WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1973

ENROLLED
(Com. Sub.
SENATE BILL NO. 4)

(By Mr. Hubbard)

PASSED ________ June 27 ________ 1973
In Effect 90 Days From Passage

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 7-10-73
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 4

(MR. HUBBARD, original sponsor)

[Passed June 27, 1973; in effect ninety days 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 nineteen, providing for the adoption of the West Virginia community development authority act; setting forth legislative findings and purposes with respect to such act and the need therefor; defining terms used in such act; providing for the creation and establishment of the West Virginia community development authority as a public body corporate and governmental instrumentality of the state; relating to the purposes and functions of such authority; providing for a board of directors of such authority; providing for the appointment of the members of such board of directors and establishing their terms; relating to vacancies in the membership of such board of directors; relating to removal of members of the board of directors for cause; specifying that members of the board of directors shall not receive any compensation but shall be entitled to be reimbursed for expenses; specifying the number of members of such board of directors which shall constitute a quorum and the number of members which must concur for action to be taken; relating to the management and control of the West Virginia community development authority and officers of such authority; relating to the custodian of
all moneys of such authority and of the operating loan fund; relating to bonding requirements; providing that the directors and officers of the West Virginia community development authority shall not be liable personally for any debt or obligation created by such authority or the operating loan fund; specifying the powers and duties of the West Virginia community development authority; specifically authorizing such authority, among many other powers and duties, to borrow money and to issue notes and bonds and to purchase notes and bonds of other governmental units for public purposes; relating to the securities in which the funds or moneys of such authority may be invested; specifying that the notes or bonds of such authority shall be payable out of any revenues or moneys of such authority; specifying that the notes and bonds issued by such authority shall be negotiable instruments; relating to the borrowing of money by such authority and the issuance of its notes or bonds as evidence thereof and making detailed provisions with respect thereto; relating to the sale of notes or bonds of such authority; relating to resolutions authorizing notes or bonds of such authority and specifying provisions which may be contained in any such resolution; relating to the validity and effect of any pledge, mortgage, deed of trust or security instrument made by or for the benefit of such authority; relating to the redemption of notes or bonds issued by such authority; specifying that the state shall not be liable on notes, bonds or other evidences of indebtedness of such authority and that the same shall not be a debt of the state; specifying that the state will not limit or alter the rights vested in the West Virginia community development authority or impair the rights and remedies of holders of its notes or bonds until such authority’s notes or bonds and moneys due and owing with respect thereto are fully met, discharged and paid; providing for the waiver of certain defenses by governmental units on the issuance and sale of bonds to such authority; relating to the rights, powers and remedies of holders of the notes or bonds of such authority; relating to default in payment of the principal or of interest on any notes or bonds of any governmental unit of or such authority and the rights, powers and remedies in connection therewith; relating to the appointment of a receiver or trustee and the powers and duties thereof; making the
notes and bonds of such authority legal investments; providing full tax and assessment exemption in connection with such authority and its property, obligations, evidences of indebtedness, moneys, funds, revenues or other income and its notes and bonds; providing that the income from the notes or bonds of such authority shall be exempt from taxation; providing for the establishment and operation of the operating loan fund; specifying the purposes of the operating loan fund; specifying the provisions which must be contained in any temporary loan fund agreement; establishing a limit on the aggregate principal amount of notes and bonds which can be issued by the West Virginia community development authority; specifying that no part of the moneys of the West Virginia community development authority or of the operating loan fund shall inure to the benefit of or be distributable to directors or officers or other private persons, with the exception of the payment of reasonable compensation, other than to the directors, for services rendered and the making of loans and the purchasing of bonds, but further specifying that no such loans shall be made to and no such bonds shall be purchased from any director or officer of the West Virginia community development authority; relating to termination or dissolution of such authority; specifying that such authority may provide services to the state and any governmental units and relating to contracts in connection therewith; requiring an annual audit of the West Virginia community development authority and the operating loan fund; and providing a severability clause.

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 nineteen, to read as follows:

ARTICLE 19. WEST VIRGINIA COMMUNITY DEVELOPMENT AUTHORITY.


1 This article shall be known and may be cited as the “West Virginia Community Development Authority Act.”
§31-19-2. Legislative findings and purposes.

