

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977



ENROLLED

SENATE BILL NO. 328

(By Mr. Palumbo)



PASSED April 9, 1977

In Effect July 1, 1977 ~~Passage~~

110. 520

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Senate Bill No. 328

(By MR. PALUMBO)

[Passed April 9, 1977; in effect July 1, 1977.]

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 eighteen-a, relating to the creation and establishment of the West Virginia energy conservation revolving loan fund; short title; legislative findings; declaration of policy and responsibility; purpose and intent of article; definitions of terms; administration of revolving loan fund; powers and duties of the housing development fund respecting the revolving loan fund; creation of the revolving loan fund; purpose; investment of funds; loan agreements; expenditures from the revolving loan fund; terms and conditions of loans; prohibition on funds inuring to the benefit of directors, officers or private persons; termination or dissolution; annual audit; and rule of construction of provisions of this article.

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 eighteen-a, to read as follows:

ARTICLE 18A. WEST VIRGINIA ENERGY CONSERVATION REVOLVING LOAN FUND.

§31-18A-1. Short title.

- 1 This article shall be known and may be cited as the
- 2 "West Virginia Energy Conservation Revolving Loan
- 3 Fund."

§31-18A-2. Legislative findings; declaration of policy and responsibility; purpose and intent of article.

1 It is hereby determined and declared as a matter of
2 legislative finding: (a) That an energy shortage exists
3 within the state of West Virginia; (b) that the energy
4 shortage is severe in certain areas of the state and may
5 become severe, from time to time, in other areas of the
6 state; (c) that the cost to the consumer for energy usage
7 continues to increase at an accelerated rate; (d) that the
8 energy shortage has produced widespread unemploy-
9 ment, threatening the economic stability of this state;
10 and (e) that these conditions are inimical to the health,
11 welfare and prosperity of all residents of the state and to
12 the sound growth of the state.

13 It is hereby declared to be the public policy and a
14 responsibility of this state to assist its residents in im-
15 proving the energy efficiency of their residential dwell-
16 ings. It is the purpose and intent of the Legislature in
17 enacting this article to provide low interest loans to
18 residents of this state of low and moderate income, who
19 own and occupy single family residential dwellings, as an
20 incentive for the improvement of the energy efficiency
21 of such dwellings.

22 The Legislature finds that the public policy and respon-
23 sibility of the state as set forth in this section cannot be
24 effectively attained without the funding, establishment,
25 operation and maintenance of the energy conservation
26 revolving loan fund.

§31-18A-3. Definitions.

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

3 (1) "Residential dwelling" means a single family resi-
4 dence located in the state of West Virginia, which it is
5 determined by the housing development fund can be
6 substantially aided in the conservation of energy by the
7 making of improvements financed with a loan under this
8 article;

9 (2) "Eligible owner of a residential dwelling" means:

10 (a) Person or persons of low and moderate income who
11 own and occupy a residential dwelling; or

12 (b) Person or persons of higher income who own and
13 occupy a residential dwelling in such area or areas of this
14 state which are determined by the West Virginia housing
15 development fund, in consultation with the public service
16 commission, by resolution, to be a critical energy shortage
17 area; or

18 (c) Person or persons who own and occupy a residential
19 dwelling and who because of age or disability are found
20 and determined by the West Virginia housing develop-
21 ment fund, by resolution, to require assistance in improv-
22 ing the energy efficiency of such dwellings to insure their
23 health, safety and welfare;

24 (3) "Housing development fund" means the West Vir-
25 ginia housing development fund created and established
26 by section four, article eighteen, chapter thirty-one of this
27 code;

28 (4) "Revolving loan fund" means the West Virginia
29 energy conservation revolving loan fund which is created
30 and established by section six of this article;

31 (5) "Person or persons of low and moderate income"
32 means a person or persons, irrespective of race, creed,
33 national origin or sex, determined by the housing develop-
34 ment fund to require such assistance as is made available
35 by this article on account of personal or family income
36 not sufficient to afford to implement or install energy con-
37 servation materials or equipment designed to improve the
38 energy efficiency of residential dwellings, and in making
39 such determination the housing development fund shall
40 take into account the following: (a) The amount of the
41 total income of such persons and families for housing
42 energy needs; (b) the size of the family; (c) the cost and
43 condition of the residential dwelling; and (d) the eligi-
44 bility of such persons or families for federal housing
45 energy conservation assistance of any type based upon
46 low or moderate income basis.

