

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

7

ENROLLED
Senate Bill No. 7

(By MR. CARSON, MR. PRESIDENT and MR. RILEY)

[Passed January 29, 1962; in effect from passage.]

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
2 used or referred to in this article, shall have the following
3 meanings:

4 (a) The term "authority" shall mean the public cor-
5 poration created by this article.

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

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

10 (d) The term "critical economic area" shall mean the
11 area encompassing any municipality or group of munici-
12 palities, county, group of counties or region of the state
13 reasonably defined by the authority wherein critical
14 conditions of unemployment, economic depression, wide-
15 spread reliance on public assistance and unemployment
16 compensation are found to exist by the authority. Prior
17 to determination and designation of any area of the state
18 as a critical economic area, the authority shall conduct
19 such investigations of the area and of the records and
20 statistical indices of the department of employment se-
21 curity, department of labor, department of natural re-
22 sources, department of welfare and other applicable state
23 agencies, as well as the declarations and statistics of any
24 federal agencies as shall be necessary to establish the

25 existence of the above conditions in such area. No area
26 of the state shall be designated a critical economic area
27 without such investigations and findings having been
28 first made and certified to the permanent records of the
29 authority.

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

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

40 (g) The term "industrial development agency" shall
41 mean any incorporated organization, foundation, associa-
42 tion or agency, regardless of the particular name, and to
43 whose members or shareholders no profit shall inure,
44 which shall have as its primary function the promotion,
45 encouragement and development of industrial and manu-

46 facturing enterprises in a critical economic area.

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

49 (i) The term "industrial development project" shall
50 mean any site, structure, facility or undertaking com-
51 prising or being connected with or being a part of an in-
52 dustrial or manufacturing enterprise established or to be
53 established by an industrial development agency in a
54 critical economic area.

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

57 (k) The term "responsible buyer" shall mean any per-
58 son, partnership, firm, company or corporation organized
59 for profit deemed by the authority, after proper investi-
60 gation, to be financially responsible to assume all obliga-
61 tions prescribed by the authority in the acquisition of
62 an industrial development project from an industrial
63 development agency, and in the operation of an industrial
64 or manufacturing enterprise therein or thereon.

65 (l) The term "responsible tenant" shall mean any per-
66 son, partnership, firm, company or corporation organized

67 for profit deemed by the authority, after proper investi-
68 gation, to be financially responsible to assume all rental
69 and all other obligations prescribed by the authority in
70 the leasing of an industrial development project and in
71 the operation of an industrial or manufacturing enter-
72 prise therein or thereon.

73 (m) The words "cost of establishing an industrial de-
74 velopment project" shall embrace any or all of the fol-
75 lowing: The cost of construction, the cost of all lands,
76 property rights, easements, and in cases of demonstrated
77 need, machinery and equipment, if said demonstrated
78 need shall have been shown to the satisfaction of the
79 'authority', which are deemed necessary for such construc-
80 tion, financing charges, interest prior to and during con-
81 struction, cost of engineering and legal expense, plans,
82 specifications, surveys, estimates of costs and other ex-
83 penses necessary or incident to determining the feasibility
84 or practicability of any industrial development project,
85 together with such other expenses as may be necessary
86 or incidental to the financing and the construction of the

87 industrial development project and the placing of the
88 same in operation.

Sec. 7. Loans to Industrial Development Agencies.—

2 When it has been determined by the authority upon
3 application of an industrial development agency and upon
4 hearing thereon in the manner hereinafter provided that
5 the establishment of a particular industrial development
6 project (of such industrial development agency) in a
7 critical economic area has accomplished or will accom-
8 plish the public purposes of this article, the authority
9 may contract to loan such industrial development agency
10 an amount not in excess of thirty per cent of the cost,
11 or estimated cost, of such industrial development project,
12 as established or to be established, subject, however, to
13 the following conditions:

14 (A) Industrial development projects to be established.

