

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969



ENROLLED

HOUSE BILL No. 774

(By Mr. Specker, Mr. Beasly, and  
Mr. Seibert



PASSED March 6, 1969

In Effect thirty days from Passage



FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, IV  
SECRETARY OF STATE

THIS DATE 3-17-69

# 774

**ENROLLED**

**House Bill No. 774**

(By MR. SPEAKER, MR. BOIARSKY, and MR. SEIBERT)

[Passed March 6, 1969; in effect ninety days from passage.]

AN ACT to amend and reenact section seven, article two-c, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections five and six, article fifteen, chapter thirty-one of said code, relating to the issuance of bonds under the industrial development bond act; relating to the West Virginia industrial development authority; providing for alternates to attend the meetings, vote and participate in the affairs of the authority; and relating to reorganizations and receivership proceedings involving responsible buyers and responsible tenants under the West Virginia industrial development authority act.

*Be it enacted by the Legislature of West Virginia:*

That section seven, article two-c, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections five and six, article fifteen, chapter thirty-one of said code be amended and reenacted, all to read as follows:

**ARTICLE 2C. INDUSTRIAL DEVELOPMENT BOND ACT.**

**§13-2C-7. Bonds issued to finance industrial plant.**

1 All bonds issued by a county court or by a municipality  
2 under the authority of this article shall be limited obliga-  
3 tions of the county, or of the municipality, the principal  
4 and interest on which shall be payable out of the rev-  
5 enues derived from the leasing of the plant to finance  
6 which the bonds are issued or any other revenue derived  
7 from such industrial plant. The bonds and interest cou-  
8 pons issued under the authority of this article shall never  
9 constitute an indebtedness of the county, or of the mu-  
10 nicipality issuing the same, within the meaning of any  
11 constitutional provision or statutory limitation and shall  
12 never constitute or give rise to a pecuniary liability  
13 of the county, or of the municipality issuing the same.

14 Neither shall such bond and/or interest thereon be a  
15 charge against the general credit or taxing powers of  
16 the county, or the municipality and such fact shall be  
17 plainly stated on the face of each such bond. Such bonds  
18 may be executed, issued and delivered at any time and  
19 from time to time, may be in such form and denomi-  
20 nation; may be of such tenor, must be negotiable but  
21 may be registered as to the principal thereof or as to  
22 the principal and interest thereof, may be payable in  
23 such amounts and at such time or times; may be pay-  
24 able at such place or places, may bear interest at such  
25 rate or rates payable at such place or places and evidenced  
26 in such manner, and may contain such provisions therein  
27 not inconsistent herewith, all as shall be provided in the  
28 proceedings of the governing body whereunder the bonds  
29 shall be authorized to be issued. Said bonds may be  
30 sold by the governing body at public or private sale.  
31 The said bonds may also be issued and delivered to the  
32 owners of an industrial plant in exchange therefor and  
33 in payment of the purchase price thereof.

34 The bonds issued pursuant to this article by a county  
35 court shall be signed by the president and attested by

36 the clerk of the county court under the seal of the  
37 court and the bonds issued by a municipality shall be  
38 signed by the mayor or other chief officer thereof and  
39 attested by the clerk, recorder, or other official cus-  
40 todian of the records of said municipality and under  
41 the seal of the municipality. The coupons attached  
42 thereto shall bear the facsimile signature of the presi-  
43 dent of the county court or the mayor or other chief  
44 officer of the municipality. In case any of the officials  
45 whose signatures appear on the bonds or coupons shall  
46 cease to be such officers before the delivery of such bonds,  
47 such signatures shall, nevertheless, be valid and suffi-  
48 cient for all purposes to the same extent as if they had  
49 remained in office until such delivery.

50 If the proceeds of such bonds by error of calculation  
51 or otherwise, shall be less than the cost of the indus-  
52 trial plant, additional bonds may in like manner be  
53 issued to provide the amount of the deficiency, and unless  
54 otherwise provided for in the trust agreement, mortgage,  
55 or deed of trust, shall be deemed to be of the same issue,  
56 and shall be entitled to payment from the same fund,

57 without preference or priority, and shall be of equal  
58 priority as to any security.

**ARTICLE 5. WEST VIRGINIA INDUSTRIAL DEVELOPMENT  
AUTHORITY.**

**§31-15-5. West Virginia industrial development authority  
created; composition of board of members; ap-  
pointment and term of members; compensation  
and expenses.**

1 There is hereby created a body corporate and politic,  
2 constituting a public corporation and government instru-  
3 mentality by the name of the "West Virginia Industrial  
4 Development Authority," the board of members of which  
5 shall be composed of the following: The commissioner  
6 of commerce, who shall serve as chairman, the state tax  
7 commissioner, the state banking commissioner and the  
8 director of the department of natural resources, and their  
9 respective successors in office, and five additional mem-  
10 bers who shall be appointed by the governor, with the  
11 advice and consent of the Senate, who shall represent the  
12 general public and the public interest. The members of  
13 the authority initially appointed by the governor shall  
14 continue in office for terms of one to five years, respec-  
15 tively, from the date of their appointment and until their

16 respective successors shall be duly appointed and quali-  
17 fied, the term of each appointed member to be designated  
18 by the governor at the time of his appointment; but their  
19 successors shall each be appointed for a term of five years,  
20 except that any person appointed to fill a vacancy shall  
21 serve only for the unexpired term, and any appointed  
22 member of the authority shall be eligible for reappoint-  
23 ment. The commissioner of commerce, the state tax com-  
24 missioner, the state banking commissioner or the di-  
25 rector of the department of natural resources may, by  
26 written memorandum filed with the secretary of the au-  
27 thority, delegate, from time to time, to any deputy or  
28 other subordinate in his department or office the power  
29 to be present and participate, including voting on any  
30 question that may arise, as its representative or delegate  
31 at any meeting of the authority and its vote shall have  
32 the same validity as if the official had voted in person.  
33 Said members of the authority shall be entitled to no com-  
34 pensation for their services as members, but shall be  
35 entitled to reimbursement for all necessary expenses in-  
36 curred in connection with the performance of their duties  
37 as members.

