WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1972

ENROLLED
SENATE BILL NO. 351
(By Mr. Brotherton)

PASSED MARCH 6, 1972

In Effect FROM Passage
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AN ACT to amend and reenact sections two, three, six, nineteen and twenty-one, article eighteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the West Virginia housing development fund, legislative findings and purposes, the addition of new legislative findings and purposes concerning the desirability of occupancy of some units in residential housing developments for low and moderate income persons and families by persons and families of higher income, the need for federally insured construction loans, uninsured construction loans, and long-term uninsured mortgage loans to sponsors of residential housing for persons and families of low and moderate income and to persons and families of low and moderate income; the definition of certain terms, and the addition of definitions of certain terms; the powers of the fund and the addition of powers respecting the types of investments that the fund may make with funds not required for immediate disbursement, the making and publishing of rules and regulations respecting uninsured mortgage lending by the fund, the making of uninsured construction loans and long-term uninsured mortgage loans, and the acquisition, holding, developing and selling or otherwise disposing of real property, and interests in real property; and the addition of the limitation that no real property shall be purchased or leased by the fund from, or sold, leased or otherwise disposed of by the fund to, any director or officer of the fund.

Be it enacted by the Legislature of West Virginia:

That sections two, three, six, nineteen and twenty-one, article eighteen, chapter thirty-one of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, be amended
and reenacted to read as follows:

ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

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

(a) The Legislature hereby finds and declares that as a
result of public actions involving highways, public facil-
ities, flood control projects, and urban renewal activities,
and as a result of the spread of slum conditions and blight
to formerly sound urban and rural neighborhoods, there
exists in the state of West Virginia a serious shortage of
sanitary, decent and safe residential housing available at
low prices or rentals to persons and families of low and
moderate income. This shortage is severe in certain urban
areas of the state, is especially critical in the rural areas
of West Virginia, and is inimical to the health, welfare
and prosperity of all residents of the state and to the
sound growth of West Virginia communities.

(b) The Legislature hereby finds and declares further
that private enterprise and investment have not been able
to produce, without assistance, the needed construction
of sanitary, decent and safe residential housing at low
prices or rentals which persons and families of low and
moderate income can afford, to provide sufficient long-
term mortgage financing for residential housing for oc-
upancy by persons and families of low and moderate in-
come, or to achieve the urgently needed rehabilitation
of much of the present low and moderate income housing
stock. It is imperative that the supply of residential
housing for persons and families displaced by public
actions or natural disaster be increased; and that private
enterprise and investment be encouraged both to sponsor
land development for residential housing for such per-
sons and families and to sponsor, build and rehabilitate
residential housing for such persons and families, and
that private financing be supplemented by financing as
in this article provided, to help prevent the recurrence of
slum conditions and blight and assist in their permanent
elimination throughout West Virginia.

(c) The Legislature hereby finds and declares further
that experience has demonstrated that concentration in
residential housing developments of only persons and families who, without some form of private or public assistance, do not have incomes sufficient to afford sanitary, decent and safe residential housing frequently does not eliminate undesirable social conditions and frequently does not permanently eliminate slum conditions, and that in such instances occupancy of some of the residential housing units in such residential housing developments by persons and families of higher income is desirable and beneficial in achieving the stated public purposes for enacting this legislation.

(d) The Legislature hereby finds and declares further that its intention by enacting this legislation is to provide for the creation and establishment of the West Virginia housing development fund, the corporate purpose of which is to provide temporary financing for development costs, land development and residential housing construction to public and private sponsors of land development for residential housing or residential housing, new or rehabilitated, for sale or rental to persons and families of low and moderate income; further to provide federally insured construction loans to sponsors of land development for residential housing for occupancy by persons and families of low and moderate income or residential housing for occupancy by persons and families of low income who are eligible or potentially eligible for federally insured mortgages or federal mortgages; further to provide uninsured construction loans to sponsors of land development for residential housing or residential housing for occupancy by persons and families of low and moderate income and to persons and families of low and moderate income who may construct such housing; further to provide long-term federally insured mortgage financing to public and private sponsors of residential housing for occupancy by persons and families of low and moderate income and to persons and families of low and moderate income who may purchase such housing; further to provide long-term uninsured mortgage financing to public and private sponsors of residential housing for occupancy by persons and families of low and moderate income and to persons and families of low and moderate income.
income who may purchase such housing; further to provide technical, consultative and project assistance service to public and private sponsors of such land development of residential housing; further to increase the construction of low and moderate income housing through the purchase or investment in long-term federal mortgages or federally insured mortgages, or uninsured mortgages, on housing for persons and families of low and moderate income constructed in this state thereby increasing the supply of long-term mortgage financing and freeing funds available therefor for use in short-term construction financing; and finally to assist in coordinating federal, state, regional and local public and private efforts and resources to otherwise increase the supply of such residential housing.