**§31-18A-4. Administration of revolving loan fund by West
Virginia housing development fund.**

1 The West Virginia energy conservation revolving loan
2 fund, established and authorized by section six of this
3 article, shall be administered by the board of directors of

4 the West Virginia housing development fund, a public
5 corporate body, created and established by section four,
6 article eighteen, chapter thirty-one of this code.

**§31-18A-5. Powers and duties of the housing development fund
regarding the revolving loan fund.**

1 The West Virginia housing development fund is hereby
2 authorized and empowered:

3 (1) To accept appropriations, gifts, grants, bequests and
4 devises, and to utilize or dispose of the same to carry out
5 the purposes of this article;

6 (2) To make and execute contracts, releases, compro-
7 mises, compositions and other instruments necessary or
8 convenient for the exercise of its powers, or to carry out
9 its purposes under this article;

10 (3) To collect reasonable fees and charges in connec-
11 tion with making and servicing loans, notes, obligations,
12 commitments and other evidences of indebtedness, which
13 fees shall be limited to the amounts required to pay the
14 costs of the housing development fund, including operating
15 and administrative costs;

16 (4) To invest funds not required for immediate dis-
17 bursement in any of the following securities:

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

20 (ii) Bonds, debentures, notes or other evidences of
21 indebtedness issued by any of the following agencies:
22 Bank for cooperatives; federal intermediate credit banks;
23 federal home loan bank system; Export-Import Bank of
24 the United States; federal land banks; the Federal Na-
25 tional Mortgage Association or the Government National
26 Mortgage Association;

27 (iii) Public housing bonds issued by public agencies
28 or municipalities and fully secured as to the payment of
29 both principal and interest by a pledge or annual con-
30 tributions under an annual contributions contract or con-
31 tracts with the United States of America; or temporary
32 notes issued by public agencies or municipalities or pre-
33 liminary loan notes issued by public agencies or munici-
34 palities, in each case, fully secured as to the payment of

35 both principal and interest by a requisite or payment
36 agreement with the United States of America;

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

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

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

48 (vii) Any fixed interest bond, note or debenture of any
49 corporation organized and operating within the United
50 States: *Provided*, That such corporation shall have a
51 minimum net worth of fifteen million dollars and its
52 securities or its parent corporation's securities are listed
53 on one or more of the national stock exchanges: *Pro-*
54 *vided, however*, That (1) such corporation has earned a
55 profit in eight of the preceding ten fiscal years as reflected
56 in its statements, and (2) such corporation has not de-
57 faulted in the payment of principal or interest on any of
58 its outstanding funded indebtedness during its preceding
59 ten fiscal years, and (3) the bonds, notes or debentures
60 of such corporation to be purchased are rated "AA" or
61 the equivalent thereof or better than "AA" or the equiva-
62 lent thereof by at least two or more nationally recognized
63 rating services such as Standard and Poor's, Dun & Brad-
64 street or Moody's;

65 (5) To sue and be sued;

66 (6) To promulgate and publish rules and regulations
67 not inconsistent with the provisions of this article;

68 (7) To appoint such employees and consultants as it
69 deems advisable and to fix their compensation and pre-
70 scribe their duties;

71 (8) To acquire, hold and dispose of personal property
72 for its purposes under this article;

73 (9) To enter into agreements or other transactions with
74 any federal or state agency, any person, or any domestic

75 or foreign partnership, corporation, association or organi-
76 zation;

