

WEST VIRGINIA LEGISLATURE

SECOND EXTRAORDINARY SESSION, 1968



ENROLLED

HOUSE BILL No. 3

(By Mr. Speaker, Mr. White)



PASSED Sept 14, 1968

In Effect from Passage



FILED IN THE OFFICE  
ROBERT D. DANLEY  
SECRETARY OF STATE  
THIS DATE 9-19-68

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(By MR. SPEAKER, MR. WHITE)

[Passed September 14, 1968; in effect from passage.]

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 eighteen, relating to the creation and establishment of the West Virginia housing development fund, its purposes, board of directors, organization, staff, powers, duties, and tax exemption.

*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 eighteen, to read as follows:

**ARTICLE 19. WEST VIRGINIA HOUSING DEVELOPMENT FUND.**

**§31-18-1. Short title.**

1 This article shall be known and may be cited as the  
2 "West Virginia Housing Development Fund Act."

**§31-18-2. Legislative findings and purpose.**

1 (a) The Legislature hereby finds and declares that  
2 as a result of public actions involving highways, public  
3 facilities, flood control projects, and urban renewal ac-  
4 tivities, and as a result of the spread of slum conditions  
5 and blight to formerly sound urban and rural neighbor-  
6 hoods, there exists in the state of West Virginia a serious  
7 shortage of sanitary, decent and safe residential housing  
8 available at low prices or rentals to persons and families  
9 of low and moderate income. This shortage is severe in  
10 certain urban areas of the state, especially critical in the  
11 rural areas of West Virginia, and is inimical to the  
12 health, welfare and prosperity of all residents of the  
13 state and to the sound growth of West Virginia com-  
14 munities.

15 (b) The Legislature hereby finds and declares further  
16 that private enterprise and investment have not been able

17 to produce, without assistance, the needed construction of  
18 sanitary, decent and safe residential housing at low prices  
19 or rentals which persons and families of low and moderate  
20 income can afford, or to achieve the urgently needed  
21 rehabilitation of much of the present low and moderate  
22 income housing stock. It is imperative that the supply  
23 of residential housing for persons and families displaced  
24 by public actions or natural disaster be increased; and  
25 that private enterprise and investment be encouraged  
26 both to sponsor land development for residential hous-  
27 ing for such persons and families and to sponsor,  
28 build and rehabilitate residential housing for such  
29 persons and families, to help prevent the recurrence  
30 of slum conditions and blight and assist in their per-  
31 manent elimination throughout West Virginia.

32 (c) The Legislature hereby finds and declares fur-  
33 ther that its intention by enacting this legislation is  
34 to provide for the creation and establishment of the  
35 West Virginia housing development fund, the corporate  
36 purpose of which is to provide temporary financing  
37 for development costs, land development and resi-

38 dential housing construction to public and private spon-  
39 sors of land development for residential housing or  
40 residential housing, new or rehabilitated, for sale or  
41 rental to persons and families of low and moderate  
42 income; further to provide technical, consultative and  
43 project assistance services to public and private spon-  
44 sors of such land development or residential housing;  
45 and finally to assist in coordinating federal, state, reg-  
46 ional and local public and private efforts and resources  
47 to otherwise increase the supply of such residential  
48 housing.

49 (d) The Legislature hereby finds and declares fur-  
50 ther that in accomplishing this purpose, the West Vir-  
51 ginia housing development fund, created and established  
52 by this article, is acting in all respects for the benefit  
53 of the people of the state of West Virginia to serve a  
54 public purpose in improving and otherwise promoting  
55 their health, welfare and prosperity, and that the West  
56 Virginia housing development fund, so created and es-  
57 tablished, is empowered, hereby, to act on behalf of the  
58 state of West Virginia and its people in serving this  
59 public purpose for the benefit of the general public.

