by the authority to an industrial development agency for an industrial development project shall be made only in the manner and to the extent as in this section provided, except, however, in those instances wherein an agency of the federal government participates in the financing of an industrial development project by loan, grant or otherwise of federal funds. When any federal agency does so participate the authority may adjust the required ratios of financial participation by
the industrial development agency, the source of inde-
dependent funds, and the authority in such manner as to
insure the maximum benefit available to the industrial
development agency, the authority, or both, by the par-
ticipation of the federal agency: Provided, however, That
no such adjustment of such ratios shall cause the au-
thority to grant a loan to the industrial development
agency in excess of thirty per cent of the cost or estimated
cost of the industrial development project.

Where any federal agency participating in the financ-
ing of an industrial development project is not permitted
to take as security for such participation a deed of trust
the lien of which is junior to the deed of trust of the
authority, the authority shall, in such instances, be au-
thorized to take as security for its loan to the industrial
development agency a deed of trust junior in lien to
that of the federal agency.

Sec. 9. Industrial Development Fund.—There is hereby
created a special account in the treasury of the state to
be known as the industrial development fund to which
shall be accredited any appropriation made by the Legis-
lature to the authority, as well as such other deposits
as in this section provided.

As often as may be necessary, the authority shall requi-
sition from the industrial development fund such amounts
as may be necessary to provide adequate funds for the
payment of the administration of the purposes of this
article. And whenever the authority determines it to be
necessary to purchase, at a foreclosure sale, any industrial
development project pursuant to section six (p) of this
article, in order to protect any loan theretofore made by
the authority, the authority may requisition from the
industrial development fund such amount as may be
necessary to pay the purchase price thereof, notwith-
standing the fact that the purchase price may exceed
thirty per cent of the original cost of the industrial de-
velopment project.

The authority shall also requisition, from time to time,
from the industrial development fund such amounts as
shall be allocated and appropriated by the authority for
loans to industrial development agencies for industrial
development projects. When and as the amounts so allo-
26 funded and appropriated by the authority as loans to in-
27 dustrial development agencies are repaid to the authority
28 pursuant to the terms of the mortgages and other agree-
29 ments made and entered into by the authority, the au-
30 thority shall pay such amounts into the industrial de-
31 velopment fund, it being the intent of this article that the
32 industrial development fund shall operate as a revolving
33 fund whereby all appropriations and payments made
34 thereto may be applied and re-applied to the purposes of
35 this article.
36 Whenever the authority shall determine that the bal-
37 ance in the industrial development fund is in excess of
38 the immediate requirements for loan purposes it may
39 request that such excess funds be invested until needed
40 for loan purposes, in which case such excess funds shall
41 be invested in the manner provided for the investment
42 of other temporary state funds. All interest earned on
43 the money invested pursuant to this section shall be
44 credited to the industrial development fund.
45 At any time that the authority shall determine that
46 funds held for the credit of the industrial development
fund are in excess of the amount needed by the authority
to carry out the purposes of this article, the authority shall
take such action as shall be required to release such ex-
cess from the industrial development fund and transfer
the same to the general fund of the state treasury.

Sec. 11. Moneys of the Authority.—All moneys accruing
to the authority from whatever source derived, except
legislative appropriations, shall be collected and received
by the treasurer of the authority, who shall pay same into
the state treasury in the manner required by section two,
article two, chapter twelve of the code of West Virginia,
as amended, which shall be credited to the special re-
volving account known as the industrial development
fund.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 5th day of February, 1962.

Governor