(a) The Legislature hereby finds and declares that increasing requirements for essential public services and escalating costs of providing such services have created inordinate demands upon the financial resources of local governmental units necessitating legislation to enable said governmental units to attain a more competitive position in capital markets.

(b) The Legislature hereby finds and declares further that it is in the public interest and is the responsibility of the state of West Virginia to foster and promote by all lawful means the provision of adequate capital markets and facilities for borrowing money by local governmental units for the financing of public improvements and the fulfillment of public purposes, and to make it possible for local governmental units to obtain new or additional sources of capital funds at acceptable interest costs, including activities to encourage investor interest in the purchase of bonds or notes of governmental units as sound and preferred securities for investment.

(c) The Legislature hereby finds and declares further that it is in the public interest and is the responsibility of the state of West Virginia to encourage local governmental units to continue their independent undertakings of public improvements and fulfillment of public purposes and the financing thereof and to improve or enhance the possibilities of local governmental units obtaining funds, to the extent possible, at reduced interest costs, for orderly financing of public improvements and fulfillment of public purposes, particularly those governmental units not otherwise able to borrow for such purposes during periods of need.

(d) The Legislature hereby finds and declares further that it is in the public interest, in order to implement and aid in the discharge of the responsibilities aforesaid, that a state instrumentality be created as a public body corporate with full powers to borrow money and issue its bonds and notes to the end that funds obtained thereby may be used for the purchase by such state instrumentality of the bonds or notes of local governmental units and that such state instrumentality be granted all powers necessary or appropriate to accomplish
and to carry out the aforesaid public purposes and responsibilities of the state of West Virginia in a manner to make it possible for local governmental units to sell their municipal bonds and borrow funds at as low an interest rate as said instrumentality finds and determines to be feasible, consistent with a self-supporting operation with no expectation of subsidization with state funds.

(e) The Legislature further finds and declares that in accomplishing these purposes, the West Virginia community development authority, created and established by this article, will be acting in all respects for the benefit of the people of the state of West Virginia to serve the public purposes of improving and otherwise promoting their health, education, welfare, safety and prosperity, and that the West Virginia community development authority, so created and established, is empowered hereby to act on behalf of the state of West Virginia and its people in serving the aforesaid public purposes for the benefit of the general public of said state.


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

(1) "Authority" or "community development authority" means the West Virginia community development authority created and established by this article;

(2) "Bonds" means bonds of the authority issued under this article;

(3) "Loan" means the purchase by the authority of municipal bonds;

(4) "Local governmental unit" or "govermental unit" means any county, municipality, public service district, school district, or agency thereof, in this state, or any other public body organized under the laws of this state;

(5) "Municipal bond" means a bond, note or other evidence of debt of a governmental unit of the state of West Virginia payable from funds derived from taxation or payable from funds derived from sources other than taxation, but does not include any bond, note or other evidence of debt
issued by any other state or any public body of any other state;

(6) "Notes" means any notes of the authority issued under this article;

(7) "Operating loan fund" means the operating loan fund which may be established and operated by the community development authority in accordance with section twenty-one of this article;

(8) "Public body" means any public body corporate, or any political subdivision of this state, established under any law of this state which may issue its bonds or notes, whether heretofore or hereafter established;

(9) "Revenues" means all fees, charges, moneys, profits, payments of principal of or interest on municipal bonds and other investments, gifts, grants, contributions and all other income derived or to be derived by the authority under this article; and

(10) "Temporary loan" means a temporary loan of money to be used to defray the planning and development costs of a public improvement, pending the receipt of a federal grant or loan or long-term financing of such public improvement.


(a) There is hereby created and established as a governmental instrumentality of the state of West Virginia, a public body corporate to be known as the West Virginia community development authority.

(b) The community development authority is created and established to serve a public corporate purpose, to act for the public benefit and as a governmental instrumentality of the state of West Virginia, and to act on behalf of the state and its people in improving and otherwise promoting their health, education, welfare, safety and prosperity.

§31-19-5. Board of directors; responsibilities; appointment, term, etc., of private directors.

(a) The community development authority shall be govern-
ed by a board of directors, consisting of the following five
members: The governor as chairman and the state treasurer as
treasurer, as public directors, and three members representing
the general public, as private directors. No more than two of the
private directors shall be members of the same political party.