15 1. The authority shall have first determined that the
16 industrial development agency holds funds in an amount
17 equal to, or property of a value equal to, not less than
18 twenty per cent of the estimated cost of establishing the
19 industrial development project, which funds or property

20 are available for and shall be applied to the establish-
21 ment of such project; and

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

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

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

40 2. The authority shall have also determined that the

41 industrial development agency obtained from other inde-
42 pendent and responsible sources, such as banks and in-
43 surance companies or otherwise, other funds necessary
44 for payment of all the cost of establishing the industrial
45 development project, and that the industrial development
46 agency participation and these funds, has been adequate
47 to insure completion and operation of the industrial de-
48 velopment project: *Provided, however,* That the proceeds
49 of any loan made by the authority to the industrial de-
50 velopment agency pursuant to this subsection (B) shall
51 be used only for the establishment of additional indus-
52 trial development projects in furtherance of the public
53 purposes of this article.

54 Any such loan of the authority shall be for such period
55 of time and shall bear interest at such rate as shall be
56 determined by the authority and shall be secured by
57 bond of the industrial development agency and by deed
58 of trust on the industrial development project for which
59 such loan was made, such deed of trust to be second and
60 subordinate only to the deed of trust securing the first
61 lien obligation issued to secure the commitment of funds

62 from the aforesaid independent and responsible sources
63 and used in the financing of the industrial development
64 project.

65 Moneys so loaned by the authority to industrial de-
66 velopment agencies shall be withdrawn from the indus-
67 trial development fund and paid over to the industrial
68 development agency in such manner as shall be provided
69 and prescribed by the rules and regulations of the au-
70 thority.

71 All payments of interest on said loans and the principal
72 thereof shall be deposited by the authority in the indus-
73 trial development fund.

74 Loans by the authority to an industrial development
75 agency for an industrial development project shall be
76 made only in the manner and to the extent as in this
77 section provided, except, however, in those instances
78 wherein an agency of the federal government participates
79 in the financing of an industrial development project by
80 loan, grant or otherwise of federal funds. When any
81 federal agency does so participate the authority may
82 adjust the required ratios of financial participation by

83 the industrial development agency, the source of inde-
84 pendent funds, and the authority in such manner as to
85 insure the maximum benefit available to the industrial
86 development agency, the authority, or both, by the par-
87 ticipation of the federal agency: *Provided, however, That*
88 no such adjustment of such ratios shall cause the au-
89 thority to grant a loan to the industrial development
90 agency in excess of thirty per cent of the cost or estimated
91 cost of the industrial development project.

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

Sec. 9. Industrial Development Fund.—There is hereby
2 created a special account in the treasury of the state to
3 be known as the industrial development fund to which
4 shall be accredited any appropriation made by the Legis-

5 lature to the authority, as well as such other deposits
6 as in this section provided.

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

21 The authority shall also requisition, from time to time,
22 from the industrial development fund such amounts as
23 shall be allocated and appropriated by the authority for
24 loans to industrial development agencies for industrial
25 development projects. When and as the amounts so allo-

26 cated 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

47 fund are in excess of the amount needed by the authority
48 to carry out the purposes of this article, the authority shall
49 take such action as shall be required to release such ex-
50 cess from the industrial development fund and transfer
51 the same to the general fund of the state treasury.

Sec. 11. Moneys of the Authority.—All moneys accruing
2 to the authority from whatever source derived, except
3 legislative appropriations, shall be collected and received
4 by the treasurer of the authority, who shall pay same into
5 the state treasury in the manner required by section two,
6 article two, chapter twelve of the code of West Virginia,
7 as amended, which shall be credited to the special re-
8 volving account known as the industrial development
9 fund.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled

Harold Davis, Jr.
Chairman Senate Committee

Wm. A. H. Withers
Chairman House Committee

Originated in the Senate.

Takes effect FROM passage.

Howard Myler
Clerk of the Senate

A. A. Blankenship
Clerk of the House of Delegates

Howard Roberson
President of the Senate

Julius W. Singleforth
Speaker House of Delegates

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

W. M. Bauer
Governor

