

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974



ENROLLED

HOUSE BILL No. 902

(By McSpencer, Mr. McManus & Mr. Seibert)



PASSED March 1 1974

In Effect 90 days Passage



C 641

902

FILED IN THE OFFICE
EDGAR F. HEISKILL III
SECRETARY OF STATE
THIS DATE 3-27-74

ENROLLED

H. B. 902

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

[Passed March 1, 1974; in effect ninety days from passage.]

AN ACT to amend and reenact section seven, article fourteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to financial institutions as members of a business development corporation organized under article fourteen and relating to loans to a business development corporation by its members; providing that the limitation contained in section seven as to the total obligations of a business development corporation at any time shall not apply with respect to that portion of a business development corporation's obligations incurred to fund the making or acquisition of loans, assets or investments to the extent such loans, assets or investments are federally guaranteed as therein defined; providing that in computing the total amount outstanding on loans to a business development corporation made by a member at any time the federally guaranteed portion of loans, assets or investments made or acquired by a business development corporation with the proceeds of such loans shall be excluded; providing that the loan limit of a member of a business development corporation shall be adjusted annually; and providing that the undivided profits of a member of a business development corporation shall be included in computing its loan limit.

Be it enacted by the Legislature of West Virginia:

That section seven, article fourteen, chapter thirty-one of the

code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 14. WEST VIRGINIA BUSINESS DEVELOPMENT CORPORATIONS.

§31-14-7. Financial institutions as members of corporation; loans to corporation by members.

1 Any financial institution as defined in section one of this
2 article is authorized to become a member of a corporation
3 organized under the provisions of this article by making
4 application to the board of directors on such form and in
5 such manner as the board of directors may require and
6 membership shall become effective upon acceptance of such
7 application by said board. Membership in the corporation
8 shall be for the duration of the corporation: *Provided*, That
9 upon written notice given to the corporation one year in
10 advance, a member may withdraw from membership in the
11 corporation at the expiration date of such notice and shall
12 not thereafter be obligated to make any loans to the cor-
13 poration.

14 Each member of the corporation shall make loans to the
15 corporation as and when called upon by it to do so on such
16 terms and other conditions as shall be mutually approved
17 from time to time by the board of directors of the corporation
18 and such member, subject to the following conditions:

19 (1) All loan limits shall be established at the thousand-
20 dollar amount nearest to the amount computed in accordance
21 with the provisions of this section.

22 (2) No loans to the corporation shall be made if im-
23 mediately thereafter, the total amount of the obligations of
24 the corporation would exceed ten times the amount then paid
25 in on the outstanding capital stock of the corporation.
26 This limitation shall not apply with respect to that portion
27 of the corporation's obligations incurred for the purpose of
28 providing funds for making loans or for the acquisition of
29 assets or investments to the extent that such loans, assets or
30 investments are federally guaranteed, which for the purposes
31 of this section seven means secured or covered by guaranties
32 or by commitments or agreements to take over, or purchase,

33 made by the United States of America, or by any depart-
34 ment, bureau, agency, board, commission or establishment
35 of the United States including any corporation, wholly owned,
36 directly or indirectly, by the United States.

37 (3) The total amount outstanding on loans to the corporation
38 made by any member at any one time, when added to the
39 amount of the investment in the capital stock of the corporation
40 then held by such member, shall not exceed:

41 (a) Twenty percent of the total amount then outstanding on
42 loans to the corporation by all members, including in said total
43 amount outstanding, amounts validly called for loans but not
44 yet loaned.

45 (b) The following limit, to be adjusted annually on the basis
46 of the audited balance sheet of such member at the close of its
47 fiscal year, or, in the case of an insurance company, its annual
48 statement to the commissioner of insurance; two percent of the
49 capital, surplus and undivided profits of commercial banks and
50 trust companies; one percent of the total outstanding loans
51 made by a building and loan association or industrial loan com-
52 pany; one percent of the capital and unassigned surplus of stock
53 insurance companies, except fire insurance companies; one per-
54 cent of the unassigned surplus of mutual insurance companies,
55 except fire insurance companies; one tenth of one percent of
56 the assets of fire insurance companies; and such limits as may
57 be approved by the board of directors of the corporation for
58 other financial institutions.

59 In computing the total amount outstanding on loans to the
60 corporation made by a member at any time, there shall be
61 excluded such portion of such loans as were obtained by
62 the corporation for the purpose of providing funds for the
63 making of loans or for the acquisition of assets or investments
64 to the extent that such loans, assets or investments are
65 federally guaranteed.

66 Subject to paragraph three (a) of this section, each call made
67 by the corporation shall be prorated among the members of the
68 corporation in substantially the same proportion that the ad-
69 justed loan limit of each member bears to the aggregate of the
70 adjusted loan limit of all members. The adjusted loan limit of a

71 member shall be the amount of such member's loan limit, re-
72 duced by the balance of outstanding loans by such member to
73 the corporation and the investment in capital stock of the
74 corporation held by such member at the time of such call.

75 All loans to the corporation by members shall be evidenced
76 by bonds, debentures, notes or other evidences of indebtedness
77 of the corporation, which shall be freely transferable at all
78 times, and which shall bear interest at a rate of not less
79 than one quarter of one percent in excess of the rate of interest
80 determined by the board of directors to be the prime rate
81 prevailing at the date of issuance thereof on unsecured
82 commercial loans.

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

H. David Darby
Chairman Senate Committee

Clarence C. Christian, Jr.
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard W. Larson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

H. T. Brotherton, Jr.
President of the Senate

Levin F. McMann
Speaker House of Delegates

The within approved this the 26th
day of March, 1974.

Arva A. Basse, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/15/74

Time 2:50 p.m.