(b) The board of directors shall be responsible for the
administration, management and implementation of the pro-
visions of this article except as is otherwise specifically pro-
vided herein.

(c) Upon organization of the community development
authority, the governor shall appoint, by and with the advice
and consent of the Senate, the private directors for terms of
four years: Provided, That of those private directors first ap-
pointed, one shall be appointed for a term of two years, one
shall be appointed for a term of three years, and one shall be
appointed for a term of four years, respectively, as the gover-
nor shall so designate. At the expiration of said terms and
for all succeeding terms, the governor shall appoint a suc-
cessor to the office of private director for a term of four
years in each case.

(d) In case of any vacancy in the office of a private direc-
tor, such vacancy shall be filled within sixty days by appoint-
ment by the governor for the unexpired term.

(e) The governor may remove any director whom he may
appoint in case of incompetency, neglect of duty, gross im-
morality or malfeasance in office; and he may declare his office
vacant and shall appoint a person for such vacancy as provided
in other cases of vacancy.

(f) The public and private directors shall receive no com-
pensation for their services, but shall be entitled to all rea-
sonable and necessary expenses actually incurred in discharg-
ing their duties under this article.

§31-19-6. Quorum; vote.

Three members of the board of directors shall constitute a
quorum. A vacancy in the membership of the board shall not
impair the right of a quorum to exercise all of the rights and
perform all of the duties of the board of directors. No ac-
§31-19-7. Management and control of community development authority; officers; bonding; liability.

(a) The management and control of the community development authority shall be vested solely in the board of directors in accordance with the provisions of this article.

(b) The chairman shall be the chief executive officer of the community development authority.

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

(d) The board of directors of the community development authority shall annually appoint a secretary, who need not be a member of the board, to keep a record of the proceedings of the community development authority.

(e) The treasurer of the community development authority shall be custodian of all funds of the community development authority and the operating loan fund and shall be bonded in such amount as the other members of the board of directors may designate. The board may require such additional bonding as it deems necessary. The surety on all such bonds shall be a surety company authorized to do business in this state. All costs of such surety bonds shall be paid by the authority.

(f) The directors and officers of the community development authority shall not be liable personally, either jointly or severally, for any debt or obligation created by the West Virginia community development authority or the operating loan fund.

§31-19-8. Corporate power and duties.

The community development authority 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 sue and be sued.
(2) To have a seal and alter the same at will.

(3) To make, and from time to time amend and repeal, and enforce bylaws and rules and regulations for the conduct of its business and for use of its services and facilities.

(4) To maintain an office and appoint such officers and employ such employees and consultants as the authority deems advisable and fix their compensation and prescribe their duties.

(5) To acquire, hold, use and dispose of its revenues, funds and moneys.

(6) To acquire, rent, lease, hold, use and dispose of other personal property for its purposes.

(7) To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as the authority deems desirable.

(8) To borrow money and to issue its negotiable bonds or notes and to provide for and secure the payment thereof, and to provide for the rights of the holders thereof, and to purchase, hold and dispose of any of its bonds or notes.

(9) To issue its bonds and notes payable solely from the revenues or funds available to the authority therefor and to otherwise assist governmental units as provided in this article; and the authority may issue its bonds or notes in such principal amounts as it shall deem necessary to provide funds for any purposes under this article, including:

   (a) The making of loans.

   (b) The payment, funding or refunding of the principal of, interest on, or redemption premiums on, any bonds or notes issued by it whether the bonds, notes or interest to be funded or refunded have or have not become due.

   (c) The establishment or increase of reserves to secure or to pay bonds or notes or the interest thereon and all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Any bonds or notes may be additionally secured by a pledge of any revenues, funds or moneys of the authority from any source whatsoever.
(10) 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.

(11) 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.

(12) To accept gifts or grants of property, funds, money, materials, labor, supplies or services from the United States of America or from any governmental unit or any person, firm or corporation, and to carry out the terms or provisions of, or make agreements with respect to, or pledge, any gifts or grants, and to do any and all things necessary, useful, desirable or convenient in connection with the procuring, acceptance or disposition of gifts or grants.

(13) To purchase municipal bonds at such prices and in such manner as the authority deems advisable, to hold municipal bonds, and to sell municipal bonds acquired or held by it at such prices without relation to cost and in such manner as the authority deems advisable.

