

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977



ENROLLED

SENATE BILL NO. 561

(By Mr Brotherton, Mr. President, et al)



PASSED April 5, 1977

In Effect from Passage



# ENROLLED

## Senate Bill No. 561

(By MR. BROTHERTON, MR. PRESIDENT, MR. PALUMBO,  
MR. HAMILTON and MR. KUSIC)

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[Passed April 5, 1977; in effect from passage.]

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AN ACT to amend and reenact sections one, two, three, four, five, six, seven, seven-a, eight, nine, ten, eleven, twelve, thirteen, fourteen and fifteen, article fifteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, changing the name of the West Virginia industrial development authority to the West Virginia economic development authority; increasing the powers thereof; setting forth certain legislative findings; defining certain terms; relating to membership on the economic development authority; relating to the appointment of and terms of its members; relating to vacancies on the authority; authorizing the delegation of authority by certain members; relating to voting, compensation, expenses and general powers of the authority; deleting reference to fifty year existence of the authority; relating to loans to industrial development agencies for industrial development projects and industrial subdivision project acquisitions and improvements; relating to certain conditions in connection with such loans; relating to liens; relating to certain loan application requirements; providing for certain hearings; changing the name of the industrial development fund to the economic development fund; relating to the requisitions from the economic development fund; relating to certain excess moneys in such fund; relating to the governing body of the authority; relating to the organization, officers, meetings, quorum, voting and powers of such governing body; relating to the money of the authority; relating to a certain conflict of interest; making certain contracts void; providing an agreement

with federal agencies not to alter or limit certain rights and powers of the authority; giving the legislative auditor the authority to audit the accounts and books of such authority; and providing a certain rule of construction.

*Be it enacted by the Legislature of West Virginia:*

That sections one, two, three, four, five, six, seven, seven-a, eight, nine, ten, eleven, twelve, thirteen, fourteen and fifteen, article fifteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.**

**§31-15-1. Short title.**

1 This article shall be known and may be cited as "The  
2 West Virginia Economic Development Authority Act."

**§31-15-2. Legislative findings.**

1 It is hereby determined and declared as a matter of  
2 legislative finding: (a) That unemployment exists in  
3 many areas of the state and may well come about, from  
4 time to time, in other areas of the state; (b) that in some  
5 areas of the state, unemployment is a serious problem  
6 and has been for so long a period of time that, without  
7 remedial measures, it may become so in other areas of  
8 the state; (c) that economic insecurity due to unemploy-  
9 ment is a serious menace to the health, safety, morals  
10 and general welfare of the people of the entire state;  
11 (d) that widespread industry unemployment produces  
12 indigency which falls with crushing force upon all un-  
13 employed workers and ultimately upon the state in the  
14 form of welfare and unemployment compensation; (e)  
15 that the absence of employment and business opportunities  
16 for youth is a serious threat to the strength and perma-  
17 nence of their faith in our American political and eco-  
18 nomic institutions and the philosophy of freedom on  
19 which those institutions are based; (f) that lack of em-  
20 ployment and business opportunities has resulted in thou-  
21 sands of workers and their families leaving the state to  
22 find such opportunities elsewhere, and that this exodus

23 has adversely affected the tax base of counties and mu-  
24 nicipalities resulting in an impairment of their financial  
25 ability to support education and other local government  
26 services; (g) that security against unemployment and  
27 the spread of indigency and economic stagnation can best  
28 be provided by the promotion, attraction, stimulation,  
29 rehabilitation and revitalization of commerce, tourism,  
30 industry and manufacturing; (h) that the present and  
31 future health, safety, morals, right to gainful employment  
32 and general welfare of the people of the state require as a  
33 public purpose the promotion and development of new  
34 and expanded industrial, commercial, tourist and manu-  
35 facturing enterprises within this state; (i) that the device  
36 under which private community industrial development  
37 organizations in the state acquire or build industrial  
38 buildings or sites with funds raised through popular sub-  
39 scription, loans or otherwise for lease and sale to new or  
40 expanding industries has proven effective in creating  
41 new employment and business opportunities locally, is  
42 in accord with the American tradition of community  
43 initiative and enterprise, and requires and deserves en-  
44 couragement and support from the state, as a means  
45 toward alleviation of unemployment and economic dis-  
46 tress; (j) that community industrial development cor-  
47 porations in the state have invested substantial funds in  
48 successful industrial development projects and are ex-  
49 perencing difficulty in undertaking additional projects  
50 by reason of the partial inadequacy of their own funds  
51 potentially available from local subscription sources and  
52 by reason of limitations of local financial institutions in  
53 providing additional and sufficiently sizeable first deed of  
54 trust or mortgage loans; (k) that an urgent need exists  
55 to stimulate a larger flow of private investment funds from  
56 banks, investment houses, insurance companies and other  
57 financial institutions into community industrial build-  
58 ing programs; and (l) that by increasing the number of  
59 community industrial building projects presenting at-  
60 tractive opportunities for private investment, a larger  
61 portion of the private capital available in this state for  
62 investment can be put to use for the general economic  
63 development of the state.

**§31-15-3. Purposes of article.**

1 The purposes of this article shall be to provide for the  
2 formation of a public economic development authority  
3 to promote, assist, encourage and, in conjunction with  
4 such banking corporations or institutions, trust companies,  
5 savings banks, building and loan associations, insurance  
6 companies, or related corporations, partnerships, founda-  
7 tions or other institutions to develop and advance the  
8 business prosperity and economic welfare of the state of  
9 West Virginia; to encourage and assist in the location of  
10 new business and industry; to stimulate and assist in the  
11 expansion of all kinds of business activity which will  
12 tend to promote the business development and maintain  
13 the economic stability of this state, provide maximum  
14 opportunities for employment, encourage thrift and im-  
15 prove the standard of living of the citizens of this state;  
16 to cooperate and act in conjunction with other organiza-  
17 tions, public or private, the objects of which are the  
18 promotion and advancement of industrial, commercial,  
19 tourist or manufacturing developments in this state; to  
20 furnish money and credit to approved industrial develop-  
21 ment agencies in this state, thereby establishing a source  
22 of credit not otherwise available therefor. Such purposes  
23 are hereby declared to be public purposes for which  
24 public money may be spent and are purposes which will  
25 promote the health, safety, morals, right to gainful em-  
26 ployment, business opportunities and general welfare of  
27 the inhabitants of the state.

**§31-15-4. Definitions.**

1 Unless the context clearly indicates otherwise, as used  
2 in this article:  
3 (a) "Authority" means the West Virginia economic  
4 development authority.  
5 (b) "Board" means the governing body of the au-  
6 thority.  
7 (c) "Cost of establishing an industrial development  
8 project" means cost of construction, cost of all lands,  
9 water areas, property rights and easements, financing  
10 charges, interest prior to and during construction, cost

11 of engineering and legal services, plans, specifications  
12 and surveys, estimates of costs and any other expenses  
13 necessary or incident to determining the feasibility or  
14 practicability of any industrial development project, to-  
15 gether with such other expenses as may be necessary or  
16 incidental to the financing and the construction of the  
17 industrial development project and the placing of the  
18 same in operation.

19 (d) "Cost of industrial subdivision project improve-  
20 ments" means construction cost of site preparation, cost  
21 of grading and planting, construction cost of utilities,  
22 sewage disposal facilities, storm drains, access roads and  
23 dock facilities, construction cost of internal streets and  
24 roads, curbs, walks, parking areas, lighting, shell build-  
25 ings and rail spurs, cost of acquiring easements and  
26 property rights in other lands and, in connection there-  
27 with, financing charges, interest prior to and during the  
28 construction of such improvements, cost of engineering  
29 and legal services, preparation of plans, specifications,  
30 surveys and estimates of costs, together with such other  
31 expenses as may be necessary or incidental to the fi-  
32 nancing and construction of industrial subdivision proj-  
33 ect improvements.

34 (e) "County" means any county of this state.

35 (f) "Federal agency" means the United States of  
36 America and any department, corporation, agency or  
37 instrumentality created, designated, or established by  
38 the United States of America.

39 (g) "Fund" means the economic development fund  
40 provided for in section nine of this article.

41 (h) "Government" means state and federal govern-  
42 ment, and any political subdivision, agency or instru-  
43 mentality thereof, corporate or otherwise.

44 (i) "Industrial development agency" means any in-  
45 corporated organization, foundation, association or agency  
46 to whose members or shareholders no profit inures,  
47 which has as its primary function the promotion, en-  
48 couragement and development of industrial, commercial,  
49 manufacturing and tourist facility enterprises in this  
50 state.