**§31-18-3. Definitions.**

1 As used in this article, unless the context otherwise  
2 requires:

3 (1) "Development costs" means the costs approved  
4 by the housing development fund as appropriate ex-  
5 penditures which may be incurred by sponsors of land  
6 development for residential housing or residential  
7 housing, within this state, prior to commitment and ini-  
8 tial advance of the proceeds of a federally insured con-  
9 struction loan, federally insured mortgage or federal  
10 mortgage or other public assistance programs, and for  
11 which temporary loans from the operating loan fund, if  
12 created, may be made by the housing development fund  
13 subject to the provisions of section nineteen of this ar-  
14 ticle, including but not limited to:

15 (a) Payments for options to purchase properties on  
16 the proposed residential housing site, deposits on con-  
17 tracts of purchase, or, with prior approval of the corpor-  
18 ation, payments for the purchase of such properties;

19 (b) Legal and organizational expenses, including  
20 payments of attorneys' fees, project manager and clerical  
21 staff salaries, office rent and other incidental expenses;

22 (c) Payment of fees for preliminary feasibility  
23 studies, advances for planning, engineering and architec-  
24 tural work;

25 (d) Expenses for tenant surveys and market analyses;  
26 and

27 (e) Necessary application and other fees;

28 (2) "Federally insured construction loan" means a  
29 construction loan for land development for residential  
30 housing which is either secured by a federally insured  
31 mortgage or a federal mortgage, or which is insured by  
32 the United States or an instrumentality thereof, or a  
33 commitment by the United States or an instrumentality  
34 thereof to insure such a loan;

35 (3) "Federally insured mortgage" means a mortgage  
36 loan for land development for residential housing or resi-  
37 dential housing insured or guaranteed by the United  
38 States or an instrumentality thereof, or a commitment  
39 by the United States or an instrumentality thereof to  
40 insure such a mortgage;

41 (4) "Federal mortgage" means a mortgage loan for  
42 land development for residential housing or residential

43 housing made by the United States or an instrumentality  
44 thereof, or a commitment by the United States or an in-  
45 strumentality thereof to make such a mortgage loan;

46 (5) "Housing development fund" means the West  
47 Virginia housing development fund created and estab-  
48 lished by section four of this article;

49 (6) "Land development" means the process of ac-  
50 quiring land for residential housing construction,  
51 and of making, installing, or constructing nonresi-  
52 dential housing improvements, including water lines  
53 and water supply installations, sewer lines and sewage  
54 disposal installations, steam, gas, and electric lines  
55 and installations, roads, streets, curbs, gutters, side-  
56 walks, whether on or off the site, which the housing  
57 development fund deems necessary or desirable to  
58 prepare such land for residential housing construction  
59 within this state;

60 (7) "Operating loan fund" means the operating  
61 loan fund which may be created and established by the  
62 housing development fund in accordance with section  
63 nineteen of this article;

64 (8) "Persons and families of low and moderate in-  
65 come" means persons and families, irrespective of race,  
66 creed, national origin or sex, deemed by the housing de-  
67 velopment fund to be eligible or potentially eligible to  
68 occupy residential housing constructed and financed,  
69 wholly or in part, with federally insured construction  
70 loans, federally insured mortgages, federal mortgages or  
71 with other public or private assistance;

72 (9) "Residential housing" means a specific work or  
73 improvement within this state undertaken primarily to  
74 provide dwelling accommodations, including the acquis-  
75 ition, construction or rehabilitation of land, buildings and  
76 improvements thereto, for residential housing, and such  
77 other nonhousing facilities as may be incidental or ap-  
78 purtenant thereto.

**§31-18-4. Creation and establishment of housing development  
fund; directors.**

1 (a) There is hereby created and established as a  
2 governmental instrumentality of the state of West  
3 Virginia, a public body corporate to be known as the  
4 West Virginia housing development fund.

5 (b) The housing development fund is created and  
6 established to serve a public corporate purpose and to  
7 act for the public benefit and as a governmental in-  
8 strumentality of the state of West Virginia, to act on  
9 behalf of the state and its people in improving and other-  
10 wise promoting their health, welfare and prosperity.

11 (c) The housing development fund shall be governed  
12 by a board of directors, consisting of eleven members,  
13 four of whom shall be the attorney general, the secre-  
14 tary of state, the state treasurer and the commissioner  
15 of commerce, as public directors, and seven of whom  
16 shall be chosen from the general public residing in the  
17 state, as private directors. No more than four of the  
18 private directors shall be from the same political party.