**§31-15-6. Powers of authority generally.**

1 The authority, as a public corporation and govern-  
2 mental instrumentality exercising public powers of the  
3 state, is hereby granted and shall have and may exercise  
4 all powers necessary or appropriate to carry out and  
5 effectuate the purposes of this article, including the fol-  
6 lowing powers, in addition to others herein granted:

7 (a) To make determination and designation of critical  
8 economic areas.

9 (b) To cooperate with industrial development agen-  
10 cies in the efforts to promote the expansion of industrial  
11 and manufacturing activity in critical economic areas.

12 (c) To determine, upon proper application of indus-  
13 trial development agencies, whether the declared public  
14 purpose of this article has been accomplished or will  
15 be accomplished by the establishment by such industrial  
16 development agencies of an industrial development proj-  
17 ect in a critical economic area.

18 (d) To conduct examinations and investigations and  
19 to hear testimony and take proof, under oath or affirma-  
20 tion, at public or private hearings, on any matter ma-



21 terial for its information and necessary to determination  
22 and designation of critical economic areas and the estab-  
23 lishment of industrial development projects therein.

24 (e) To issue subpoenas requiring the attendance of  
25 witnesses and the production of books and papers perti-  
26 nent to any hearing before such authority, or before one  
27 or more members of the authority appointed by it to  
28 conduct such hearings.

29 (f) To apply to any court, having territorial jurisdic-  
30 tion of the offense, to have punished for contempt any  
31 witness who refuses to obey a subpoena, or who refuses <sup>to</sup>  
32 be sworn or affirmed or to testify, or who is guilty of any  
33 contempt after summons to appear.

34 (g) To authorize any member or members of such  
35 authority to conduct hearings and to administer oaths,  
36 take affidavits and issue subpoenas.

37 (h) To make, upon proper application of industrial  
38 development agencies, loans to such industrial develop-  
39 ment agencies of moneys held in the industrial develop-  
40 ment fund for industrial development projects in critical  
41 economic areas and to provide for the repayment and

42 redeposit of such allocations and loans in the manner  
43 hereinafter provided.

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

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

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

48 (l) To make bylaws for the management and regula-  
49 tion of its affairs.

50 (m) To appoint officers, agents, employees and ser-  
51 vants.

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

55 (o) Without limitation of the foregoing, accept grants  
56 from and enter into contracts or other transactions with  
57 any federal agency.

58 (p) To take title by foreclosure to any industrial de-  
59 velopment project where such acquisition is necessary to  
60 protect any loan previously made therefor by the author-  
61 ity and to sell, transfer and convey any such industrial  
62 development project to any responsible buyer; in the

63 event such sale, transfer and conveyance cannot be  
64 effected with reasonable promptness, the authority may,  
65 in order to minimize financial losses and sustain employ-  
66 ment, lease such industrial development project to a re-  
67 sponsible tenant or tenants; the authority shall not lease  
68 industrial development projects except under the condi-  
69 tions and for the purposes cited in this section: *Provided,*  
70 *however,* That the authority shall have no power at any  
71 time to borrow money or in any manner to pledge the  
72 credit or taxing power of the state or any of its muni-  
73 cipalities or political subdivisions, nor shall any of its  
74 obligations be deemed to be obligations of the state or  
75 any of its political subdivisions.

76 (q) To participate in any reorganization proceeding  
77 pending pursuant to Title II of the United States Bank-  
78 ruptcy Act or in any receivership proceeding had in a  
79 state or United States court for the purpose of reorgan-  
80 ization or liquidation of a responsible buyer or respon-  
81 sible tenant. It may file its claim against any such  
82 responsible buyer or responsible tenant in any of the  
83 foregoing proceedings, vote upon any question pending

84 therein which requires the approval of the creditors par-  
85 ticipating in any reorganization proceeding or receiver-  
86 ship, exchange any evidence of said indebtedness for  
87 any property, security or evidence of indebtedness offered  
88 as a part of the reorganization of said responsible buyer  
89 or responsible tenant or of any other entity formed to  
90 acquire the assets thereof, and may compromise or re-  
91 duce the amount of any indebtedness owing to it as a  
92 part of any such reorganization.

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

William Toman  
Chairman Senate Committee

Phyllis J. Rutledge  
Vice Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Sherman  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

Lyndon B. Johnson  
President of the Senate

Ivor H. Boiesky  
Speaker House of Delegates

The within approved this the 14<sup>th</sup>  
day of March, 1969.

Arch A. Moore Jr.  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/11/69  
Time 2:00 p.m.

RECEIVED

MAR 17 9 11 PM '69

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA