WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1963

ENROLLED

HOUSE BILL No. 345

(By Mr. Speaker, Mr. DuBose, and Mr. Green)

PASSED March 9, 1963

In Effect July 1, 1963

Filed in Office of the Secretary of State
of West Virginia 3-16-63

JOE F. BURDETT
SECRETARY OF STATE
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:


Section 1. Short Title—This article shall be known and may be cited as the “West Virginia Forest Industries Industrial Foundation Act”.
Sec. 2. Purposes—The purposes of this article shall be
to provide for the formation of a public wood products
development foundation to promote, assist, encourage
and, in conjunction with such banking corporations or
institutions, trust companies, savings banks, building and
loan associations, insurance companies, or related cor-
porations, partnerships, foundations, or other institutions,
to develop and advance the wood products industry of
the state of West Virginia; to authorize county courts
and municipalities to appropriate money from their gen-
eral fund for the operation and projects of the founda-
tion; to encourage and assist in the location of new wood
products business and industry; to stimulate and assist
in the expansion of the wood products industry which
will tend to promote the business development and main-
tain the economic stability of this state, provide maximum
opportunities for employment, encourage thrift and im-
prove the standard of living of the citizens of this state;
to cooperate and act in conjunction with other organiza-
tions, public or private, the objects of which are the
promotion and advancement of the wood products industry in this state; to furnish money and credit to approved new and existing wood industry enterprises in this state, thereby establishing a source of credit not otherwise available therefor. Such purposes are hereby declared to be public purposes for which money of the foundation may be spent and are purposes which will promote the health, safety, morals, right to gainful employment, business opportunities and general welfare of the inhabitants of the state.

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

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

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

(c) 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 cre-
ated, designated or established by the United States of America.

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

(e) The term “forest industries industrial development fund” shall mean the account created by section nine of this act.

(f) The term “wood industry project” shall mean any site, structure, facility or undertaking comprising or being connected with or being a part of a wood industry or wood manufacturing enterprise established or to be established in West Virginia.

(g) The term “responsible buyer” shall mean any person, partnership, firm, company or corporation organized for profit deemed by the foundation, after proper investigation, to be financially responsible to assume all obligations prescribed by the foundation in the operation of a wood industrial or wood manufacturing enterprise.

(h) The term “responsible tenant” shall mean any per-
son, partnership, firm, company or corporation organized
for profit deemed by the foundation, after proper investi-
gation, to be financially responsible to assume all rental
and all other obligations prescribed by the foundation
in the leasing of a wood industry project and in the
operation of a wood industrial or wood manufacturing
enterprise therein or thereon.

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

Sec. 4. The West Virginia Forest Industries Industrial
Foundation—There is hereby created a body corporate
and politic, constituting a nonprofit corporation and
government instrumentality by the name of “The West
Virginia Forest Industries Industrial Foundation”, the
board of members of which shall be appointed by the gov-
ernor, with the advice and consent of the senate, who
shall represent the public, the public interest and the wood products industry.

The members of the foundation initially appointed by the governor shall continue in office for terms of one to five years, respectively, from the date of their appointment and until their successors shall be duly appointed and qualified, the term of each appointed member to be designated by the governor at the time of his appointment; but their successors shall each be appointed for a term of five years, except that any person appointed to fill a vacancy shall serve only for the unexpired term, and any appointed member of the foundation shall be eligible for reappointment. Said members of the foundation shall not be entitled to compensation for their services as members, but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

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

(a) To cooperate with industrial development agencies in their efforts to promote the expansion of wood industrial and manufacturing activity in the state.

(b) To determine, whether the declared public purpose of this act has been accomplished or will be accomplished by making a loan of money, sale or lease to a responsible borrower, buyer or tenant.

(c) To make, upon proper application of a responsible borrower, loans to such responsible borrower of moneys held in the forest industries industrial development fund for wood industry projects and to provide for the repayment and redeposit of such allocations and loans and to purchase shares of stock of the company of the responsible borrower or any notes receivable of said responsible buyer.

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

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

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

(g) To make by-laws for the management and regulation of its affairs.
(h) To appoint officers, agents, employees and servants, including persons qualified to grade lumber in accordance with specifications of the United States government.

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

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

(k) To take title by foreclosure to any wood industry project where such acquisition is necessary to protect any loan previously made therefor by the foundation and to sell, transfer and convey any such project to any responsible buyer; in the event of sale, if transfer and conveyance cannot be effected with reasonable promptness, the foundation may, in order to minimize financial losses and sustain employment, lease such project to a responsible tenant or tenants; the foundation shall not lease such project except under the conditions and for the purposes cited in this section: Provided, however,
That the foundation shall have no power at any time to borrow money or in any manner to pledge the credit or taxing power of the state or any of its municipalities or political subdivisions, nor shall any of its obligations be deemed to be obligations of the state or any of its political subdivisions.

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

Sec. 7. Loan Application Requirements—Prior to the loaning of any funds to a responsible borrower for a wood products project, the foundation shall receive from such borrower a loan application in form adopted by the foundation the provisions of which shall be determined 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 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
business of the board shall be the drafting of the by-laws, rules and regulations of the foundation and the approval thereof by the office of the attorney general of the state of West Virginia.

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

The board thereafter shall have full authority to manage the properties and business of the foundation, and to prescribe, amend and repeal by-laws, rules and regulations governing the manner in which the business of the foundation may be conducted, and the powers granted to it may be exercised and embodied.

Sec. 10. Moneys of the Foundation.—All moneys of the foundation, from whatever source derived, shall be paid to the treasurer of the foundation. Said moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special
accounts, and each of such special accounts shall be continuously secured by a pledge of direct obligations of the United States of America or of the state, having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account. Such securities shall either be deposited with the treasurer or be held by a trustee or agent satisfactory to the foundation. All banks and trust companies are authorized to give such security for such deposits. The moneys in said accounts shall be paid out on the warrant or other order of the treasurer of the foundation, or of such other person or persons as the foundation may authorize to execute such warrants or orders.

Sec. 11. Conflict of Interest—No member of the foundation or officer or employee thereof shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the foundation for any matter, cause or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such foundation. If any contract or agreement shall be made in violation of the provisions of this sec-
tion, the same shall be null and void and no action shall be maintained thereon against such foundation.

Sec. 12. Limitation of Powers—The state does hereby pledge to and agree with the United States and any other federal agency that in the event any federal agency shall construct or loan or contribute any funds for the construction, extension, improvement or enlargement of any wood products project, or any portion thereof, the state will not alter or limit the rights and powers of the foundation in any manner which would be inconsistent with the due performance of any agreements between the foundation and any such federal agency, and the foundation shall continue to have and may exercise all powers herein granted, so long as the same shall be necessary or desirable for the carrying out of the purposes of this act.

Sec. 13. Audit—The accounts and books of the foundation, including its receipts, disbursements, contracts, deeds of trust, investments and other matters relating to its finances, operation and affairs, shall be examined and audited from time to time by the state tax
commissioner in accordance with statutes applicable to
audits of state agencies.

Sec. 14. Severability and Construction—The provisions
of this article are considered remedial and shall be lib-
erally construed and interpreted so as to effect the gen-
eral purposes and objectives hereof. The provisions of
the article shall be severable, and if any of the provisions
thereof shall be held unconstitutional, such decisions
shall not affect the validity of any of the remaining pro-
visions of this article. It is hereby declared as the legis-
lative intent that this article would have been adopted
had such unconstitutional provisions not been included
herein.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect July 1, 1963.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor