

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1973

ENROLLED

(Com. Sub.)
SENATE BILL NO. 4

(By Mr. Hubbard)

PASSED June 27, 1973

In Effect 90 Day from Passage



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

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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.**

§31-19-1. Short title.

- 1 This article shall be known and may be cited as the "West
- 2 Virginia Community Development Authority Act."

§31-19-2. Legislative findings and purposes.

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

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

19 (c) The Legislature hereby finds and declares further that
20 it is in the public interest and is the responsibility of the
21 state of West Virginia to encourage local governmental units
22 to continue their independent undertakings of public improve-
23 ments and fulfillment of public purposes and the financing
24 thereof and to improve or enhance the possibilities of local
25 governmental units obtaining funds, to the extent possible, at
26 reduced interest costs, for orderly financing of public im-
27 provements and fulfillment of public purposes, particularly
28 those governmental units not otherwise able to borrow for
29 such purposes during periods of need.

30 (d) The Legislature hereby finds and declares further that
31 it is in the public interest, in order to implement and aid in
32 the discharge of the responsibilities aforesaid, that a state
33 instrumentality be created as a public body corporate with
34 full powers to borrow money and issue its bonds and notes
35 to the end that funds obtained thereby may be used for the
36 purchase by such state instrumentality of the bonds or notes
37 of local governmental units and that such state instrumentality
38 be granted all powers necessary or appropriate to accomplish

39 and to carry out the aforesaid public purposes and responsi-
40 bilities of the state of West Virginia in a manner to make it
41 possible for local governmental units to sell their municipal
42 bonds and borrow funds at as low an interest rate as said
43 instrumentality finds and determines to be feasible, con-
44 sistent with a self-supporting operation with no expectation
45 of subsidization with state funds.

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

§31-19-3. Definitions.

1 As used in this article, unless the context otherwise re-
2 quires:

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

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

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

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

14 (5) "Municipal bond" means a bond, note or other evi-
15 dence of debt of a governmental unit of the state of West
16 Virginia payable from funds derived from taxation or payable
17 from funds derived from sources other than taxation, but
18 does not include any bond, note or other evidence of debt

19 issued by any other state or any public body of any other
20 state;

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

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

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

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

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

§31-19-4. Creation and establishment of authority.

1 (a) There is hereby created and established as a govern-
2 mental instrumentality of the state of West Virginia, a public
3 body corporate to be known as the West Virginia community
4 development authority.

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

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

1 (a) The community development authority shall be govern-

2 ed by a board of directors, consisting of the following five
3 members: The governor as chairman and the state treasurer as
4 treasurer, as public directors, and three members representing
5 the general public, as private directors. No more than two of the
6 private directors shall be members of the same political party.

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

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

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

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

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

§31-19-6. Quorum; vote.

1 Three members of the board of directors shall constitute a
2 quorum. A vacancy in the membership of the board shall not
3 impair the right of a quorum to exercise all of the rights and
4 perform all of the duties of the board of directors. No ac-

5 tion shall be taken by the board of directors except upon the
6 affirmative vote of at least three of the directors.

**§31-19-7. Management and control of community development
authority; officers; bonding; liability.**

1 (a) The management and control of the community de-
2 velopment authority shall be vested solely in the board of di-
3 rectors in accordance with the provisions of this article.

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

6 (c) The board of directors may appoint a chief administra-
7 tive officer and may fix his title, duties and compensation.

8 (d) The board of directors of the community de-
9 velopment authority shall annually appoint a secretary,
10 who need not be a member of the board, to keep a
11 record of the proceedings of the community development
12 authority.

13 (e) The treasurer of the community development author-
14 ity shall be custodian of all funds of the community devel-
15 opment authority and the operating loan fund and shall be
16 bonded in such amount as the other members of the board of
17 directors may designate. The board may require such addi-
18 tional bonding as it deems necessary. The surety on all such
19 bonds shall be a surety company authorized to do business in
20 this state. All costs of such surety bonds shall be paid by the
21 authority.

22 (f) The directors and officers of the community develop-
23 ment authority shall not be liable personally, either jointly or
24 severally, for any debt or obligation created by the West Vir-
25 ginia community development authority or the operating loan
26 fund.

§31-19-8. Corporate power and duties.

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

5 (1) To sue and be sued.

6 (2) To have a seal and alter the same at will.

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

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

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

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

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

20 (8) To borrow money and to issue its negotiable bonds or
21 notes and to provide for and secure the payment thereof, and
22 to provide for the rights of the holders thereof, and to pur-
23 chase, hold and dispose of any of its bonds or notes.

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

30 (a) The making of loans.

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

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

42 (10) To issue renewal notes, to issue bonds to pay notes
43 and, whenever it deems refunding expedient, to refund any
44 bonds by the issuance of new bonds, whether the bonds to be
45 refunded have or have not matured except that no such re-
46 newal notes shall be issued to mature more than ten years
47 from date of issuance of the notes renewed and no such re-
48 funding bonds shall be issued to mature more than fifty years
49 from the date of issuance.

50 (11) To apply the proceeds from the sale of renewal notes
51 or refunding bonds to the purchase, redemption or payment of
52 the notes or bonds to be refunded.

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

61 (13) To purchase municipal bonds at such prices and in
62 such manner as the authority deems advisable, to hold munic-
63 ipal bonds, and to sell municipal bonds acquired or held by it
64 at such prices without relation to cost and in such manner as
65 the authority deems advisable.

66 (14) To determine which municipal bonds the authority
67 will purchase, and in making such determination, to con-
68 sider the need for and the desirability of the proposed sale by
69 the governmental unit, the ability of the governmental unit to
70 sell its bonds to others and the costs involved in a sale to
71 others, and the particular public improvement or purpose to
72 be financed with the proceeds of the municipal bonds proposed
73 to be purchased by the authority.

74 (15) To prescribe forms of application or procedure re-
75 quired of a governmental unit for, or in connection with, the
76 purchase by the authority of municipal bonds of a govern-
77 mental unit, and to fix the terms and conditions of such pur-
78 chase and to enter into agreements with governmental units
79 with respect to any such purchase.

80 (16) To establish any terms and provisions which the au-
81 thority shall determine with respect to any purchase of mu-
82 nicipal bonds by the authority, including date and maturities
83 of the municipal bonds, provisions as to redemption or pay-
84 ment prior to maturity, and any other matters which are nec-
85 essary, desirable or advisable in the judgment of the authority.

86 (17) To enter into and enforce all contracts, other instru-
87 ments or other transactions necessary, convenient or desirable
88 for the purposes of the authority or pertaining to any purchase
89 or sale of municipal bonds or any investments or to the per-
90 formance of its duties and the execution or carrying out of any
91 of its powers under this article.

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

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

103 (20) To provide technical, consultative and public im-
104 provement assistance services; and to fix and collect fees and
105 charges for the use of its services or facilities.

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

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

111 (b) Bonds, debentures, notes or other evidences of indebt-
112 edness issued by any of the following agencies: "Bank for
113 Cooperatives; Federal Intermediate Credit Banks; Federal
114 Home Loan Bank System; Export-Import Bank of the United
115 States; Federal Land Banks; the Federal National Mortgage
116 Association or the Government National Mortgage Asso-
117 ciation";

118 (c) Public housing bonds issued by public agencies or
119 municipalities and fully secured as to the payment of both
120 principal and interest by a pledge of annual contributions un-
121 der an annual contributions contract or contracts with the
122 United States of America; or temporary notes issued by public
123 agencies or municipalities or preliminary loan notes issued by
124 public agencies or municipalities, in each case, fully secured
125 as to the payment of both principal and interest by a requis-
126 ition or payment agreement with the United States of America;

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

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

131 (f) Direct and general obligations of any other state within
132 the territorial United States, to the payment of the principal
133 of and interest on which the full faith and credit of such state
134 is pledged, if at the time of their purchase, such obligations
135 are rated in either of the two highest rating categories by a
136 nationally recognized bond rating agency; and,

137 (g) Any fixed interest bond, note or debenture of any cor-
138 poration organized and operating within the United States:
139 *Provided*, That such corporation shall have a minimum net
140 worth of fifteen million dollars and its securities or its parent
141 corporation's securities are listed on one or more of the na-
142 tional stock exchanges: *Provided, however*, That (i) such cor-
143 poration has earned a profit in eight of the preceding ten fis-
144 cal years as reflected in its statements, and (ii) such corpora-
145 tion has not defaulted in the payment of principal or inter-
146 est on any of its outstanding funded indebtedness during its
147 preceding ten fiscal years, and (iii) the bonds, notes or deben-
148 tures of such corporation to be purchased are rated "AA" or
149 the equivalent thereof or better than "AA" or the equivalent
150 thereof by at least two or more nationally recognized rating
151 services, such as Standard and Poor's, Dun & Bradstreet, or
152 Moody's.

153 (22) To make temporary loans, with or without interest,
154 but with such security for repayment as the community de-
155 velopment authority determines reasonably necessary and prac-

156 ticable, from the operating loan fund, if established and oper-
 157 ated in accordance with the provisions of section twenty-one
 158 of this article.

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

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

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

1 Except as may otherwise be provided by the community
 2 development authority, every issue of its notes or bonds shall
 3 be general obligations of the community development author-
 4 ity payable out of any revenues or moneys of the community
 5 development authority, subject only to any agreements with
 6 the holders of particular notes or bonds pledging any par-
 7 ticular revenues.

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

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

§31-19-11. Borrowing of money.

1 The borrowing of money and the notes and bonds evidenc-
 2 ing any such borrowing shall be authorized by resolution
 3 approved by the board of directors of the community develop-
 4 ment authority, shall bear such date or dates, and shall
 5 mature at such time or times, in the case of any such note or
 6 any renewal thereof, not exceeding ten years from the date
 7 of issue of such original note, and, in the case of any such
 8 bonds, not exceeding fifty years from the date of issue, as
 9 such resolution or resolutions may provide. The notes and
 10 bonds shall bear interest at such rate or rates, be in such
 11 denominations, be in such form, either coupon or registered,
 12 carry such registration privileges, be executed in such manner,
 13 be payable in such medium of payment, at such place or

14 places, and be subject to such terms or conditions of re-
15 demption as such resolution or resolutions may provide.

§31-19-12. Sale of notes or bonds.

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

§31-19-13. Authorizing resolutions.

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

4 (1) Pledging all or part of the revenues of the community
5 development authority to secure the payment of the notes
6 or bonds or of any issue thereof, subject to such agreements
7 with bondholders or noteholders as may then exist;

8 (2) Pledging all or any part of the assets of the community
9 development authority to secure the payment of the notes
10 or bonds or any issue thereof, subject to such agreements
11 with bondholders or noteholders as may then exist;

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

14 (4) Limitations on the purposes to which the proceeds
15 of sale of notes or bonds may be applied and pledging such
16 proceeds to secure the payment of the notes or bonds or of
17 any issue thereof;

18 (5) Limitations on the issuance of additional notes or
19 bonds; the terms upon which additional notes or bonds may
20 be issued and secured; and the refunding of outstanding or
21 other notes or bonds;

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

27 (7) Limitations on the amount of moneys to be expended
28 by the community development authority for operating, ad-
29 ministrative or other expenses of the community development
30 authority;

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

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

§31-19-14. Validity of any pledge, mortgage, deed of trust or security instrument.

1 It is the intention hereof that any pledge, mortgage, deed
2 of trust or security instrument made by or for the benefit
3 of the community development authority shall be valid and
4 binding between the parties from the time the pledge, mort-
5 gage, deed of trust or security instrument is made; and that
6 the moneys or property so pledged, encumbered, mortgaged
7 or entrusted shall immediately be subject to the lien of such
8 pledge, mortgage, deed of trust or security instrument with-
9 out any physical delivery thereof or further act. Nothing
10 herein shall be construed to prohibit the community develop-
11 ment authority from selling any property subject to any such
12 pledge, mortgage, deed of trust or security instrument. Such
13 property is not to be sold for less than its fair market value.

§31-19-15. Redemption of notes or bonds.

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

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

10 such purchase shall not exceed the redemption price applic-
11 able on the first date after such purchase upon which the
12 notes or bonds become subject to redemption plus accrued
13 interest to such date. Upon such purchase such notes or
14 bonds shall be canceled.

§31-19-16. Disclaimer of any liability of state of West Virginia.

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

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

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

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

1 (a) Upon the issuance and sale of any municipal bonds to
2 the authority by any governmental unit, such governmental
3 unit shall be deemed to agree that on the failure of that
4 governmental unit to pay the principal of or interest on any
5 of the municipal bonds owned or held by the authority when
6 payable, all defenses to nonpayment are waived. Notwith-
7 standing any provisions of any other law relating to, limiting

8 or otherwise affecting the time or duration of any default
9 or the percentage of holders or owners of bonds entitled to
10 exercise rights of holders or owners of bonds in default or
11 entitled to invoke any remedies or powers thereof, or the
12 rights of any trustee in connection therewith or of any
13 board, body, agency or commission of the state having
14 jurisdiction in such matter or circumstance, the authority
15 may upon such nonpayment, avail itself of all rights, remedies
16 and provisions of law applicable in that circumstance. The
17 failure by the authority to exercise or exert any such rights,
18 remedies or provisions of law within any time period provided
19 by law may not be raised as a defense by the governmental
20 unit and all of the bonds of any issue of bonds of a govern-
21 mental unit on which there is nonpayment shall for all of
22 the purposes of this section, at the option of the authority,
23 be deemed to be immediately due and payable. The authority
24 is authorized and empowered to carry out the provisions of
25 this section and exercise all of the rights, remedies and
26 provisions of law herein provided, referred to, or provided
27 elsewhere by statute or by other law. If there be a default
28 in the payment of the principal or interest on or of both
29 the principal or interest on any bonds secured by
30 pledged revenues and purchased by the authority, any court
31 having jurisdiction shall upon motion of the authority appoint
32 a receiver to administer any public improvement serving as
33 security for the bonds; and any such receiver shall be
34 appointed on behalf of the authority with the power and
35 authority to charge and collect rates or charges sufficient to
36 provide for the retirement of the bonds and pay the interest
37 thereon, and for the payment of the repair, maintenance and
38 operation expenses of such public improvement. Such receiver
39 shall serve for such period of time as may be prescribed by
40 the court having jurisdiction and only so long as may be
41 necessary to place the operation of the public improvement on
42 a sound financial basis. The payment of all municipal bonds
43 for which general tax revenues are pledged as security shall
44 be provided for as a separate item in the annual budget of
45 the governmental unit which issued such bonds.

46 (b) In the event the community development authority
47 shall default in the payment of principal or interest on
48 any issue of its notes or bonds after the same shall become

49 due, whether at maturity or upon call for redemption, and
50 such default shall continue for a period of thirty days, or
51 in the event the community development authority shall fail
52 or refuse to comply with the provisions of this article or shall
53 default in any agreement made with the holders of any
54 issue of notes or bonds, the holders of twenty-five per centum
55 in aggregate principal amount of the notes or bonds of such
56 issue then outstanding, by instrument or instruments filed
57 in the office of the clerk of the county court of any county
58 in which the community development authority operates and
59 has an office and acknowledged in the same manner as a
60 deed to be recorded, may appoint a trustee to represent the
61 holders of such notes or bonds for the purposes herein
62 provided:

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

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

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

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

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

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

82 (2) In addition to the foregoing, such trustee shall have
83 and possess all of the powers necessary or appropriate for
84 the exercise of any functions specifically set forth herein or
85 incident to the general representation of holders of notes or
86 bonds of the authority in the enforcement and protection
87 of their rights.

88 (3) Before declaring the principal of any notes or bonds
89 due and payable, the trustee shall first give thirty days'
90 notice in writing to the community development authority.

§31-19-19. Investment in notes and bonds.

1 The notes and bonds of the community development au-
2 thority are hereby made securities in which all insurance
3 companies and associations, and other persons carrying on
4 an insurance business, all banking institutions, trust compan-
5 ies, building and loan associations, savings and loan associa-
6 tions, investment companies and other persons carrying on a
7 banking business, and other persons, except administrators,
8 guardians, executors, trustees and fiduciaries, who are now or
9 who may hereafter be authorized to invest in bonds or other
10 obligations of the state, may properly and legally invest funds
11 including capital in their control or belonging to them.

§31-19-20. Tax exemption.

1 The community development authority shall not be required
2 to pay any taxes and assessments to the state of West Vir-
3 ginia, or to any county, municipality or other governmental
4 subdivision of the state of West Virginia, upon any of its
5 property or upon its obligations or other evidences of indebt-
6 edness issued pursuant to the provisions of this article, or
7 upon any moneys, funds, revenues or other income held or re-
8 ceived by the community development authority and the notes
9 and bonds of the community development authority, and the
10 income therefrom shall at all times be exempt from taxation,
11 as aforesaid, except for death and gift taxes, taxes on trans-
12 fers, sales taxes, real property taxes and business and occupa-
13 tion taxes.

§31-19-21. Operating loan fund.

1 (a) The board of directors of the community development
2 authority is hereby empowered and authorized to establish a
3 special revolving loan fund to be known as the operating loan
4 fund and to be governed, administered and accounted for by
5 the directors, officers and staff of the community development
6 authority as a public purpose trust account separate and dis-

7 tinct from any other moneys, fund or funds owned and man-
8 aged by the community development authority.

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

18 (c) No temporary loans shall be made by the community
19 development authority from the operating loan fund except in
20 accordance with a written loan agreement which shall in-
21 clude, but not be limited to, the following terms and condi-
22 tions:

23 (1) The proceeds of all such loans shall be used only to de-
24 fray the planning and development costs of proposed public
25 improvements;

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

28 (3) All repayments shall be made concurrent with receipt
29 by the borrower of the proceeds of a federal grant or loan or
30 the securing of long-term financing, as the case may be, or
31 at such other times as the community development author-
32 ity deems reasonably necessary or practicable; and

33 (4) Specification of such security for repayments upon such
34 terms and conditions as the community development authority
35 deems reasonably necessary or practicable to ensure all re-
36 payments.

§31-19-22. Authorized limit on borrowing.

1 The aggregate principal amount of notes and bonds issued
2 by the community development authority shall not exceed two
3 hundred million dollars outstanding at any one time: *Provided,*
4 That in computing the total amount of notes and bonds which
5 may at any one time be outstanding, the principal amount of
6 any outstanding notes or bonds refunded or to be refunded

7 either by application of the proceeds of the sale of any refund-
8 ing bonds or notes of the community development authority
9 or by exchange for any such refunding bonds or notes shall
10 be excluded.

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

1 No part of the funds of the community development au-
2 thority, or of the operating loan fund, shall inure to the bene-
3 fit of or be distributable to its directors or officers or other
4 private persons except that the community development au-
5 thority shall be authorized and empowered to pay reasonable
6 compensation, other than to the directors, for services rendered
7 and to make loans and purchase municipal bonds as pre-
8 viously specified in furtherance of its corporate purpose: *Pro-*
9 *vided*, That no such loans shall be made to and no such mu-
10 nicipal bonds shall be purchased from any director or officer
11 of the community development authority.

§31-19-24. Termination or dissolution.

1 Upon termination or dissolution, all rights and properties
2 of the community development authority, including the oper-
3 ating loan fund, shall pass to and be vested in the state of
4 West Virginia, subject to the rights of lienholders and other
5 creditors.

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

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

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

§31-19-26. Annual audit.

1 The community development authority shall cause an annual

2 audit to be made by a resident independent certified public
3 accountant of its books, accounts and records, with respect to
4 its revenues, disbursements, contracts, assignments, loans and
5 all other matters relating to its financial operations, including
6 those of the operating loan fund. The person performing such
7 audit shall furnish copies of the audit report to the commis-
8 sioner of finance and administration, where they shall be
9 placed on file and made available for inspection by the gen-
10 eral public. The person performing such audit shall also fur-
11 nish copies of the audit report to the president of the Senate,
12 the speaker of the House of Delegates and the majority and
13 minority leaders of both houses.

§31-19-27. Severability.

1 If any provision of this article or the application thereof
2 to any person or circumstance is held invalid, such invalidity
3 shall not affect other provisions or applications of the article,
4 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. Darrel Darby

Chairman Senate Committee

Clarence C. Christian, Jr.

Chairman House Committee

Originated in the Senate.

Takes effect ninety days from passage.

Howard Tuberman

Clerk of the Senate

V. Blankenship

Clerk of the House of Delegates

W. A. Broekert, Jr.

President of the Senate

Louis N. McManus

Speaker House of Delegates

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

Hubert A. Moore, Jr.

Governor

PRESENTED TO THE
GOVERNOR

Date 7/5/73

Time 4:00 p.m.