51 (j) "Industrial development project" means any land  
52 or water site, structure, facility or undertaking com-  
53 prising or being connected with or a part of an indus-  
54 trial, commercial, manufacturing or tourist facility en-  
55 terprise established, to be established or proposed to  
56 be acquired by an industrial development agency in this  
57 state.

58 (k) "Industrial subdivision project" means any tract  
59 of land or area of water and includes, where appropri-  
60 ate, related utilities, services and access roads, the clear  
61 and marketable legal title to which is held or is pro-  
62 posed to be acquired by an industrial development  
63 agency for sale or lease for an industrial development  
64 project.

65 (l) "Industrial subdivision project improvements"  
66 means site preparation, grading, planting and the instal-  
67 lation of utilities, sewage disposal facilities, storm drains,  
68 dock facilities, internal streets and roads, curbs, walks,  
69 parking areas, lighting, shell buildings and rail spurs  
70 upon an industrial subdivision project.

71 (m) "Municipality" means any city or town in this  
72 state.

73 (n) "Responsible buyer" means government and  
74 any person, partnership, firm, company or corporation  
75 organized for profit deemed by the authority, after  
76 proper investigation, to be financially responsible to as-  
77 sume all obligations prescribed by it in the acquisition  
78 of an industrial development project from an industrial  
79 development agency and in the operation of an indus-  
80 trial, commercial, manufacturing or tourist facility enter-  
81 prise thereon.

82 (o) "Responsible tenant" means government and any  
83 person, partnership, firm, company or corporation orga-  
84 nized for profit deemed by the authority, after proper  
85 investigation, to be financially responsible to assume all  
86 rental and other obligations prescribed by it in the leas-  
87 ing of an industrial development project and in the oper-  
88 ation of an industrial, commercial, manufacturing or  
89 tourist facility enterprise thereon.

**§31-15-5. West Virginia economic development authority; composition; appointment; terms; delegation of authority by certain members; voting; compensation and expenses.**

1 The West Virginia industrial development authority  
2 heretofore created is hereby continued as a body cor-  
3 porate and politic, constituting a public corporation and  
4 government instrumentality, but shall hereafter be  
5 known as the West Virginia economic development au-  
6 thority.

7 The authority shall be composed of a board of members  
8 consisting of a chairman, who shall be the governor or his  
9 designated representative, the state treasurer, the tax  
10 commissioner, the commissioner of banking and five  
11 appointed members who shall be broadly representative  
12 of the geographic regions of the state.

13 The governor shall nominate and, by and with the advice  
14 and consent of the Senate, appoint five members of the  
15 commission for staggered terms of four years. Of the  
16 members of the commission first appointed, one shall be  
17 appointed for a term ending the thirtieth day of June, one  
18 thousand nine hundred seventy-eight, and one each for  
19 terms ending one, two, three and four years thereafter:  
20 *Provided*, That each person serving as a member of the  
21 West Virginia industrial development authority, for a  
22 term which has not expired on the effective date of this  
23 article, shall be appointed by the governor without Senate  
24 confirmation to the West Virginia economic development  
25 authority as one of the five appointed members, for the  
26 term ending the thirtieth day of June in the year in  
27 which his term would expire as a member of the West  
28 Virginia industrial development authority. As these origi-  
29 nal appointments expire, each subsequent appointment  
30 shall be for a full four-year term. Any member whose  
31 term has expired shall serve until his successor has been  
32 duly appointed and qualified. Any person appointed to fill  
33 a vacancy shall serve only for the unexpired term. Any  
34 member shall be eligible for reappointment.

35 The governor, state treasurer, tax commissioner and  
36 commissioner of banking may, by written notice filed

37 with the secretary of the authority, from time to time,  
38 delegate to any subordinate the power to represent them  
39 at any meeting of the authority. In such case, the sub-  
40 ordinate shall have the same power and privileges as the  
41 official he represents and may vote on any question.

42 Members of the authority shall not be entitled to com-  
43 pensation for services performed as members, but shall  
44 be entitled to reimbursement for all reasonable and  
45 necessary expenses actually incurred in the performance  
46 of their duties.

