

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963

ENROLLED

HOUSE BILL No. 345

(By Mr. ~~Speaker~~, Mr. Singleton, by Mr. ~~Harold~~)

PASSED March 9, 1963

In Effect July 1, 1963. ~~Passage~~

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of West Virginia 3-16-63

JOE F. BURDETT
SECRETARY OF STATE

345

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House Bill No. 345

(By MR. SPEAKER, MR. SINGLETON, and MR. GIVEN)

[Passed March 9, 1963; in effect July 1, 1963.]

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article sixteen, relating to the promotion and expansion of the woods products industry in the state of West Virginia and the creation of a nonprofit corporation to be known as the West Virginia forest industries industrial foundation to allocate funds for and make secured loans to responsible borrowers for the payment of a part of the cost of the development of the wood products industry in the state of West Virginia; authorizing the foundation to enter into agreement with the government of the United States or any federal agency or industrial development

agency; empowering the foundation to take title to, sell, convey and lease wood products projects where necessary to protect loans made by the West Virginia forest industrial development fund, providing for the establishment of wood products development projects in the state of West Virginia; providing that no debt of the state, its municipalities and political subdivisions shall be incurred in the exercise of any powers granted by this act; and providing for the authorization for subscription of funds for the establishment of a forest industries industrial development fund.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article sixteen, to read as follows:

Article 16. The West Virginia Forest Industries Industrial Foundation Act.

Section 1. Short Title—This article shall be known and
2 may be cited as the “West Virginia Forest Industries
3 Industrial Foundation Act”.

Sec. 2. Purposes—The purposes of this article shall be

2 to provide for the formation of a public wood products
3 development foundation to promote, assist, encourage
4 and, in conjunction with such banking corporations or
5 institutions, trust companies, savings banks, building and
6 loan associations, insurance companies, or related cor-
7 porations, partnerships, foundations, or other institutions,
8 to develop and advance the wood products industry of
9 the state of West Virginia; to authorize county courts
10 and municipalities to appropriate money from their gen-
11 eral fund for the operation and projects of the founda-
12 tion; to encourage and assist in the location of new wood
13 products business and industry; to stimulate and assist
14 in the expansion of the wood products industry which
15 will tend to promote the business development and main-
16 tain the economic stability of this state, provide maximum
17 opportunities for employment, encourage thrift and im-
18 prove the standard of living of the citizens of this state;
19 to cooperate and act in conjunction with other organiza-
20 tions, public or private, the objects of which are the

21 promotion and advancement of the wood products in-
22 dustry in this state; to furnish money and credit to ap-
23 proved new and existing wood industry enterprises in
24 this state, thereby establishing a source of credit not
25 otherwise available therefor. Such purposes are hereby
26 declared to be public purposes for which money of the
27 foundation may be spent and are purposes which will
28 promote the health, safety, morals, right to gainful em-
29 ployment, business opportunities and general welfare of
30 the inhabitants of the state.

Sec. 3. Definitions.—The following terms, whenever
2 used or referred to in this article, shall have the following
3 meanings:

4 (a) The term “foundation” shall mean the non-profit
5 corporation created by this article.

6 (b) The term “board” shall mean the governing body
7 of the foundation.

8 (c) The term “federal agency” shall mean and include
9 the United States of America, the president of the United
10 States of America, and any department of, or corporation,
11 agency or instrumentality heretofore or hereafter cre-

12 ated, designated or established by the United States of
13 America.

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

18 (e) The term "forest industries industrial develop-
19 ment fund" shall mean the account created by section
20 nine of this act.

21 (f) The term "wood industry project" shall mean any
22 site, structure, facility or undertaking comprising or be-
23 ing connected with or being a part of a wood industry
24 or wood manufacturing enterprise established or to be
25 established in West Virginia.

26 (g) The term "responsible buyer" shall mean any per-
27 son, partnership, firm, company or corporation organized
28 for profit deemed by the foundation, after proper investi-
29 gation, to be financially responsible to assume all obli-
30 gations prescribed by the foundation in the operation of
31 a wood industrial or wood manufacturing enterprise.

32 (h) The term "responsible tenant" shall mean any per-

33 son, partnership, firm, company or corporation organized
34 for profit deemed by the foundation, after proper investi-
35 gation, to be financially responsible to assume all rental
36 and all other obligations prescribed by the foundation
37 in the leasing of a wood industry project and in the
38 operation of a wood industrial or wood manufacturing
39 enterprise therein or thereon.

40 (i) The term "responsible borrower" shall mean any
41 person, partnership, firm, company or corporation organ-
42 ized for profit deemed by the foundation, after proper
43 investigation, to be financially responsible to assume all
44 obligations prescribed by the foundation in the loan of
45 funds for the operation of a wood industrial or wood
46 manufacturing enterprise by said responsible borrower.