(14) To determine which municipal bonds the authority will purchase, and in making such determination, to consider the need for and the desirability of the proposed sale by the governmental unit, the ability of the governmental unit to sell its bonds to others and the costs involved in a sale to others, and the particular public improvement or purpose to be financed with the proceeds of the municipal bonds proposed to be purchased by the authority.

(15) To prescribe forms of application or procedure required of a governmental unit for, or in connection with, the purchase by the authority of municipal bonds of a governmental unit, and to fix the terms and conditions of such purchase and to enter into agreements with governmental units with respect to any such purchase.
(16) To establish any terms and provisions which the authority shall determine with respect to any purchase of municipal bonds by the authority, including date and maturities of the municipal bonds, provisions as to redemption or payment prior to maturity, and any other matters which are necessary, desirable or advisable in the judgment of the authority.

(17) To enter into and enforce all contracts, other instruments or other transactions necessary, convenient or desirable for the purposes of the authority or pertaining to any purchase or sale of municipal bonds or any investments or to the performance of its duties and the execution or carrying out of any of its powers under this article.

(18) To fix and collect reasonable fees and charges for its expenses and services in reviewing or considering any proposed purchase of municipal bonds of a governmental unit, including charging therefor whether or not the municipal bonds are purchased.

(19) To the extent permitted under its contracts with the holders of bonds or notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any bond, note or contract or agreement of any kind to which the authority is a party.

(20) To provide technical, consultative and public improvement assistance services; and to fix and collect fees and charges for the use of its services or facilities.

(21) To invest any funds or moneys of the authority not then required for the purchase of municipal bonds in any of the following securities:

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

(b) 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”;
(c) 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;

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

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

(f) 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, if 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,

(g) 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 (i) such corporation has earned a profit in eight of the preceding ten fiscal years as reflected in its statements, and (ii) 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 (iii) 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.

(22) To make temporary loans, with or without interest, but with such security for repayment as the community development authority determines reasonably necessary and prac-
ticable, from the operating loan fund, if established and operated in accordance with the provisions of section twenty-one of this article.

(23) To do anything authorized by this article, through its officers, agents or employees or by contracts with any person, firm or corporation.

(24) To do all things necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in this article.

§31-19-9. Notes or bonds as general obligations of community development authority.

Except as may otherwise be provided by the community development authority, every issue of its notes or bonds shall be general obligations of the community development authority payable out of any revenues or moneys of the community development authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

§31-19-10. Notes and bonds as negotiable instruments.

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


The borrowing of money and the notes and bonds evidencing any such borrowing shall be authorized by resolution approved by the board of directors of the community development authority, shall bear such date or dates, and shall mature at such time or times, in the case of any such note or any renewal thereof, not exceeding ten years from the date of issue of such original note, and, in the case of any such bonds, not exceeding fifty years from the date of issue, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or
places, and be subject to such terms or conditions of redemption as such resolution or resolutions may provide.

§31-19-12. Sale of notes or bonds.

Any notes or bonds issued by the West Virginia community development authority may be sold in such manner, either at public or private sale, and for such price, upon such terms and at such interest rates per annum, as the authority shall determine to be for the best interests of the authority and to be necessary or appropriate to effectuate the purposes of this article.


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

1. Pledging all or part of the revenues of the community development authority to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;
2. Pledging all or any part of the assets of the community development authority to secure the payment of the notes or bonds or any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;
3. The setting aside of reserves or sinking funds and the regulation and disposition thereof;
4. Limitations on the purposes to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;
5. Limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; and the refunding of outstanding or other notes or bonds;
6. The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;
(7) Limitations on the amount of moneys to be expended by the community development authority for operating, administrative or other expenses of the community development authority;

(8) Vesting in a trustee or trustees the property, rights, powers and duties of a trustee appointed by the bondholders pursuant to section eighteen of this article, and limiting or abrogating the right of the bondholders to appoint a trustee under section eighteen of this article or limiting the rights, powers and duties of such trustee; and

(9) Any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.


It is the intention hereof that any pledge, mortgage, deed of trust or security instrument made by or for the benefit of the community development authority shall be valid and binding between the parties from the time the pledge, mortgage, deed of trust or security instrument is made; and that the moneys or property so pledged, encumbered, mortgaged or entrusted shall immediately be subject to the lien of such pledge, mortgage, deed of trust or security instrument without any physical delivery thereof or further act. Nothing herein shall be construed to prohibit the community development authority from selling any property subject to any such pledge, mortgage, deed of trust or security instrument. Such property is not to be sold for less than its fair market value.


The community development authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power, out of any funds available therefor, to purchase notes or bonds of the community development authority.

If the notes or bonds are then redeemable, the price of such purchase shall not exceed the redemption price then applicable plus accrued interest to the next interest payment date thereon.

If the notes or bonds are not then redeemable, the price of
such purchase shall not exceed the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date. Upon such purchase such notes or bonds shall be canceled.


The state of West Virginia shall not be liable on notes, bonds or other evidences of indebtedness of the community development authority and such notes, bonds or other evidences of indebtedness shall not be a debt of the state of West Virginia, and such notes, bonds or other evidences of indebtedness shall contain on the face thereof a statement to such effect.

§31-19-17. Limitation of rights vested in community development authority by state.

The state of West Virginia does hereby pledge to and agree with the holders of any notes or bonds issued under this article that the state will not limit or alter the rights hereby vested in the community development authority to fulfill the terms of any agreements made with the holders thereof or in any way impair the rights and remedies of such holders until such notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses for which the community development authority is liable in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The community development authority is hereby authorized to include this pledge and agreement of the state in any agreement with the holders of such notes and bonds.

§31-19-18. Waiver of defenses; rights of holders; default in payment of principal or interest.

(a) Upon the issuance and sale of any municipal bonds to the authority by any governmental unit, such governmental unit shall be deemed to agree that on the failure of that governmental unit to pay the principal of or interest on any of the municipal bonds owned or held by the authority when payable, all defenses to nonpayment are waived. Notwithstanding any provisions of any other law relating to, limiting
or otherwise affecting the time or duration of any default
or the percentage of holders or owners of bonds entitled to
exercise rights of holders or owners of bonds in default or
entitled to invoke any remedies or powers thereof, or the
defaults of any trust in connection therewith or of any
board, body, agency or commission of the state having
jurisdiction in such matter or circumstance, the authority
may upon such nonpayment, avail itself of all rights, remedies
and provisions of law applicable in that circumstance. The
failure by the authority to exercise or exert any such rights,
remedies or provisions of law within any time period provided
by law may not be raised as a defense by the governmental
unit and all of the bonds of any issue of bonds of a govern-
mental unit on which there is nonpayment shall for all of
the purposes of this section, at the option of the authority,
be deemed to be immediately due and payable. The authority
is authorized and empowered to carry out the provisions of
this section and exercise all of the rights, remedies and
provisions of law herein provided, referred to, or provided
elsewhere by statute or by other law. If there be a default
in the payment of the principal of or interest on or of both
the principal of and interest on any bonds secured by
pledged revenues and purchased by the authority, any court
having jurisdiction shall upon motion of the authority appoint
a receiver to administer any public improvement serving as
security for the bonds; and any such receiver shall be
appointed on behalf of the authority with the power and
authority to charge and collect rates or charges sufficient to
provide for the retirement of the bonds and pay the interest
thereon, and for the payment of the repair, maintenance and
operation expenses of such public improvement. Such receiver
shall serve for such period of time as may be prescribed by
the court having jurisdiction and only so long as may be
necessary to place the operation of the public improvement on
a sound financial basis. The payment of all municipal bonds
for which general tax revenues are pledged as security shall
be provided for as a separate item in the annual budget of
the governmental unit which issued such bonds.

(b) In the event the community development authority
shall default in the payment of principal of or interest on
any issue of its notes or bonds after the same shall become
due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event the community development authority shall fail or refuse to comply with the provisions of this article or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county court of any county in which the community development authority operates and has an office and acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided:

(1) Any such trustee, upon the written request of the holders of twenty-five per centum in principal amount of such notes or bonds of the authority then outstanding, shall, in his or its own name, do any one or more of the following:

(i) By civil action or other proceeding, enforce all rights of the noteholders or bondholders, including the right to require the community development authority to perform its duties under this article;

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

(iii) By civil action or other proceeding, require the community development authority to account as if it were the trustee of an express trust for the holders of such notes or bonds;

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

(v) Declare all such notes or bonds due and payable, and if all defaults shall be made good, then annul such declaration and its consequences.