(e) The Legislature hereby finds and declares further that in accomplishing this purpose, the West Virginia housing development fund, created and established by this article, is acting in all respects for the benefit of the people of the state of West Virginia to serve a public purpose in improving and otherwise promoting their health, welfare and prosperity, and that the West Virginia housing development fund, so created and established, is empowered, hereby, to act on behalf of the state of West Virginia and its people in serving this public purpose for the benefit of the general public.


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

3 (1) “Development costs” means the costs approved by the housing development fund as appropriate expenditures by the housing development fund, or by sponsors of land development for residential housing or residential housing, within this state, prior to commitment and initial advance of the proceeds of a federally insured construction loan, federally insured mortgage or federal mortgage, or other public assistance programs, or uninsured construction loan, or uninsured mortgage loan and for which temporary loans may be made by the housing development fund, including but not limited to:
(a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the housing development fund, payments for the purchase of such properties;

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

(c) Payment of fees for preliminary feasibility studies, advances for planning, engineering and architectural work;

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

(e) Necessary application and other fees;

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

(3) "Federally insured mortgage" means a mortgage loan for land development for residential housing or residential housing insured or guaranteed by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to insure such a mortgage;

(4) "Federal mortgage" means a mortgage loan for land development for residential housing or residential housing made by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to make such a mortgage loan;

(5) "Housing development fund" means the West Virginia housing development fund created and established by section four of this article;

(6) "Land development" means the process of acquiring land for residential housing construction, and of making, installing or constructing nonresidential housing improvements, including waterlines and water supply installations, sewer lines and sewage disposal installations,
steam, gas and electric lines and installations, roads, streets, curbs, gutters, sidewalks, whether on or off the site, which the housing development fund deems necessary or desirable to prepare such land for residential housing construction within this state;

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

(8) "Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin or sex, determined by the housing development fund to require such assistance as is made available by this article on account of personal or family income not sufficient to afford sanitary, decent and safe housing, and to be eligible or potentially eligible to occupy residential housing constructed and financed, wholly or in part, with federally insured construction loans, federally insured mortgages, federal mortgages or with other public or private assistance, or with uninsured construction loans, or uninsured mortgage loans, and in making such determination the fund shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs, (b) the size of the family, (c) the cost and condition of housing facilities available, (d) the eligibility of such persons and families for federal housing assistance of any type predicated upon low or moderate income basis, and (e) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing: Provided, That to the extent found and determined by the housing development fund, by resolution, to be necessary or appropriate for the purposes of eliminating undesirable social conditions and permanently eliminating slum conditions, the income limitation requirements of this article may be waived as to any persons or families who are eligible to occupy residential housing constructed in whole, or in part, with federally insured construction loans, federally insured mortgages or federal mortgages under housing
assistance or mortgage insurance programs of the United States, or an instrumentality thereof, predicated upon any low or moderate income basis;

(9) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental or appurtenant thereto;

(10) "Uninsured construction loan" means a construction loan for land development for residential housing or residential housing which is not secured by either a federally insured mortgage or a federal mortgage, and which is not insured by the United States or an instrumentality thereof, and, as to which there is no commitment by the United States or an instrumentality thereof to provide insurance;

(11) "Uninsured mortgage" and "uninsured mortgage loan" means a mortgage loan for land development for residential housing or residential housing which is not insured or guaranteed by the United States or an instrumentality thereof, and as to which there is no commitment by the United States or an instrumentality thereof to provide insurance.

§31-18-6. Corporate powers.

The housing development fund is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose, including but not limited to the following:

(1) To make or participate in the making of federally insured construction loans to sponsors of land development for residential housing for occupancy by persons or families of low and moderate income or residential housing for occupancy by persons or families of low and moderate income who are eligible or potentially eligible for federally insured mortgages or federal mortgages. Such loans shall be made only upon determination by the housing development fund that construction loans are not otherwise available, wholly or in part, from
private lenders upon reasonably equivalent terms and conditions;

(2) To make temporary loans, with or without interest, but with such security for repayment as the housing development fund determines reasonably necessary and practicable, from the operating loan fund, if created, established, organized and operated in accordance with the provisions of section nineteen of this article, to defray development costs to sponsors of land development for residential housing for occupancy by persons and families of low and moderate income or residential housing construction for occupancy by persons and families of low and moderate income which is eligible or potentially eligible for federally insured construction loans, federally insured mortgages, federal mortgages, or uninsured construction loans or uninsured mortgage loans;