77 (10) To sell, at public or private sale, any mortgage or
78 other negotiable instrument or obligation securing a loan
79 made under the provisions of this article;

80 (11) To establish guidelines to be complied with by any
81 person, firm, association, partnership or corporation, en-
82 gaged in supplying, retailing or installing energy conser-
83 vation materials or equipment designed to improve the
84 energy efficiency of residential dwellings to be improved
85 with financing under this article;

86 (12) To approve any person, firm, association, partner-
87 ship or corporation who shall enter into any bargain,
88 agreement or contract to furnish or install energy conser-
89 vation materials or equipment for a residential dwelling,
90 the cost and expense of which shall be defrayed by a loan
91 made pursuant to this article;

92 (13) To make loans in the manner and under the terms
93 and conditions prescribed by this article to eligible owners
94 of residential dwellings to defray the costs of financing
95 the purchase and installation of energy conservation ma-
96 terials and equipment, designed to improve the energy
97 efficiency of such dwelling;

98 (14) To establish and supervise an inspection program
99 to assure the satisfactory nature of all materials and
100 workmanship for energy efficiency improvements financed
101 by loans made pursuant to this article and to utilize to
102 the extent possible the services of municipal building
103 inspectors;

104 (15) To enter into agreements with banks, public util-
105 ities and other entities for advertising the energy con-
106 servation revolving loan fund, for taking applications
107 for loans from such fund, for supervising the execution
108 of promissory notes, deeds of trust and other papers
109 associated with the energy conservation revolving loan
110 fund, for approving and inspecting energy conservation
111 loan contracts to insure compliance with the provisions
112 of this article, for accepting and transmitting loan pay-
113 ments, for the operation and administration of any other
114 aspect of the energy conservation revolving loan fund

115 established by this article and for reimbursing such
116 banks, public utilities and other entities for any reason-
117 able and necessary expenses incurred in the implementa-
118 tion of any such agreements.

§31-18A-6. Revolving loan fund created; purpose; investment of funds; loan agreements; expenditures.

1 (a) The board of directors of the housing develop-
2 ment fund shall create and establish a special revolving
3 fund of moneys made available by appropriations, grants,
4 contributions, bequests, devises, loan payments, interest
5 and investment income, to be known as the energy con-
6 servation revolving loan fund and to be governed, ad-
7 ministered and accounted for by the directors, officers
8 and managerial staff of the housing development fund as
9 a special purpose trust account separate and distinct
10 from any other moneys, fund or funds owned and man-
11 aged by the housing development fund.

12 (b) The purpose of the energy conservation revolving
13 loan fund shall be to provide a source from which the
14 housing development fund may make loans to eligible
15 owners of residential dwellings.

16 (c) The housing development fund may invest and
17 reinvest all moneys in the revolving loan fund in any
18 investments authorized by section five of this article,
19 pending the disbursement thereof in connection with
20 loans made pursuant to this article.

21 (d) The housing development fund may expend any
22 income from loans or investments authorized by this
23 article in payment or reimbursement of all expenses of
24 the housing development fund which, as determined in
25 accordance with procedures approved by the board of
26 directors, are fairly allocable to such financing or activ-
27 ities authorized by this article: *Provided*, That no funds
28 shall be used to carry on propaganda or otherwise at-
29 tempt to influence legislation.

§31-18A-7. Terms and conditions of loans from the revolving loan fund.