(2) In addition to the foregoing, such trustee shall have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of holders of notes or bonds of the authority in the enforcement and protection of their rights.
Before declaring the principal of any notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the community development authority.


The notes and bonds of the community development authority are hereby made securities in which all insurance companies and associations, and other persons carrying on an insurance business, all banking institutions, trust companies, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, and other persons, except administrators, guardians, executors, trustees and fiduciaries, who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them.


The community development authority shall not be required to pay any taxes and assessments to the state of West Virginia, or to any county, municipality or other governmental subdivision of the state of West Virginia, upon any of its property or upon its obligations or other evidences of indebtedness issued pursuant to the provisions of this article, or upon any moneys, funds, revenues or other income held or received by the community development authority and the notes and bonds of the community development authority, and the income therefrom shall at all times be exempt from taxation, as aforesaid, except for death and gift taxes, taxes on transfers, sales taxes, real property taxes and business and occupation taxes.


(a) The board of directors of the community development authority is hereby empowered and authorized to establish a special revolving loan fund to be known as the operating loan fund and to be governed, administered and accounted for by the directors, officers and staff of the community development authority as a public purpose trust account separate and dis-
tinct from any other moneys, fund or funds owned and managed by the community development authority.

(b) The purpose for establishing and operating the operating loan fund shall be to provide a source from which the community development authority may make temporary loans, with or without interest, but with such security for repayment as the community development authority deems reasonably necessary and practicable; such loans to be used to defray the planning and development costs of a public improvement pending the receipt of a federal grant or loan, or of long-term financing of said public improvement.

(c) No temporary loans shall be made by the community development authority 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 planning and development costs of proposed public improvements;

(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 federal grant or loan or the securing of long-term financing, as the case may be, or at such other times as the community development authority deems reasonably necessary or practicable; and

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


The aggregate principal amount of notes and bonds issued by the community development authority shall not exceed two hundred million dollars outstanding at any one time: Provided, That in computing the total amount of notes and bonds which may at any one time be outstanding, the principal amount of any outstanding notes or bonds refunded or to be refunded...
either by application of the proceeds of the sale of any refunding bonds or notes of the community development authority or by exchange for any such refunding bonds or notes shall be excluded.

§31-19-23. Prohibition on funds inuring to the benefit of or being distributable to directors, officers or private persons.

No part of the funds of the community development authority, 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 community development authority shall be authorized and empowered to pay reasonable compensation, other than to the directors, for services rendered and to make loans and purchase municipal bonds as previously specified in furtherance of its corporate purpose: Provided, That no such loans shall be made to and no such municipal bonds shall be purchased from any director or officer of the community development authority.

§31-19-24. Termination or dissolution.

Upon termination or dissolution, all rights and properties of the community development authority, including the operating loan fund, shall pass to and be vested in the state of West Virginia, subject to the rights of lienholders and other creditors.

§31-19-25. Services to the state of West Virginia and its governmental units.

(a) The community development authority may provide technical, consultative and public improvement assistance services to the state of West Virginia and any of its governmental units and is hereby authorized to enter into contracts with the state of West Virginia and any of its governmental units to provide such services.

(b) The state of West Virginia or any governmental unit thereof is hereby authorized to enter into contracts with the authority for such services and to pay for such services as may be provided to it.


The community development authority shall cause an annual
audit to be made by a resident independent certified public
accountant of its books, accounts and records, with respect to
its revenues, disbursements, contracts, assignments, loans and
all other matters relating to its financial operations, including
those of the operating loan fund. The person performing such
audit shall furnish copies of the audit report to the commis-


If any provision of this article or the application thereof
to any person or circumstance is held invalid, such invalidity
shall not affect other provisions or applications of the article,
and to this end the provisions of this article are severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

H. Daniel Handy
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect ninety days from passage.

Howard K. Fawson
Clerk of the Senate

Clerk of the House of Delegates

W. E. Bracken, Jr.
President of the Senate

Speaker House of Delegates

The within approved this the 10th day of July, 1973.

Rudolf S. Shenk, Jr.
Governor
PRESENTED TO THE GOVERNOR

Date 7/5/73
Time 4:00 p.m.