(3) To make or participate in the making of long-term federally insured mortgage loans to sponsors of residential housing for occupancy by persons and families of low and moderate income, or to persons and families of low and moderate income who may purchase such residential housing who are eligible or potentially eligible for federally insured mortgages or federal mortgages. Such loans shall be made only upon determination by the housing development fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

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

(5) To make and execute contracts, releases, compromises, compositions and other instruments necessary or convenient for the exercise of its powers, or to carry out its corporate purpose;

(6) To collect reasonable fees and charges in connection with making and servicing its loans, notes, bonds, obligations, commitments and other evidences of indebtedness, and in connection with providing technical, con-
sultative and project assistance services. Such fees and charges shall be limited to the amounts required to pay the costs of the housing development fund, including operating and administrative expenses, and reasonable allowances for losses which may be incurred;

(7) To invest any funds not required for immediate disbursement in any of the following securities:

(i) Direct obligations of or obligations guaranteed by the United States of America;

(ii) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; the Federal National Mortgage Association or the Government National Mortgage Association;

(iii) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes issued by public agencies or municipalities or preliminary loan notes issued by public agencies or municipalities, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(iv) Certificates of deposit secured by obligations of the United States of America;

(v) Direct obligations of or obligations guaranteed by the state of West Virginia;

(vi) Direct and general obligations of any other state within the territorial United States, to the payment of the principal of and interest on which the full faith and credit of such state is pledged: Provided, That at the time of their purchase, such obligations are rated in either of the two highest rating categories by a nationally recognized bond rating agency; and,

(vii) Any fixed interest bond, note or debenture of any corporation organized and operating within the
United States: Provided, That such corporation shall have a minimum net worth of fifteen million dollars and its securities or its parent corporation's securities are listed on one or more of the national stock exchanges: Provided, however, That (1) such corporation has earned a profit in eight of the preceding ten fiscal years as reflected in its statements, and (2) such corporation has not defaulted in the payment of principal or interest on any of its outstanding funded indebtedness during its preceding ten fiscal years, and (3) the bonds, notes or debentures of such corporation to be purchased are rated “AA” or the equivalent thereof or better than “AA” or the equivalent thereof by at least two or more nationally recognized rating services, such as Standard and Poor's, Dun & Bradstreet or Moody's;

(8) To sue and be sued;

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

(10) To make, and from time to time, amend and repeal bylaws, rules and regulations not inconsistent with the provisions of this article;

(11) To appoint such officers, employees and consultants as it deems advisable and to fix their compensation and prescribe their duties;

(12) To acquire, hold and dispose of personal property for its corporate purposes;

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

(14) To acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect any loan in which the housing development fund has an interest and to sell, transfer and convey any such property to a buyer and, in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;
(15) To sell, at public or private sale, any mortgage
or other negotiable instrument or obligation securing a
construction, land development, mortgage or temporary
loan;
(16) To procure insurance against any loss in connec-
tion with its property in such amounts, and from such
insurers, as may be necessary or desirable;
(17) To consent, whenever it deems it necessary or
desirable in the fulfillment of its corporate purpose, to
the modification of the rate of interest, time of payment
or any installment of principal or interest, or any other
terms, of any mortgage loan, mortgage loan commitment,
construction loan, temporary loan, contract or agreement
of any kind to which the housing development fund is a
party;
(18) To make and publish rules and regulations re-
specting its federally insured mortgage lending, uninsured
mortgage lending, construction lending and temporary
lending to defray development costs and any such other
rules and regulations as are necessary to effectuate its
corporate purpose;
(19) To borrow money to carry out and effectuate its
corporate purpose and to issue its negotiable bonds or
notes as evidence of any such borrowing in such principal
amounts and upon such terms as shall be necessary to
provide sufficient funds for achieving its corporate pur-
pose, except that no negotiable notes shall be issued to
mature more than ten years from date of issuance and
no negotiable bonds shall be issued to mature more than
fifty years from date of issuance;
(20) To issue renewal notes, to issue bonds to pay
notes and, whenever it deems refunding expedient, to
refund any bonds by the issuance of new bonds, whether
the bonds to be refunded have or have not matured except
that no such renewal notes shall be issued to mature
more than ten years from date of issuance of the notes
renewed and no such refunding bonds shall be issued to
mature more than fifty years from the date of issuance;
(21) To apply the proceeds from the sale of renewal
notes or refunding bonds to the purchase, redemption, or
payment of the notes or bonds to be refunded;

(22) To provide technical services to assist in the plan-
ing, processing, design, construction or rehabilitation of
residential housing for occupancy by persons and families
of low and moderate income or land development for
residential housing for occupancy by persons and families
of low and moderate income;