19 (d) Upon organization of the housing development  
20 fund, the governor shall appoint, by and with the ad-  
21 *vice and consent* vice of the Senate, the seven private directors to take  
22 office and to exercise all powers thereof immediately,  
23 with two each appointed for terms of two years and three  
24 years, and with three each appointed for terms of four  
25 years, respectively, as the governor shall designate; at

26 the expiration of said terms and for all succeeding terms,  
27 the governor shall appoint a successor to the office of pri-  
28 vate director for a term of four years in each case.

29 (e) In case of any vacancy in the office of a private  
30 director, such vacancy shall be filled by appointment by  
31 the governor for the unexpired term.

32 (f) The governor may remove any private director  
33 whom he may appoint in case of incompetency, neglect  
34 of duty, gross immorality, or malfeasance in office; and  
35 he may declare his office vacant and may appoint a per-  
36 son for such vacancy as provided in other cases of va-  
37 cancy.

38 (g) The chairman of the board of directors shall be  
39 designated by the governor from among the private  
40 directors appointed. The vice chairman of the board  
41 shall be the commissioner of commerce.

42 (h) Six members of the board of directors shall con-  
43 stitute a quorum. No vacancy in the membership of  
44 the board shall impair the right of a quorum to exercise  
45 all the rights and perform all the duties of the board of  
46 directors.

47 (i) No action shall be taken by the board of directors  
48 except upon the affirmative vote of at least six of the  
49 directors.

50 (j) The directors, including the chairman, vice chair-  
51 man and treasurer of the board of directors, and the  
52 secretary of the board of directors, shall receive no com-  
53 pensation for their services but shall be entitled to their  
54 reasonable and necessary expenses actually incurred in  
55 discharging their duties under this article.

**§31-18-5. Management and control of housing development  
fund; officers.**

1 (a) The management and control of the housing  
2 development fund shall be vested solely in the board of  
3 directors in accordance with the provisions of this  
4 article.

5 (b) The chairman shall be the chief executive officer  
6 of the housing development fund, and, in his absence,  
7 the vice chairman shall act as chief executive officer.

8 (c) The board of directors may appoint a chief  
9 administrative officer and may fix his title, duties and  
10 compensation.

11 (d) The board of directors of the housing develop-  
12 ment fund shall annually elect from its membership a  
13 treasurer, and shall annually elect a secretary, who  
14 need not be a member of the board, to keep a  
15 record of the proceedings of the housing development  
16 fund.

17 (e) The treasurer of the housing development fund  
18 shall be custodian of all funds of the housing develop-  
19 ment fund, and shall be bonded in such amount as the  
20 other members of the board of directors may designate.

**§31-18-6. Corporate powers.**

1 The housing development fund is hereby granted,  
2 has and may exercise all powers necessary or appro-  
3 priate to carry out and effectuate its corporate purpose,  
4 including but not limited to the following:

5 (1) To make or participate in the making of federally  
6 insured construction loans to sponsors of land develop-  
7 ment for residential housing for occupancy by persons  
8 <sup>or</sup> and families of low and moderate income or residential  
9 housing for occupancy by persons or families of low and  
10 moderate income who are eligible or potentially eligible

11 for federally insured mortgages or federal mortgages.  
12 Such loans shall be made only upon determination by  
13 the housing development fund that construction loans  
14 are not otherwise available, wholly or in part, from pri-  
15 vate lenders upon reasonably equivalent terms and con-  
16 ditions;

17 (2) To make temporary loans, with or without inter-  
18 est, but with such security for repayment as the housing  
19 development fund deems reasonably necessary and prac-  
20 ticable, from the operating loan fund, if created, estab-  
21 lished, organized and operated in accordance with the  
22 provisions of section nineteen of this article, to defray  
23 development costs to sponsors of land development for  
24 residential housing for occupancy by persons and fam-  
25 ilies of low and moderate income or residential housing  
26 construction for occupancy by persons and families of  
27 low and moderate income which is eligible or potentially  
28 eligible for federally insured construction loans, federally  
29 insured mortgages or federal mortgages;

30 (3) To accept appropriations, gifts, grants, bequests,  
31 and devises, and to utilize or dispose of the same to carry  
32 out its corporate purpose;

33 (4) To make and execute contracts, releases, compro-  
34 mises, compositions and other instruments necessary  
35 or convenient for the exercise of its powers, or to carry  
36 out its corporate purpose;

37 (5) To collect reasonable fees and charges in con-  
38 nection with making and servicing its loans, notes, bonds,  
39 obligations, commitments and other evidences of indebt-  
40 edness, and in connection with providing technical, con-  
41 sultative and project assistant services. Such fees and  
42 charges shall be limited to the amounts required to pay  
43 the costs of the housing development fund, including  
44 operating and administrative expenses, and reasonable  
45 allowances for losses which may be incurred;

46 (6) To invest any funds not required for immediate  
47 disbursement in obligations of the state of West Virginia  
48 or of the United States government, the principal and  
49 interest of which are guaranteed by the state of West  
50 Virginia, or the United States government or any instru-  
51 mentality thereof;

52 (7) To sue and be sued;

53 (8) To have a seal and alter the same at will;

54 (9) To make, and from time to time, amend and re-  
55 peal bylaws, rules and regulations not inconsistent with  
56 the provisions of this article;

57 (10) To appoint such officers, employees and consult-  
58 ants as it deems advisable and to fix their compensation  
59 and prescribe their duties;

60 (11) To acquire, hold and dispose of personal prop-  
61 erty for its corporate purposes;

62 (12) To enter into agreements or other transactions  
63 with any federal or state agency, any person and any  
64 domestic or foreign partnership, corporation, association  
65 or organization;

66 (13) To acquire real property, or an interest therein,  
67 in its own name, by purchase or foreclosure, where such  
68 acquisition is necessary or appropriate to protect any loan  
69 in which the housing development fund has an interest  
70 and to sell, transfer and convey any such property to a  
71 buyer and, in the event such sale, transfer or conveyance  
72 cannot be effected with reasonable promptness or at a  
73 price, to lease such property to a tenant;

74 (14) To sell, at public or private sale, any mortgage or

75 other negotiable instrument or obligation securing a con-  
76 struction, land development, mortgage or temporary loan;

77 (15) To procure insurance against any loss in con-  
78 nection with its property in such amounts, and from  
79 such insurers, as may be necessary or desirable;

80 (16) To consent, whenever it deems it necessary or  
81 desirable in the fulfillment of its corporate purpose,  
82 to the modification of the rate of interest, time of  
83 payment or any installment of principal or interest,  
84 or any other terms, of any mortgage loan, mortgage  
85 loan commitment, construction loan, temporary loan,  
86 contract or agreement of any kind to which the housing  
87 development fund is a party;

88 (17) To make and publish rules and regulations  
89 respecting its federally insured construction lending  
90 and temporary lending to defray development costs  
91 and any such other rules and regulations as are neces-  
92 sary to effectuate its corporate purpose;

93 (18) To borrow money to carry out and effectuate  
94 its corporate purpose and to issue its negotiable bonds  
95 or notes as evidence of any such borrowing in such

96 principal amounts and upon such terms as shall be  
97 necessary to provide sufficient funds for achieving its  
98 corporate purpose, except that no negotiable bonds or  
99 notes shall be issued to mature more than ten years  
100 from date of issuance, and except that the amount  
101 borrowed and evidenced by the issuance of its negotiable  
102 bonds shall not exceed the amount reasonably esti-  
103 mated at the time of the issuance of such negotiable  
104 bonds to be required for the purpose of making fed-  
105 erally insured construction loans for a period of two  
106 years;

107 (19) To issue renewal notes, to issue bonds to pay  
108 notes and, whenever it deems refunding expedient,  
109 to refund any bonds by the issuance of new bonds,  
110 whether the bonds to be refunded have or have not  
111 matured except that no such renewal notes or refunding  
112 bonds shall be issued to mature more than ten years  
113 from date of issuance;

114 (20) To apply the proceeds from the sale of renewal  
115 notes or refunding bonds to the purchase, redemp-  
116 tion, or payment of the notes or bonds to be re-  
117 funded;

118 (21) To provide technical services to assist in the  
119 planning, processing, design, construction or rehabili-  
120 tation of residential housing for occupancy by persons  
121 and families of low and moderate income or land devel-  
122 opment for residential housing for occupancy by persons  
123 and families of low and moderate income;

124 (22) To provide consultative project assistance serv-  
125 ices for residential housing for occupancy by persons and  
126 families of <sup>2-</sup>low and moderate income and for land devel-  
127 opment for residential housing for occupancy by persons  
128 and families of low and moderate income, and for the  
129 residents thereof with respect to management, training  
130 and social services; and

131 (23) To promote research and development in scien-  
132 tific methods of constructing low cost residential housing  
133 of high durability.

