WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1973

ENROLLED

SENATE BILL NO. 438

(By Mr. Boothy, President, and Mr. Hubbard)

PASSED _______ April 14 _______ 1973

In Effect _______ from _______ Passage

FILED IN THE OFFICE
EDGAR F. NEISRELL III
SECRETARY OF STATE
THIS DATE 5/3/73
AN ACT to amend and reenact sections two, three, six, eight, eleven, twelve, twenty-one, twenty-two and twenty-four, article eighteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto two new sections, designated sections twenty-a and twenty-b, all relating to the West Virginia housing development fund; relating to legislative findings and purposes; setting forth new legislative findings and purposes and particularly concerning certain reasons for and effects from the shortage of decent, safe and sanitary residential housing in the state of West Virginia and the inadequacy of land development, including the extension and construction of water systems, non-polluting sewage systems, other utility facilities and off-highway streets and roads in the state of West Virginia; relating to the definition of certain terms; providing additional definitions; relating to the powers, authorities and rights of the housing development fund; providing new powers, authorities and rights particularly respecting types of loans which the housing development fund may make and the security for the repayment of borrowings the proceeds of which are used by the housing development fund to make certain loans; vesting in the housing development fund the rights, powers and authorities of a public housing authority; relating to notes and bonds issued under said article eighteen; relating to the provisions of authorizing resolutions; relating to the validity of any pledge, mortgage, deed of trust or security
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instrument; authorizing the creation of a land development fund; relating to such land development fund generally; establishing a special fund in the state treasury under the supervision of the state sinking fund commission, such special fund to be known as the "mortgage finance bond insurance fund"; providing for deposit of certain moneys therein and payments therefrom; relating to such special fund generally; providing for appropriations to cover deficiencies in such special fund and reimbursements of the state from certain sources; providing prohibitions; relating to termination or dissolution of the housing development fund; relating to annual audit; requiring reports to the joint committee on government and finance; requiring the housing development fund to furnish other information upon demand of said joint committee or the legislative auditor; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That sections two, three, six, eight, eleven, twelve, twenty-one, twenty-two and twenty-four, article eighteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto two new sections, designated sections twenty-a and twenty-b, all 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 facilities, 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 occupancy by persons and families of low and moderate income 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; that private enterprise and investment be encouraged both to sponsor land development for residential housing for such persons 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, or residential housing areas, 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, or avoid, undesirable social conditions and frequently does not permanently eliminate, or avoid, slum conditions, and that in such instances occupancy of some of the residential housing units in such residential housing developments, or residential housing areas, 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 depressed economic conditions in this state and a related lack of employment and business opportunities caused thousands of people to leave this state to find employment elsewhere; that such depressed economic conditions and related exodus of population adversely affected the property tax base of this state, adversely affected the excise tax base of this state, diminished the manpower resources of this state necessary for modern mining, industrial and commercial operations and development in this state, caused the population of this state to include a disproportionately high number of elderly, disabled and economically disad-
vantaged persons, resulted in the spread of slum conditions and blight to formerly sound urban and rural neighborhoods, retarded, and continue to retard, the repair and improvement of existing residential housing and the construction of new residential housing, adversely affected, and continue to adversely affect, land development, including the extension and construction of water systems, non-polluting sewer systems, other utility facilities and off-highway streets and roads essential to new industrial, commercial and residential housing development, critically restricted, and continue to critically restrict, the construction of public housing for occupancy by persons and families at the lowest level of the low and moderate income segment of the population of this state, critically restricted, and continue to critically restrict, the opportunities of persons and families at all levels of the low and moderate income segment of the population of this state for improved residential housing, either newly constructed or which would normally become available to them when vacated by persons and families of higher income occupying newly constructed residential housing, and critically restricted, and continue to critically restrict, the construction of new residential housing, including, but not limited to, nursing homes and intermediate care facilities, of design and location suitable for occupancy by disabled and by elderly persons; that as a result of public actions involving highways, public facilities, flood control projects and urban renewal activities undertaken as a part of the programs of this state to improve economic conditions and increase employment opportunities in this state with a view to improving the health, welfare and prosperity of residents of this state and reversing the outward movement of population in this state, extensive areas which are suitable for industrial, commercial and residential housing uses have been, or in the near future will be, opened up for development for such purposes but in many instances will be without the land development, including water and non-polluting sewer systems, other utility facilities and off-highway street and road improvements essential to use of the same for such purposes; that as a result of the unique physical, economic, demographic and other characteristics of this state, including its rugged mountainous terrain, scarcity of land at low or moderate cost suitable for residential housing, low population density and cultural prefer-
ences which are not suited for the denser, larger-scale housing projects typical of more urban areas and high costs of land development and housing construction, the difficulties of providing land development, including water and non-polluting sewer systems, other utility facilities and off-highway streets and roads, and of providing residential housing, are unusually severe within this state and have restricted and continue to restrict, land development and housing construction needed for the people of the state; that as a direct consequence of the foregoing there exists in this state a serious shortage of sanitary, decent and safe residential housing available for occupancy by persons and families of all but the highest income levels and there exists in this state a serious shortage of water and non-polluting sewer systems, other utility facilities and off-highway street and road developments essential to utilization of land for industrial, commercial and residential housing purposes which, due to public actions involving highways, public facilities, flood control projects and urban renewal activities, is, or will soon become, available for needed industrial, commercial and residential housing purposes; that these shortages are severe in certain urban areas of this state, are especially critical in rural areas of this state and are inimical to the present and future health, welfare and prosperity of all residents of this state and to the sound growth and development of communities in this state; and that unless promptly remedied these shortages will continue to seriously retard the sound economic growth and development of this state, the related property tax and excise tax bases of this state and the availability in this state of manpower resources essential to modern mining, industrial and commercial operations and development which are essential to the health, welfare and prosperity of this state and its residents.