(23) To provide consultative project assistance services
for residential housing for occupancy by persons and
families of low and moderate income and for land develop-
ment for residential housing for occupancy by persons
and families of low and moderate income, and for the
residents thereof with respect to management, training
and social services;

(24) To promote research and development in scientific
methods of constructing low cost residential housing of
high durability;

(25) To participate in the making of or to make loans
to qualified federally approved mortgagees and in con-
nection therewith, or independently thereof, to take as
collateral security, invest in, purchase, acquire, sell or
participate in the sale of, or take assignments of, notes
and mortgages, evidencing loans for the construction,
rehabilitation, purchase or refinancing of housing for per-
sons and families of low and moderate income in this
state: Provided, That the fund shall obtain such written
assurances as shall be satisfactory to it that the proceeds
of such loans, investments or purchases will be used, as
nearly as practicable, for the making of or investment in
long-term federally insured mortgage loans or federally
insured construction loans for low and moderate income
housing in this state or that other moneys in an amount
approximately equal to such proceeds shall be committed
and used for such purpose;

(26) To make or participate in the making of un-
insured construction loans to sponsors of land develop-
ment for residential housing for occupancy by persons
and families of low and moderate income or residential
housing for occupancy by persons and families of low and moderate income. Such loans shall be made only upon determination by the housing development fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(27) To make or participate in the making of long-term uninsured mortgage loans to sponsors of residential housing for occupancy by persons and families of low and moderate income, or to persons and families of low and moderate income who may purchase such residential housing. Such loans shall be made only upon determination by the housing development fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions; and

(28) To obtain options to acquire and to acquire real property, or any interest therein, by purchase, or lease, or otherwise, which is found by the housing development fund to be suitable, or potentially suitable, for the construction of residential housing for occupancy by persons and families of low and moderate income; to hold such real property; to make loans to finance the performance of land development activities on or in connection with any such real property; and to sell, transfer and convey, lease or otherwise dispose of such real property, or lots, tracts or parcels of such real property, for such prices, upon such terms, conditions and limitations, and at such time or times as the housing development fund shall determine, to sponsors of residential housing for occupancy by persons and families of low and moderate income or to persons and families of low and moderate income: Provided, That if the housing development fund shall determine that any such real property or any lots, tracts or parcels of such real property are not at any time or times needed for present or future residential housing for occupancy by persons and families of low and moderate income, the housing develop-
ment fund may sell, transfer and convey, lease or other-
wise dispose of the same, to such purchasers or lessees,
for such prices, upon such terms, conditions and limita-
tions, and for such uses and purposes as the housing
development fund shall determine.


(a) The board of directors of the housing development
fund may create and establish a special revolving loan
fund of moneys made available by contribution or loan,
to be known as the operating loan fund and to be gov-
erned, administered and accounted for by the directors,
officers and managerial staff of the housing development
fund as a public purpose trust account separate and dis-
tinct from any other moneys, fund or funds owned and
managed by the housing development fund.

(b) The purpose for organizing and operating the
operating loan fund shall be to provide a source from
which the housing development fund may make tem-
porary loans, with or without interest, but with such
security for repayment as the housing development fund
deems reasonably necessary and practicable; such loans
to be used to defray development costs to sponsors of
land development for residential housing construction for
occupancy by persons and families of low and moderate
income or residential housing construction for occupancy
by persons and families of low and moderate income
which is eligible or potentially eligible for federally in-
sured construction loans, federally insured mortgages or
federal mortgages or other public assistance programs or
uninsured construction loans or uninsured mortgage
loans.

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

(1) The proceeds of all such loans shall be used only to
defray the development costs of such proposed residential
housing;
(2) All such loans shall be repaid in full, with or without interest as provided in the agreement;

(3) All repayments shall be made concurrent with receipt by the borrower of the proceeds of a construction loan or mortgage, as the case may be, or at such other times as the housing development fund deems reasonably necessary or practicable; and

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

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

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

No part of the funds of the housing development fund, or of the operating loan fund, shall inure to the benefit of or be distributable to its directors or officers or other private persons except that the housing development fund shall be authorized and empowered to pay reasonable compensation, other than to the directors, including the chairman, vice-chairman and treasurer of the board of directors and the secretary of the board of directors, for services rendered and to make loans and exercise its other powers as previously specified in furtherance of its corporate purpose: Provided, That no such loans shall be made to, and no property shall be purchased or leased from or sold, leased or otherwise disposed of to, any director or officer of the housing development fund.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 27th day of March, 1972.

Governor
PRESENTED TO THE GOVERNOR

Date  3/10/72  
Time  5:20 p.m.