**§31-18-7. Notes or bonds as general obligations of housing de-  
velopment fund.**

1 Except as may otherwise be provided by the housing  
2 development fund, every issue of its notes or bonds  
3 shall be general obligations of the housing development

4 fund payable out of any revenues or moneys of the  
5 housing development fund, subject only to any agree-  
6 ments with the holders of particular notes or bonds  
7 pledging any particular receipts or revenues.

**§31-18-8. Notes and bonds as negotiable instruments.**

1 The notes and bonds shall be and hereby are made  
2 negotiable instruments under the provisions of article  
3 eight, chapter forty-six of this code, subject only to the  
4 provisions of the notes or bonds for registration.

**§31-18-9. Borrowing of money.**

1 The borrowing of money and the notes and bonds  
2 evidencing any such borrowing shall be authorized by  
3 resolution approved by the board of directors of the  
4 housing development fund, shall bear such date or dates,  
5 and shall mature at such time or times, in the case of  
6 any such note or any renewal thereof, not exceeding  
7 ten years from the date of issue of such original note,  
8 and, in the case of any such bond, not exceeding ten  
9 years from the date of issue, as such resolution or reso-  
10 lutions may provide. The notes and bonds shall bear  
11 interest at such rate or rates, be in such denominations,

12 be in such form, either coupon or registered, carry such  
13 registration privileges, be executed in such manner, be  
14 payable in such medium of payment, at such place or  
15 places, and be subject to such terms or conditions of  
16 redemption as such resolution or resolutions may pro-  
17 vide.

**§31-18-10. Sale of notes or bonds.**

1 Any such notes or bonds may be sold by the housing  
2 development fund at public or private sale, in accord-  
3 ance with the following procedure. The housing de-  
4 velopment fund shall first advertise the notes or bonds  
5 for sale, on sealed bids, which advertisement shall be  
6 published as a Class II legal advertisement in compliance  
7 with the provisions of article three, chapter fifty-nine  
8 of this code, and the publication area for such publication  
9 shall be the county in which the corporation's principal  
10 office is established. The first publication shall be made  
11 at least fourteen days before the date fixed for the re-  
12 ception of bids. Such advertisement shall also be pub-  
13 lished as a Class II legal advertisement in a financial  
14 paper published either in the city of New York or the

15 city of Chicago. The housing development fund may  
16 reject all bids. If any of the notes or bonds be not sold  
17 pursuant to such advertisement, they may, within sixty  
18 days after the day advertised for the reception of bids,  
19 be sold by the housing development fund at private sale,  
20 but no private sale shall be made at an interest cost to  
21 the housing development fund in excess of six percentum  
22 per annum.

**§31-18-11. Authorizing resolutions.**

1 Any resolution or resolutions authorizing any notes  
2 or bonds, or any issue thereof, may contain provisions,  
3 which shall be a part of the contract with the holders  
4 thereof, as to:

5 (1) Pledging all or part of the mortgage or deed  
6 of trust payments, charges and other fees made or re-  
7 ceived by the housing development fund and other  
8 moneys received or to be received to secure the pay-  
9 ment of the notes or bonds or of any issue thereof,  
10 subject to such agreements with bondholders or note-  
11 holders as may then exist;

12 (2) Pledging all or any part of the assets of the hous-  
13 ing development fund to secure the payment of the notes

14 or bonds or any issue of notes or bonds, subject to such  
15 agreements with noteholders as may then exist;

16 (3) The setting aside of reserves or sinking funds  
17 and the regulation and disposition thereof;

18 (4) Limitations on the purpose to which the pro-  
19 ceeds of sale of notes or bonds may be applied and  
20 pledging such proceeds to secure the payments of the  
21 notes or bonds or of any issue thereof;

22 (5) Limitations on the issuance of additional notes or  
23 bonds; the terms upon which additional notes or bonds  
24 may be issued and secured; the refunding of outstanding  
25 or other notes or bonds;

26 (6) The procedure, if any, by which the terms of  
27 any contract with noteholders or bondholders may be  
28 amended or abrogated, the amount of notes or bonds the  
29 holders of which must consent thereto, and the manner  
30 in which such consent may be given;

31 (7) Limitations on the amount of moneys to be  
32 expended by the housing development fund for oper-  
33 ating, administrative or other expenses of the housing  
34 development fund;

35 (8) Vesting in a trustee or trustees such property,  
36 rights, powers and duties of any trustee appointed by the  
37 bondholders pursuant to section sixteen of this article,  
38 and limiting or abrogating the right of the bondholders to  
39 appoint a trustee under section sixteen of this article or  
40 limiting the rights, powers and duties of such trustee; and  
41 (9) Any other matters, of like or different character,  
42 which in any way affect the security or protection of  
43 the notes or bonds.

**§31-18-12. Validity of any pledge, mortgage, deed of trust or security instrument.**

1 It is the intention hereof that any pledge, mortgage,  
2 deed of trust or security instrument made by or for the  
3 benefit of the housing development fund shall be valid  
4 and binding between the parties from the time the pledge,  
5 mortgage, deed of trust or security instrument is made;  
6 and that the moneys or property so pledged, encum-  
7 bered, mortgaged or entrusted shall immediately be sub-  
8 ject to the lien of such pledge, mortgage, deed of trust or  
9 security instrument without any physical delivery thereof  
10 or further act. Nothing herein shall be construed to

11 prohibit the housing development fund from selling any  
12 property subject to any such pledge, mortgage, deed of  
13 trust or security instrument. Such property is not to  
14 be sold for less than its fair market value.

**§31-18-13. Redemption of notes or bonds.**

1 The housing development fund, subject to such  
2 agreements with noteholders or bondholders as may  
3 then exist, shall have power, out of any funds available  
4 therefor, to purchase notes or bonds of the housing  
5 development fund.

6 If the notes or bonds are then redeemable, the price  
7 of such purchase shall not exceed the redemption price  
8 then applicable plus accrued interest to the next interest  
9 payment date thereon. If the notes or bonds are not  
10 then redeemable, the price of such purchase shall not  
11 exceed the redemption price applicable on the first date  
12 after such purchase upon which the notes or bonds  
13 become subject to redemption plus accrued interest to  
14 such date. Upon such purchase such notes or bonds shall  
15 be canceled.

**§31-18-14. Disclaimer of any liability of state of West Virginia.**

1 The state of West Virginia shall not be liable on notes,  
2 bonds or other evidences of indebtedness of the housing  
3 development fund and such notes, bonds or other evi-  
4 dences of indebtedness shall not be a debt of the state  
5 of West Virginia, and such notes, bonds or other evi-  
6 dences of indebtedness shall contain on the face thereof  
7 a statement to such effect.

**§31-18-15. Limitation of rights vested in housing development fund by state.**

1 The state of West Virginia does hereby pledge to and  
2 agree with the holders of any notes or bonds issued  
3 under this article, that the state will not limit or alter  
4 the rights hereby vested in the housing development  
5 fund to fulfill the terms of any agreements made with  
6 the holders thereof, or in any way impair the rights and  
7 remedies of such holders until such notes or bonds,  
8 together with the interest thereon, with interest on  
9 any unpaid installments of interests, and all costs and  
10 expenses for which the housing development fund is  
11 liable in connection with any action or proceeding by  
12 or on behalf of such holders, are fully met and discharged.

13 The housing development fund is hereby authorized to  
14 include this pledge and agreement of the state in any  
15 agreement with the holders of such notes and bonds.

**§31-18-16. Default in payment of principal or interest.**

1 (a) In the event the housing development fund shall  
2 default in the payment of principal of or interest on  
3 any issue of notes or bonds after the same shall become  
4 due, whether at maturity or upon call for redemption,  
5 and such default shall continue for a period of thirty  
6 days, or in the event the housing development fund  
7 shall fail or refuse to comply with the provisions of  
8 this article or shall default in any agreement made with  
9 the holders of any issue of notes or bonds, the holders  
10 of twenty-five percentum in aggregate principal amount  
11 of the notes or bonds of such issue then outstanding,  
12 by instrument or instruments filed in the office of the  
13 clerk of the county court of any county in which the  
14 housing development fund operates and has an office  
15 and acknowledged in the same manner as a deed to  
16 be recorded, may appoint a trustee to represent the  
17 holders of such notes or bonds for the purposes herein  
18 provided.