Sec. 4. The West Virginia Forest Industries Industrial

2 **Foundation**—There is hereby created a body corporate
3 and politic, constituting a nonprofit corporation and
4 government instrumentality by the name of "The West
5 Virginia Forest Industries Industrial Foundation", the
6 board of members of which shall be appointed by the gov-
7 ernor, with the advice and consent of the senate, who

8 shall represent the public, the public interest and the
9 wood products industry.

10 The members of the foundation initially appointed by
11 the governor shall continue in office for terms of one
12 to five years, respectively, from the date of their appoint-
13 ment and until their successors shall be duly appointed
14 and qualified, the term of each appointed member to
15 be designated by the governor at the time of his appoint-
16 ment; but their successors shall each be appointed for
17 a term of five years, except that any person appointed
18 to fill a vacancy shall serve only for the unexpired term,
19 and any appointed member of the foundation shall be
20 eligible for reappointment. Said members of the founda-
21 tion shall not be entitled to compensation for their serv-
22 ices as members, but shall be entitled to reimbursement
23 for all necessary expenses incurred in connection with
24 the performance of their duties as members.

Sec. 5. Powers of Foundation—The foundation, as a
2 public corporation, is hereby granted and shall have and
3 may exercise all powers necessary or appropriate to carry
4 out and effectuate the purposes of this act, including the

5 following powers, in addition to others herein granted:

6 (a) To cooperate with industrial development agencies
7 in their efforts to promote the expansion of wood indus-
8 trial and manufacturing activity in the state.

9 (b) To determine, whether the declared public pur-
10 pose of this act has been accomplished or will be accom-
11 plished by making a loan of money, sale or lease to a
12 responsible borrower, buyer or tenant.

13 (c) To make, upon proper application of a responsible
14 borrower, loans to such responsible borrower of moneys
15 held in the forest industries industrial development fund
16 for wood industry projects and to provide for the repay-
17 ment and redeposit of such allocations and loans and to
18 purchase shares of stock of the company of the responsi-
19 ble borrower or any notes receivable of said responsible
20 buyer.

21 (d) To have existence for a term of fifty years.

22 (e) To sue and be sued, implead and be impleaded,²
23 complain and defend in all courts.

24 (f) To adopt, use and alter at will a corporate seal.

25 (g) To make by-laws for the management and regu-
26 lation of its affairs.

27 (h) To appoint officers, agents, employees and ser-
28 vants, including persons qualified to grade lumber in ac-
29 cordance with specifications of the United States govern-
30 ment.

31 (i) To make contracts of every name and nature and
32 to execute all instruments necessary or convenient for
33 carrying on its business.

34 (j) Without limitation of the foregoing, accept grants
35 from and enter into contracts or other transactions with
36 any federal or state agency, county court or municipality.

37 (k) To take title by foreclosure to any wood industry
38 project where such acquisition is necessary to protect
39 any loan previously made therefor by the foundation
40 and to sell, transfer and convey any such project to any
41 responsible buyer; in the event of sale, if transfer and
42 conveyance cannot be effected with reasonable prompt-
43 ness, the foundation may, in order to minimize financial
44 losses and sustain employment, lease such project to a
45 responsible tenant or tenants; the foundation shall not
46 lease such project except under the conditions and for
47 the purposes cited in this section: *Provided, however,*

48 That the foundation shall have no power at any time
49 to borrow money or in any manner to pledge the credit
50 or taxing power of the state or any of its municipalities
51 or political subdivisions, nor shall any of its obligations
52 be deemed to be obligations of the state or any of its
53 political subdivisions.

Sec. 6. Loans—When it has been determined by the
2 foundation upon application of a responsible borrower
3 that the establishment of a particular wood industry
4 project has accomplished or will accomplish the public
5 purposes of this act, the foundation may contract to loan
6 all or part of the funds requested, provided that such
7 loans shall be made within the scope of the by-laws,
8 rules and regulations of the foundation.

Sec. 7. Loan Application Requirements—Prior to the
2 loaning of any funds to a responsible borrower for a
3 wood products project, the foundation shall receive from
4 such borrower a loan application in form adopted by the
5 foundation the provisions of which shall be determined
6 by the board.

Sec. 8. Forest Industries Industrial Development Fund

2 —The foundation shall set up an account in a bank au-
3 thorized to do business in the state of West Virginia to
4 be known as the forest industries industrial development
5 fund to which shall be accredited proceeds from all sub-
6 scriptions, donations, and other receipts from whatever
7 source derived.