1 No loans shall be made by the housing development
2 fund except to eligible owners of residential dwellings

3 who meet reasonable criteria of credit worthiness as de-
4 fined by the housing development fund and in accordance
5 with a written loan agreement which shall include, but
6 not be limited to, the following terms and conditions:

7 (1) No loan shall be made under the provisions of this
8 article, unless an affidavit shall be executed by the eligi-
9 ble owner asserting his title to the residential dwelling
10 and submitted to the housing development fund together
11 with evidence of his source of title;

12 (2) The proceeds of all such loans shall be used only
13 for financing the cost of improving the energy efficiency
14 of residential dwellings through the installation or up-
15 grading of insulation, storm windows and doors, caulking,
16 weather stripping, heat pumps, or other energy conser-
17 vation materials or equipment in such dwellings;

18 (3) All such loans shall be repaid in full over a period
19 of time not to exceed three years and at a rate of interest
20 not to exceed three percent;

21 (4) All such loans shall be limited to a maximum
22 amount of two thousand dollars for each residential
23 dwelling: *Provided*, That in no event shall the amount
24 of the loan exceed the actual cost of materials purchased,
25 or the actual cost of materials and labor furnished or
26 supplied by any person, firm, association, partnership
27 or corporation certified by the housing development
28 fund;

29 (5) Each such loan shall be evidenced by a nego-
30 tiable promissory note executed and delivered by the
31 eligible owner or owners and shall be secured by a deed
32 of trust upon the property and dwelling improved by the
33 proceeds of the loan: *Provided*, That in no event shall
34 a certificate of title, title insurance or other title security
35 be required;

36 (6) All notes and deeds of trust accepted as security
37 for loans under this article shall be payable to the order
38 of and for the use and benefit of the West Virginia
39 housing development fund;

40 (7) Payment of the loan proceeds shall be made by
41 the housing development fund jointly to the owner and

42 any person, firm, association, partnership or corporation
43 supplying and furnishing materials or labor and materials
44 upon a determination by the housing development fund
45 and certification by the eligible owner that the work-
46 manship and materials for energy efficiency improve-
47 ments are satisfactory.

§31-18A-8. Prohibition on funds inuring to the benefit of or being distributable to the directors, officers, private persons.

1 No part of the funds of the energy conservation re-
2 volving loan fund shall inure to the benefit of or be dis-
3 tributable to the directors or officers of the housing de-
4 velopment fund except that the housing development
5 fund shall be authorized and empowered to pay reason-
6 able compensation for services rendered and to make
7 loans as previously specified in furtherance of its purposes
8 under this article.

§31-18A-9. Termination or dissolution.

1 Upon termination or dissolution of the housing de-
2 velopment fund or the energy conservation revolving
3 loan fund, all rights and properties held pursuant to the
4 provisions of this article shall pass to and be vested in
5 the state of West Virginia, subject to the rights of lien-
6 holders and other creditors.

§31-18A-10. Annual audit.

1 The housing development fund shall cause an annual
2 audit to be made of the energy conservation revolving
3 loan fund by a resident independent certified public ac-
4 countant of its books, accounts, and records, with respect
5 to its receipts, disbursements, contracts, mortgages or
6 deeds of trust, assignments, loans and all other matters
7 relating to its financial operations of the revolving loan
8 fund. The person, firm, association, partnership or cor-
9 poration performing such audit shall furnish copies of
10 the audit report to the commissioner of finance and ad-
11 ministration, where they shall be placed on file and
12 made available for inspection by the general public.

§31-18A-11. Severability clause.

1 If any provision of this article or the application thereof
2 to any person or circumstance is held invalid, such in-
3 validity shall not affect other provisions or applications
4 of the article which can be given effect without the in-
5 valid provision or application, and to this end the pro-
6 visions of this article are severable.

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

James L. Davis
Chairman, Senate Committee

Clarence C. Chestnut
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1977.

J. Hillon Jr.
Clerk of the Senate

Blankenship
Clerk of the House of Delegates

W. C. B. [unclear]
President of the Senate

Donald L. Kopp
Speaker House of Delegates

The within *is approved* this the *26*
day of *April*, 1977.

(John) R. Ralph
Governor



RECEIVED

APR 18 4 03 PM '77

OFFICE OF THE GOVERNOR

APPROVED AND SIGNED BY THE GOVERNOR

Date April 26, 1977

Time 3:10 p.m.

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OFFICE
SECRETARY OF STATE