19 (b) Any such trustee upon the written request of  
20 the holders of twenty-five percentum in principal amount  
21 of such notes or bonds then outstanding shall, in his or  
22 its own name, do any one or more of the following:

23 (1) By civil action or other proceeding, enforce all  
24 rights of the noteholders or bondholders, including the  
25 right to require the housing development fund to per-  
26 form its duties under this article;

27 (2) Bring a civil action upon such notes or bonds;

28 (3) By civil action or other proceeding, require the  
29 housing development fund to account as if it were the  
30 trustee of an express trust for the holders of such notes  
31 or bonds;

32 (4) By civil action or other proceeding, enjoin any  
33 acts or things which may be unlawful or in violation  
34 of the rights of the holders of such notes or  
35 bonds;

36 (5) Declare all such notes or bonds due and payable,  
37 and if all defaults shall be made good, then, with the  
38 consent of the holders of twenty-five percentum of the  
39 principal amount of such notes or bonds then outstand-  
40 ing, annul such declaration and its consequences.

41 (c) In addition to the foregoing, such trustee shall  
42 have and possess all of the powers necessary or appro-  
43 priate for the exercise of any functions specifically set  
44 forth herein or incident to the general representation of  
45 bondholders or noteholders in the enforcement and pro-  
46 tection of their rights.

47 (d) Before declaring the principal of any notes or  
48 bonds due and payable, the trustee shall first give thirty  
49 days' notice in writing to the housing development fund.

**§31-18-17. Investment in notes and bonds.**

1 The notes and bonds of the housing development fund  
2 are hereby made securities in which all insurance com-  
3 panies and associations, and other persons carrying on  
4 an insurance business, all banks, bankers, trust com-  
5 panies, building and loan associations, savings and loan  
6 associations, investment companies and other persons  
7 carrying on a banking business, and other persons, except  
8 administrators, guardians, executors, trustees and fiduci-  
9 aries, who are now or who may hereafter be authorized  
10 to invest in bonds or other obligations of the state,  
11 may properly and legally invest funds including capital  
12 in their control or belonging to them.

**§31-18-18. Tax exemption.**

1 The housing development fund shall not be required  
2 to pay any taxes and assessments to the state of West  
3 Virginia, or any county, municipality or other govern-  
4 mental subdivision of the state of West Virginia, upon  
5 any of its property or upon its obligations or other evi-  
6 dences of indebtedness pursuant to the provisions of  
7 this article, or upon any moneys, funds, revenues or other  
8 income held or received by the housing development  
9 fund and the notes and bonds of the housing development  
10 fund and the income therefrom shall at all times be  
11 exempt from taxation, as aforesaid, except for death and  
12 gift taxes, taxes on transfers, sales taxes, real property  
13 taxes and business and occupation taxes.

**§31-18-19. Operating loan fund.**

1 (a) The board of directors of the housing develop-  
2 ment fund may create and establish a special revolving  
3 loan fund of moneys made available by contribution or  
4 loan, to be known as the operating loan fund and to be  
5 governed, administered and accounted for by the direc-  
6 tors, officers and managerial staff of the housing de-

7 velopment fund as a public purpose trust account sepa-  
8 rate and distinct from any other moneys, fund or funds  
9 owned and managed by the housing development fund.

10 (b) The purpose for organizing and operating the  
11 operating loan fund shall be to provide a source from  
12 which the housing development fund may make tempo-  
13 rary loans, with or without interest, but with such secu-  
14 rity for repayment as the housing development fund  
15 deems reasonably necessary and practicable; such loans  
16 to be used to defray development costs to sponsors of  
17 land development for residential housing construction for  
18 occupancy by persons and families of low and moderate  
19 income or residential housing construction for occupancy  
20 by persons and families of low and moderate income which  
21 is eligible or potentially eligible for federally insured con-  
22 struction loans, federally insured mortgages or federal  
23 mortgages or other public assistance programs.

24 (c) No temporary loans shall be made by the housing  
25 development fund from the operating loan fund except in  
26 accordance with a written loan agreement which shall in-  
27 clude, but not be limited to, the following terms and  
28 conditions:

29 (1) The proceeds of all such loans shall be used only  
30 to defray the development costs of such proposed resi-  
31 dential housing;

32 (2) All such loans shall be repaid in full, with or  
33 without interest as provided in the agreement;

34 (3) All repayments shall be made concurrent with re-  
35 ceipt by the borrower of the proceeds of a construction  
36 loan or mortgage, as the case may be, or at such other  
37 times as the housing development fund deems reason-  
38 ably necessary or practicable; and

39 (4) Specification of such security for repayments upon  
40 such terms and conditions as the housing development  
41 fund deems reasonably necessary or practicable to ensure  
42 all repayments.

43 (d) No funds from the operating loan fund shall be  
44 used to carry on propaganda, or otherwise attempt to  
45 influence legislation.

**§31-18-20. Authorized limit on borrowing.**

1 The housing development fund is hereby authorized to  
2 borrow up to thirty million dollars and to issue its  
3 negotiable bonds or notes as evidence of such borrow-

4 ing; and further to borrow such additional sums of  
5 money as it deems reasonably necessary or appropriate  
6 to effectuate its corporate purpose. Such additional bor-  
7 rowing shall not be accompanied by the issuance of  
8 negotiable bonds but may be accompanied by the issu-  
9 ance of negotiable notes to evidence such additional in-  
10 debtedness.

**§31-18-21. Prohibition on funds inuring to the benefit of or  
being distributable to directors, officers or pri-  
vate persons.**

1 No part of the funds of the housing development fund,  
2 or of the operating loan fund, shall inure to the benefit  
3 of or be distributable to its directors or officers or other  
4 private persons except that the housing development  
5 fund shall be authorized and empowered to pay reason-  
6 able compensation, other than to the directors, including  
7 the chairman, vice chairman and treasurer of the board  
8 of directors and the secretary of the board of directors,  
9 for services rendered and to make loans as previously  
10 specified in furtherance of its corporate purpose: *Pro-*  
11 *vided*, That no such loans shall be made to any director  
12 or officer of the housing development fund.

**§31-18-22. Termination or dissolution.**

1 Upon termination or dissolution, all rights and prop-  
2 erties of the housing development fund, including the  
3 operating loan fund, shall pass to and be vested in the  
4 state of West Virginia, subject to the rights of lienholders  
5 and other creditors.

**§31-18-23. Services to the state of West Virginia and its political subdivisions.**

1 (a) The housing development fund may provide  
2 technical, consultative and project assistance services to  
3 the state of West Virginia and any of its political sub-  
4 divisions and is hereby authorized to enter into contracts  
5 with the state of West Virginia and any of its political  
6 subdivisions to provide such services.

7 (b) The state of West Virginia or any political sub-  
8 division thereof is hereby authorized to enter into con-  
9 tracts with the housing development fund for such serv-  
10 ices and to pay for such services as may be provided to it.

**§31-18-24. Annual audit.**

1 The housing development fund shall cause an annual  
2 audit to be made by a resident independent certified  
3 public accountant of its books, accounts, and records,

4 with respect to its receipts, disbursements, contracts,  
5 mortgages, leases, assignments, loans and all other  
6 matters relating to its financial operations, including  
7 those of the operating loan fund. The person performing  
8 such audit shall furnish copies of the audit report to  
9 the commissioner of finance and administration, where  
10 they shall be placed on file and made available for in-  
11 spection by the general public. The person performing  
12 such audit shall also furnish copies of the audit report  
13 to the speaker of the House of Delegates, the president  
14 of the Senate and the majority and minority leaders of  
15 both houses.

**§31-18-25. Severability clause.**

1 If any provision of this article or the application  
2 thereof to any person or circumstance is held invalid,  
3 such invalidity shall not affect other provisions or appli-  
4 cations of the article, and to this end the provisions of  
5 this article are severable.

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

William Tompkins  
Chairman Senate Committee

Clayton L. Davidson  
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard Shyer  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

Howard W. Cannon  
President of the Senate

H. Robert White  
Speaker House of Delegates

The within approved this the 19  
day of September, 1968.

Frederic C. Smith  
Governor



PRESENTED TO THE  
GOVERNOR

Date 9/17/68  
Time 4:50 P.M.

RECEIVED  
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