8 The foundation shall requisition from the forest in-
9 dustries industrial ^{to} development fund such amounts as may
10 be necessary to provide adequate funds for the payment
11 of the administration of the purposes of this act.

Sec. 9. Governing Body—The powers of the foundation
2 shall be exercised by a governing body consisting of the
3 members of the foundation acting as a board. Within
4 ninety days after this act shall become effective the board
5 shall meet and organize. The board shall elect a chair-
6 man, secretary and treasurer from their number and at
7 the first meeting in each year thereafter they shall elect
8 from their number a chairman, secretary and treasurer.
9 A majority of the members shall constitute a quorum
10 of the board for the purpose of organizing the foundation
11 and conducting the business thereof. The first order of

12 business of the board shall be the drafting of the by-laws,
13 rules and regulations of the foundation and the approval
14 thereof by the office of the attorney general of the state
15 of West Virginia.

16 Except in the instance of loan applications, all action
17 may be taken by a vote of a majority of the members
18 present, unless in any case the by-laws shall require a
19 larger number; approval or rejection of loan applications
20 shall be by a majority vote of the full membership of the
21 board.

22 The board thereafter shall have full authority to man-
23 age the properties and business of the foundation, and
24 to prescribe, amend and repeal by-laws, rules and regu-
25 lations governing the manner in which the business of
26 the foundation may be conducted, and the powers granted
27 to it may be exercised and embodied.

Sec. 10. Moneys of the Foundation.—All moneys of the
2 foundation, from whatever source derived, shall be paid
3 to the treasurer of the foundation. Said moneys shall be
4 deposited in the first instance by the treasurer in one or
5 more banks or trust companies, in one or more special

6 accounts, and each of such special accounts shall be
7 continuously secured by a pledge of direct obligations of
8 the United States of America or of the state, having an
9 aggregate market value, exclusive of accrued interest, at
10 all times at least equal to the balance on deposit in such
11 account. Such securities shall either be deposited with
12 the treasurer or be held by a trustee or agent satisfactory
13 to the foundation. All banks and trust companies are
14 authorized to give such security for such deposits. The
15 moneys in said accounts shall be paid out on the warrant
16 or other order of the treasurer of the foundation, or of
17 such other person or persons as the foundation may
18 authorize to execute such warrants or orders.

Sec. 11. Conflict of Interest—No member of the foun-
2 dation or officer or employee thereof shall either directly
3 or indirectly be a party to or be in any manner interested
4 in any contract or agreement with the foundation for
5 any matter, cause or thing whatsoever by reason ^{or} ~~of~~ hereof
6 any liability or indebtedness shall in any way be created
7 against such foundation. If any contract or agreement
8 shall be made in violation of the provisions of this sec-

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9 tion, the same shall be null and void and no action shall
10 be maintained thereon against such foundation.

11 **Sec. 12. Limitation of Powers**—The state does hereby
12 pledge to and agree with the United States and any other
13 federal agency that in the event any federal agency shall
14 construct or loan or contribute any funds for the con-
15 struction, extension, improvement or enlargement of any
16 wood products project, or any portion thereof, the state
17 will not alter or limit the rights and powers of the foun-
18 dation in any manner which would be inconsistent with
19 the due performance of any agreements between the
20 foundation and any such federal agency, and the foun-
21 dation shall continue to have and may exercise all
22 powers herein granted, so long as the same shall be
23 necessary or desirable for the carrying out of the pur-
24 poses of this act.

25 **Sec. 13. Audit**—The accounts and books of the founda-
26 tion, including its receipts, disbursements, contracts,
27 deeds of trust, investments and other matters re-
28 lating to its finances, operation and affairs, shall be
29 examined and audited from time to time by the state tax

6 commissioner in accordance with statutes applicable to
7 audits of state agencies.

8 **Sec. 14. Severability and Construction**—The provisions
9 of this article are considered remedial and shall be lib-
10 erally construed and interpreted so as to effect the gen-
11 eral purposes and objectives hereof. The provisions of
12 the article shall be severable, and if any of the provisions
13 thereof shall be held unconstitutional, such decisions
14 shall not affect the validity of any of the remaining pro-
15 visions of this article. It is hereby declared as the legis-
16 lative intent that this article would have been adopted
17 had such unconstitutional provisions not been included
18 herein.

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

A Ray Parker
Chairman Senate Committee

Edell L. Brundage
Chairman House Committee

Originated in the House.

Takes effect July 1, 1963 ~~passage~~.

J. Howard Myers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

Julius R. Rye Jr.
Speaker House of Delegates

The within approved this the 16th
day of March, 1963.

W. W. Barron
Governor