**§31-15-6. General powers of authority.**

1 The authority, as a public corporation and govern-  
2 mental instrumentality exercising public powers of the  
3 state, shall have and may exercise all powers necessary  
4 or appropriate to carry out the purposes of this article,  
5 including the power:

6 (a) To cooperate with industrial development agencies  
7 in efforts to promote the expansion of industrial, com-  
8 mercial, manufacturing and tourist activity in this  
9 state.

10 (b) To determine, upon the proper application of an  
11 industrial development agency, whether the declared  
12 public purposes of this article have been or will be ac-  
13 complished by the establishment by such agency of an  
14 industrial development project in this state.

15 (c) To conduct examinations and investigations and  
16 to hear testimony and take proof, under oath or affirma-  
17 tion, at public or private hearings, on any matter relevant  
18 to this article and necessary for information on the  
19 establishment of any industrial development project.

20 (d) To issue subpoenas requiring the attendance of  
21 witnesses and the production of books and papers rele-  
22 vant to any hearing before such authority or one or more  
23 members appointed by it to conduct any hearing.

24 (e) To apply to the circuit court having venue of such  
25 offense to have punished for contempt any witness who  
26 refuses to obey a subpoena, to be sworn or affirmed or  
27 to testify or who commits any contempt after being  
28 summoned to appear.

29 (f) To authorize any member of the authority to con-  
30 duct hearings, administer oaths, take affidavits and issue  
31 subpoenas.

32 (g) To make, upon proper application of any indus-  
33 trial development agency, loans to such agency for in-  
34 dustrial development projects, industrial subdivision  
35 projects and industrial subdivision project improvements  
36 and to provide for the repayment and redeposit of such  
37 loans in the manner provided in this article.

38 (h) To sue and be sued, implead and be impleaded,  
39 and complain and defend in any court.

40 (i) To adopt, use and alter at will a corporate seal.

41 (j) To make bylaws for the management and regula-  
42 tion of its affairs.

43 (k) To appoint officers, agents, employees and ser-  
44 vants.

45 (l) To make contracts of every kind and nature to  
46 execute all instruments necessary or convenient for  
47 carrying on its business.

48 (m) Without in any way limiting any other subdivi-  
49 sion of this section, to accept grants from and enter into  
50 contracts and other transactions with any federal  
51 agency.

52 (n) To take title by foreclosure to any industrial de-  
53 velopment project or any industrial subdivision project  
54 where acquisition is necessary to protect any loan pre-  
55 viously made by the authority and to sell, transfer and  
56 convey such project to any responsible buyer. In the  
57 event such sale, transfer and conveyance cannot be  
58 effected with reasonable promptness, the authority may,  
59 in order to minimize financial losses and sustain em-  
60 ployment, lease the project to a responsible tenant. The  
61 authority shall not lease an industrial development  
62 project or industrial subdivision project, except under  
63 the conditions and for the purposes cited in this section.  
64 The authority shall have no power at any time to borrow  
65 money or in any manner pledge the credit or taxing  
66 power of the state or any municipality or other political  
67 subdivision thereof, and none of its obligations shall be

68 deemed to be an obligation of the state or any municipi-  
69 pality or other political subdivision thereof.

70 (o) To participate in any reorganization proceeding  
71 pending pursuant to Title II of the United States Code  
72 (being the act of Congress entitled "An act to establish  
73 a uniform system of bankruptcy throughout the United  
74 States," approved July 1, 1898, as amended) or in any  
75 receivership proceeding in a state or federal court for  
76 the reorganization or liquidation of a responsible buyer  
77 or responsible tenant. The authority may file its claim  
78 against any such responsible buyer or responsible tenant  
79 in any of the foregoing proceedings, vote upon any ques-  
80 tion pending therein which requires the approval of the  
81 creditors participating in any reorganization proceeding  
82 or receivership, exchange any evidence of such indebted-  
83 ness for any property, security or evidence of indebted-  
84 ness offered as a part of the reorganization of such re-  
85 sponsible buyer or responsible tenant or of any other  
86 entity formed to acquire the assets thereof and may  
87 compromise or reduce the amount of any indebtedness  
88 owing to it as a part of any such reorganization.

**§31-15-7. Loans to industrial development agencies for indus-  
trial development projects.**

1 When it has determined upon application of an in-  
2 dustrial development agency and upon hearing in the  
3 manner hereinafter provided that the establishment or  
4 acquisition of a particular industrial development project  
5 has accomplished or will accomplish the public purposes  
6 of this article, the authority may contract to loan such  
7 agency an amount not in excess of fifty percent of the cost  
8 or estimated cost of such project, as established, to be  
9 established or proposed to be acquired, subject to the  
10 following conditions:

11 (a) Industrial development projects to be established  
12 or acquired.