(e) The Legislature hereby finds and declares further that private enterprise and investment have not been able to produce, or provide mortgage financing for, sufficient new sanitary, decent and safe residential housing at prices or rentals low enough to enable sufficient persons and families having incomes at or immediately above the higher level of the low and moderate income segment of the population of this state to occupy the same and thereby provide opportunities for persons and families of lesser in-
come to occupy existing sanitary, decent and safe residential housing thereby vacated, have not been able to produce, or provide mortgage financing for, sufficient new residential housing essential to retain and attract qualified manpower resources in and to many areas of this state where such resources are, or shortly will be, critically needed for existing, expanding and new mining, industrial and commercial operations and development, have not been able to produce, or provide mortgage financing for, sufficient new residential housing, including, but not limited to, nursing homes and intermediate care facilities, of design and location suitable for occupancy by elderly and by disabled persons, have not been able to finance sufficient land development, including extensions or construction of water and non-polluting sewer systems, other utility facilities and off-highway streets and roads, essential to utilization of undeveloped areas of this state for industrial, commercial and residential housing purposes, and have not been able to achieve urgently needed rehabilitation of much of the present housing stock of this state; that it is imperative that the supply of residential housing necessary to retain and attract qualified manpower resources in and to many areas of this state where such resources are, or shortly will be, critically needed for existing, expanding and new mining, industrial and commercial operations and developments be provided, that sufficient new residential housing, including, without limitation, nursing homes and intermediate care facilities, designed and located so as to be suitable for occupancy by elderly persons and by disabled persons be provided, that needed public housing for occupancy by persons and families at the lowest level of the low and moderate income segment of the population of this state be provided, that land development, including water and non-polluting sewer systems and other utilities and off-highway streets and roads in this state necessary or desirable for new commercial, industrial and residential housing uses be provided, and that the existing political subdivisions of this state, and private enterprise and investment resources in this state, be encouraged to sponsor and finance land development, including water and non-polluting sewer systems, other utilities and off-highway streets and roads, and to finance, construct and rehabilitate such residential housing; and that it is necessary that such
efforts be supplemented by this state as in this article provided.

(f) The Legislature hereby finds and declares further that political subdivisions in West Virginia which are presently authorized and empowered by law to acquire, construct, operate and manage public housing projects have not been able to acquire and construct, even with available federal and state assistance, public housing projects sufficient to fulfill the needs for sanitary, decent and safe residential housing for occupancy by persons and families at the lowest level of the low and moderate income segment of the population of this state who have been entitled to occupy public housing in many smaller municipalities in West Virginia and especially in the rural areas of West Virginia; that the primary cause of such shortage of needed public housing projects is the inability of such political subdivisions to remedy such shortages because the number of units of public housing needed within its territorial jurisdiction is not sufficient to generate, and justify the expenditure of, adequate funds to provide the requisite arranging of financing for, and planning, development, acquisition, construction, operation and management of such public housing; and that the acquisition, construction, planning, development, financing and management of public housing projects in this state by a governmental instrumentality and public body corporate with statewide jurisdiction as authorized herein will permit or facilitate the arranging of financing for, and planning, development, acquisition, construction, operation or management of public housing units, even though such units are included in several projects each of which contains a relatively small number of such units, sufficient in the aggregate to generate, and justify the expenditure of, sufficient funds to provide the requisite arranging of financing for, and planning, development, acquisition, construction, operation and management of such public housing, thereby providing the means to alleviate the existing shortages of public housing in many municipalities in West Virginia and in the rural areas of West Virginia.

(g) The Legislature hereby finds and declares further that its intention by enacting this legislation is to provide for the continuation of the West Virginia housing develop-
ment fund, the corporate purpose of which is to provide
financing for development costs and land development to
public and private sponsors of land development in this
state; further to provide federally insured construction
loans to public and private sponsors of land development
or to public and private sponsors of residential housing
for occupancy by eligible persons and families; further to
provide uninsured construction loans to public and private
sponsors of land development or to public and private
sponsors of residential housing for occupancy by eligible
persons and families or to eligible persons and families
who may construct such housing; further to provide long-
term federally insured mortgage loans to public and pri-
vate sponsors of residential housing for occupancy by eli-
gible persons and families and to eligible persons and
families who may purchase or construct such housing;
further to provide long-term uninsured mortgage loans
to public and private sponsors of residential housing for
occupancy by eligible persons and families and to eligible
persons and families who may purchase or construct such
housing; further to provide technical, consultative and pro-
ject assistance service to public and private sponsors of
such land development or residential housing; further to
increase the construction of residential housing for oc-
cupancy by eligible persons and families through partici-
pating in the making of, or the making of, loans to
mortgagees approved by the housing development fund,
and taking as collateral security therefor, or purchasing,
or investing in long-term federal mortgages or federally
insured mortgages, or uninsured mortgages, on residential
housing constructed in this state, thereby increasing the
supply of funds for long-term mortgage financing of resi-
dential housing for occupancy by eligible persons and
families and freeing funds for use in short-term construc-
tion financing of residential housing for occupancy by
eligible persons and families; further to plan, develop,
finance, acquire, construct, mortgage or otherwise encum-
ber, operate, manage, sell, lease or otherwise dispose of
public housing projects; and finally to assist in coordinat-
ing federal, state, regional and local public and private
efforts and resources to otherwise increase the supply
of such residential housing.

(h) The Legislature hereby finds and declares further
that in accomplishing this purpose, the West Virginia housing development fund, heretofore 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, heretofore 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:

2 (1) “Annual sinking fund payment” means the amount of money specified in the resolution or resolutions authorizing term bonds as payable into a sinking fund during a particular calendar year for the retirement of term bonds at maturity after such calendar year, but shall not include any amount payable by reason only of the maturity of a bond;

3 (2) “Development costs” means the costs approved by the housing development fund as appropriate expenditures by the housing development fund, by sponsors of land development for residential housing, or by sponsors of residential housing, within this state, including but not limited to:

4 (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;

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

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

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

8 (e) Necessary application and other fees;

9 (3) “Eligible persons and families” means:

10 (a) Persons and families of low and moderate income;

11 or

12 (b) Persons or families of higher income to the extent the housing development fund shall find and determine,
by resolution, that construction of new or rehabilitated
residential housing for occupancy by them will cause to be
vacated existing sanitary, decent and safe residential hous-
ing available at prices or rentals which persons and fami-
lies of low and moderate income can afford; or

c) Persons who because of age or physical disability
are found and determined by the housing development fund,
by resolution, to require residential housing of a special
location or design in order to provide them with sanitary,
decent and safe residential housing; or

d) Persons and families for whom, as found and deter-
mined by the housing development fund by resolution, con-
struction of new or rehabilitated residential housing in
some designated area or areas of the state is necessary
for the purpose of retaining in, or attracting to, such area
or areas qualified manpower resources essential to modern
mining, industrial and commercial operations and develop-
ment in such area or areas;

(4) "Federally insured construction loan” means a con-
struction loan for land development for residential housing
or for 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 there-
of, or a commitment by the United States or an instrument-
ality thereof to insure such a loan;

(5) “Federally insured mortgage” means a mortgage
loan for land development for residential housing or for
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;

(6) “Federal mortgage” means a mortgage loan for
land development for residential housing or for residential
housing made by the United States or an instrumentality
thereof, or a commitment by the United States or an in-
strumentality thereof to make such a mortgage loan;

(7) “Housing development fund” means the West Vir-
ginia housing development fund heretofore created and es-
tablished by section four of this article;

(8) “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;

(9) "Land development fund" means the land development fund which may be created and established by the housing development fund in accordance with section twenty-a of this article;

(10) "Minimum bond insurance requirement" means, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future calendar year, of annual debt service of the housing development fund on all outstanding mortgage finance bonds, such annual debt service for any calendar year being the amount of money equal to the aggregate of (a) all interest payable during such calendar year on such mortgage finance bonds on said date of computation, plus (b) the principal amount of such mortgage finance bonds outstanding which matures during such calendar year, other than mortgage finance bonds for which annual sinking fund payments have been or are to be made in accordance with the resolution authorizing such bonds, plus (c) the amount of all annual sinking fund payments payable during such calendar year with respect to any such mortgage finance bonds, all calculated on the assumption that bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due and application in accordance with the resolution authorizing such bonds of all such sinking fund payments payable at or after said date of computation;

(11) "Mortgage finance bonds" means bonds issued or to be issued by the housing development fund and secured by a pledge of amounts payable from the mortgage finance bond insurance fund in the manner and to the extent provided in section twenty-b of this article;

(12) "Mortgage finance bond insurance fund" means the special trust fund created and established in the state
(13) "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;

(14) "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:

(15) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, con-
struction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to nursing homes and intermediate care facilities, and such other non-housing facilities as may be incidental or appurtenant thereto;

(16) "Special bond insurance commitment fee" means a fee in the amount of one per centum of the total principal amount of each loan which is to be temporarily or permanently financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, or an amount equal to an equivalent discount on each loan purchased or invested in by the housing development fund from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, and which may be payable from the proceeds of such bonds or any other source available to the housing development fund for such use: Provided, however, That if the period of time between the first disbursement of proceeds of such loan and the date upon which it is specified that the first repayment of principal of such a loan shall be payable exceeds twelve months, an additional amount computed on the basis of one-twelfth of one per centum per month on the total principal amount of such loan over the number of months of such period of time in excess of twelve months shall be included in such fee;

(17) "Special bond insurance premium" means (i) a fee at the rate of one-half of one percent per annum on the outstanding principal balance which the housing development fund shall charge the borrower of a mortgage loan, or of a loan secured by a mortgage, financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, which shall accrue from a date which is one month prior to the date on which the first installment payment of principal of such a loan is payable and which shall be payable thereafter in monthly installments on the same day of each successive month that installment payments of principal of such a loan are payable, and (ii) with respect to any loan, other than a federally insured construction loan, a federally insured mortgage

or a federal mortgage, purchased, or invested in with such
proceeds, an equivalent amount which the housing develop-
ment fund shall set aside from payments it receives on
such loan or from any other source available to the housing
development fund for such use;

(18) "State sinking fund commission" means the com-
mission known as such and continued in existence pur-
suant to article three, chapter thirteen of this code and
any body, board, person or commission which shall, by
law, hereafter succeed to the powers and duties of such
commission;

(19) "Uninsured construction loan" means a construc-
tion loan for land development or for 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;

(20) "Uninsured mortgage" and "uninsured mortgage
loan" means a mortgage loan for land development or for
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 eligible persons
and families or to sponsors of residential housing for occu-
pancy by eligible persons and families. Such loans shall
be made only upon determination by the housing develop-
ment fund that construction loans are not otherwise avail-
able, wholly or in part, from private lenders upon reason-
ably 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, establish-
ed, organized and operated in accordance with the pro-
visions 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 con-
struction 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 eligible persons and families, or to 
eligible persons and families, who may purchase or construct 
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;

(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, consultative 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 administra-
tive expenses, and reasonable allowances for losses which 
may be incurred;

(7) To invest any funds not required for immediate dis-
bursement 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, however, 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: And provided further, 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 and 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 connection 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 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 respecting its federally insured mortgage lending, uninsured mortgage lending, construction lending and 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 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 purpose, except
that no notes shall be issued to mature more than ten years
from date of issuance and no 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 re-
fund 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 planning,
processing, design, construction or rehabilitation of residential
housing for occupancy by eligible persons and families
or land development for residential housing for occupancy
by eligible persons and families;
(23) To provide consultative project assistance services for
residential housing for occupancy by eligible persons and
families and for land development for residential housing
for occupancy by eligible persons and families 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) With the proceeds from the issuance of notes or
bonds of the housing development fund, including, but not
limited to, mortgage finance bonds, or with other funds
available to the housing development fund for such purpose,
to participate in the making of or to make loans to
mortgagees approved by the housing development fund
and take such collateral security therefor as is approved
by the housing development fund and to invest in, pur-
chase, acquire, sell or participate in the sale of, or take
assignments of, notes and mortgages, evidencing loans for
the construction, rehabilitation, purchase or refinancing
residential housing in this state: *Provided*, That the hous-
ing development fund shall obtain such written assur-
ances 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, uninsured mortgage loans, or
uninsured construction loans, for residential housing for
occupancy by eligible persons and families 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 uninsured
construction loans to sponsors of land development for
residential housing for occupancy by eligible persons and
families or to sponsors of residential housing for occupancy
by eligible persons and families, or to eligible persons and
families who may construct such housing. Such loans shall
be made only upon determination by the housing develop-
ment 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 eligible persons and families, or to
eligible persons and families who may purchase or construct
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;

(28) To obtain options to acquire and to acquire real
property, or any interest therein, in its own name, by
purchase, or lease, or otherwise, which is found by the
housing development fund to be suitable, or potentially
suitable, as a site, or as part of a site, for the construction
of residential housing; 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
or to perform land development activities on or in connection with any such real property; to sponsor the development of residential housing for occupancy by eligible persons and families on such real property; and to sell, transfer and convey, lease or otherwise dispose of such real property, or residential housing, 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: Provided, however, 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, the housing development fund may sell, transfer and convey, lease or otherwise dispose of the same, to such purchasers or lessees, for such prices, upon such terms, conditions and limitations, and for such uses and purposes as the housing development fund shall determine;

(29) To make loans, with or without interest, but with such security for repayment as the housing development fund determines reasonably necessary and practicable from the land development fund, if created, established, organized and operated in accordance with the provisions of section twenty-a of this article, to sponsors of land development, to defray development costs and other costs of land development; and

(30) To exercise all of the rights, powers and authorities of a public housing authority as set forth and provided in article fifteen, chapter sixteen of this code in any area or areas of the state which the housing development fund shall determine by resolution to be necessary or appropriate.

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

1 The notes and bonds 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, unless otherwise provided by resolution of the housing development fund.


1 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 the holders thereof, as to:

(1) Pledging all or part of the mortgage or deed of trust payments, charges and other fees made or received by the housing development fund and other moneys received or to be received 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 housing development fund to secure the payment of the notes or bonds or any issue of notes or bonds, subject to such agreements with bondholders or noteholders as may then exist;

(3) Pledging as security, or as part of the security, for the payment of any mortgage finance bonds, including, but not limited to mortgage finance bonds issued to pay outstanding notes, amounts payable from the mortgage finance bond insurance fund;

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

(5) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payments of the notes or bonds or of any issue thereof;

(6) 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;

(7) 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;

(8) Limitations on the amount of moneys to be expended by the housing development fund for operating, administrative or other expenses of the housing development fund;

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

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

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

It is the intention hereof that any pledge, mortgage, deed
of trust or security instrument made by or for the benefit
of the housing development fund, including, but not limited
to amounts in the mortgage finance bond insurance fund,
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, enc-
cumbered, 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. The lien of such pledge shall be valid and binding
against all parties having claims of any kind in tort, contract,
or otherwise, irrespective of whether such parties have notice
of the lien of such pledge. Nothing herein shall be construed
to prohibit the housing development fund 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.

§31-18-20a. Land development fund.

(a) The board of directors of the housing development fund
may create and establish a special revolving fund of moneys
made available by appropriation, grant, contribution or loan,
to be known as the land development fund and to be
governed, administered and accounted for by the directors,
officers and managerial staff of the housing development
fund as a special purpose account separate and distinct
from any other moneys, fund or funds owned and managed
by the housing development fund.

(b) The purpose of the land development fund shall be to
provide a source from which the housing development fund
may finance development costs and land development in this
state by making loans therefrom, with or without interest
and with such security for repayment as the housing develop-
ment fund deems reasonably necessary and practicable, or by
expending moneys therefrom, for development costs and land
development in this state.

(c) The housing development fund may invest and reinvest
all moneys in the land development fund in any investments
authorized under section six of this article, pending the
disbursement thereof in connection with the financing of
development costs and land development in this state.

(d) No loans shall be made by the housing development
fund from the land development 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 for
development costs and land development;

(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.

(e) The housing development fund may expend any income
from the financing of development costs and land development
with moneys in the land development fund, and from invest-
ment of such moneys, in payment, or reimbursement, of all
expenses of the housing development fund which, as determin-
ed in accordance with procedures approved by the board of
directors of the housing development fund, are fairly allocable
to such financing or its land development activities: Provided,
That no funds from the land development fund shall be used
to carry on propaganda, or otherwise attempt to influence
legislation.


(a) There is hereby created and established in the state
treasury a special trust fund to be designated the "mortgage
finance bond insurance fund" into and from which moneys
shall be paid as provided in this section. The mortgage
finance bond insurance fund shall be under the supervision
and control of the state sinking fund commission and all
moneys and securities held therein or investments thereof
shall be held in trust subject to use and application only as
provided herein and in the resolution or resolutions of the
housing development fund authorizing the issuance of any
mortgage finance bonds, notwithstanding any other provision
of law. The mortgage finance bond insurance fund shall be
kept separate and apart from all other moneys and funds of
the state and the housing development fund is hereby author-
ized to pledge any amount or amounts held therein to the
payment of the principal (including annual sinking fund
payments) of, and interest on, mortgage finance bonds in the
manner and to the extent and on such terms and condi-
tions as may be provided by the housing development
fund.

(b) In addition to any other fees and charges which the
housing development fund may charge on loans, it shall
charge on all loans or mortgages made or purchased with
the proceeds of sale of mortgage finance bonds, except
federally insured construction loans, federally insured mort-
gages, or federal mortgages, a special bond insurance
commitment fee and special bond insurance premiums.
The special bond insurance commitment fees and special
bond insurance premiums so charged shall be remitted to
the state sinking fund commission, promptly after the
last day of each calendar quarter, by the housing develop-
ment fund, or by any trustee, trustees, agent or agents
designated by the housing development fund to receive
the same and shall be held, invested and, together with
all investment income thereon, reinvested by the state
sinking fund commission in investments authorized under
section six of this article.

(c) Simultaneously with the issuance of any mortgage
finance bonds, the housing development fund shall cause to
be deposited in the mortgage finance bond insurance fund
an amount of the proceeds of sale and delivery of such
mortgage finance bonds which together with the sum of
the amount then on deposit in the mortgage finance bond
insurance fund and in reserves theretofore or then set aside
with a trustee or trustees and held pursuant to the resolution
or resolutions authorizing the issuance of such bonds only for
the payment of designated mortgage finance bonds prior to,
or at, their maturity, shall equal the minimum bond insurance
requirement. Except as provided in subsection (e) of this
section, amounts on deposit in the mortgage finance bond
insurance fund which are in excess of the minimum bond
insurance requirement may be withdrawn from the mortgage
finance bond insurance fund and paid to or upon the
order of the housing development fund upon thirty days
notice in writing to the state sinking fund commission.
For the purposes of determining any amounts held in the
mortgage finance bond insurance fund, securities held in
or other investments of the mortgage finance bond insur-
ance fund shall be valued at par.
If, at any time, the hous-
ing development fund shall determine that because of
defaults or other reasons, the moneys available therefor
shall be insufficient to pay the principal, including the
annual sinking fund payment, of, and interest on, mort-
gage finance bonds becoming due during the next ensuing
six month period, the housing development fund shall give
written notice to the state sinking fund commission to transfer
the amount of moneys required for such payment, on or
before the time and to such trustee or paying agent for any
of the mortgage finance bonds as shall be specified in
such notice, and the state sinking fund commission shall make
such transfer.
(d) In the event that the sum of the amount held in the
mortgage finance bond insurance fund and in reserves set
aside with a trustee or trustees and held pursuant to the
resolution or resolutions authorizing the issuance of such bonds
only for the payment of designated mortgage finance
bonds prior to, or at, their maturity, shall be less than the
minimum bond insurance requirement, the chairman of
the housing development fund shall certify, on or before
the first day of December of each year, the amount of
such deficiency to the governor of the state, and the
governor shall transfer to the state sinking fund commis-
sion for deposit in the mortgage finance bond insurance
fund from any amounts previously appropriated which
are available for such purpose an amount equal to the
amount of such deficiency, and if the amount of such de-
sufficiency shall not be available from such prior appropria-
tion or shall not have been so transferred, the governor
shall include the amount of such deficiency not so trans-
ferred in the budget of his office to be submitted for ap-

proposition to the next session of the Legislature, and
shall cause any amounts appropriated for such purpose to
be transferred to the state sinking fund commission for de-
posit in the mortgage finance bond insurance fund: Provided,
That the Legislature shall not be required to make any
appropriation so requested, and the amount of such defici-
encies shall not constitute a debt or liability of the state.

(e) Subject to any agreement or agreements with
holders of outstanding notes and bonds of the housing
development fund, any amount or amounts paid by the
state into the mortgage finance bond insurance fund pur-
suant to this section shall be repaid to the state as,
when, and to the extent, amounts held in the mortgage
finance bond insurance fund at any time or times after
any payment by the state into the mortgage finance bond
insurance fund shall exceed the minimum bond insur-
ance requirement at such time or times.

§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, or of the land development
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, 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.

§31-18-22. Termination or dissolution.

Upon the termination or dissolution, all rights and
properties of the housing development fund, including the
operating loan fund, the land development fund, and the
mortgage finance bond insurance fund, shall pass to and be
vested in the state of West Virginia, subject to the rights
§31-18-24. Annual audit; reports to joint committee on government and finance; information to joint committee or legislative auditor.

The housing development fund 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 receipts, disbursements, contracts, mortgages, leases, assignments, loans and all other matters relating to its financial operations, including those of the operating loan fund, the land development fund, and the mortgage finance bond insurance fund. The person performing such audit shall furnish copies of the audit report to the commissioner of finance and administration, where they shall be placed on file and made available for inspection by the general public. The person performing such audit shall also furnish copies of the audit report to the speaker of the House of Delegates, the president of the Senate and the majority and minority leaders of both houses.

In addition to the foregoing annual audit report, the housing development fund shall also render every six months to the joint committee on government and finance a report setting forth in detail a complete analysis of the activities, indebtedness, receipts and financial affairs of such fund and the operating loan fund, the land development fund, and the mortgage finance bond insurance fund. Upon demand, the housing development fund shall also submit to the joint committee on government and finance or the legislative auditor any other information requested by such committee or the legislative auditor.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

W. Darrel Dart
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect from passage.

Haward W. Carson
Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 24th day of April 1973.

Walter B. Arning
Governor
PRESENTED TO THE
GOVERNOR
Date 4/24/73
Time 2:34 p.m.