13 (1) The authority shall have first determined that the  
14 industrial development agency holds funds in an amount  
15 equal to or property of a value equal to not less than  
16 ten percent of the estimated cost of establishing or  
17 acquiring the industrial development project, which

18 funds or property are available for and shall be applied  
19 to the establishment or acquisition of the project.

20 (2) The authority shall have also determined that the  
21 industrial development agency has obtained from other  
22 independent and responsible sources, such as banks and  
23 insurance companies, a firm commitment for all other  
24 funds over and above the loan of the authority and such  
25 funds or property as the agency may hold, necessary for  
26 payment of all the estimated cost of establishing or  
27 acquiring the industrial development project and that  
28 the sum of all these funds is adequate to insure comple-  
29 tion and operation of the industrial development  
30 project.

31 (b) Industrial development projects established or  
32 acquired with initial authority loan participation.

33 (1) The authority shall have first determined that the  
34 industrial development agency has expended funds in an  
35 amount equal to, or has applied property of a value  
36 equal to, not less than ten percent of the cost of estab-  
37 lishing or acquiring the industrial development project.

38 (2) The authority shall have also determined that the  
39 industrial development agency obtained from other in-  
40 dependent and responsible sources, such as banks and  
41 insurance companies, other funds necessary for payment  
42 of all the cost of establishing or acquiring the industrial  
43 development project and that the industrial development  
44 agency participation and these funds have been adequate  
45 to insure completion and operation or acquisition of the  
46 industrial development project. The proceeds of any loan  
47 made by the authority to the industrial development  
48 agency pursuant to this subdivision (b) shall be used  
49 only for the establishment or acquisition of industrial  
50 development projects in furtherance of the public pur-  
51 poses of this article.

52 The loan of the authority shall be for such period of  
53 time and shall bear interest at such rate as the authority  
54 determines and it shall be secured by the negotiable  
55 promissory note of the industrial development agency  
56 and by deed of trust on the industrial development  
57 project for which the loan was made or by assignment

58 of any deed of trust and negotiable promissory note and  
59 other security taken by the industrial development  
60 agency on the industrial development project, such deed  
61 of trust and note, assignment of deed of trust, and note  
62 and other security to be second and subordinate only to  
63 the deed of trust securing the first lien obligation issued  
64 to secure the commitment of funds from the independent  
65 and responsible sources and used in the financing of the  
66 industrial development project.

67 Money loaned by the authority to an industrial devel-  
68 opment agency shall be withdrawn from the fund and  
69 paid over to the agency in such manner as is provided by  
70 rules and regulations of the authority.

71 The authority shall deposit all payments of interest on  
72 loans and the principal thereof in the fund. When any  
73 federal agency participates, the authority may adjust the  
74 required ratios of financial participation by the industrial  
75 development agency, the source of independent funds  
76 and the authority in such manner as to insure the maxi-  
77 mum benefit available to the industrial development  
78 agency, the authority, or both, by the participation of  
79 the federal agency. When ratios are adjusted as aforesaid,  
80 no such adjustment shall be made which shall cause the  
81 authority to grant a loan to the industrial development  
82 agency in excess of fifty percent of the cost or estimated  
83 cost of the industrial development project.

84 Where any federal agency participating in the financing  
85 of an industrial development project is not permitted to  
86 take as security for such participation a deed of trust  
87 or assignment of deed of trust and other security the lien  
88 of which is junior to the deed of trust or assignment of  
89 deed of trust and other security of the authority, the  
90 authority may take as security for its loan to the indus-  
91 trial development agency a deed of trust or assignment  
92 of deed of trust and other security junior in lien to that  
93 of the federal agency.

**§31-15-7a. Loans to industrial development agencies for indus-  
trial subdivision project acquisitions and improve-  
ments.**

1 When it has determined upon application of an in-  
2 dustrial development agency and upon hearing in the

3 manner hereinafter provided that the acquisition or im-  
4 provement of a particular industrial subdivision project  
5 by such agency will accomplish the public purposes of  
6 this article, the authority may contract to loan such indus-  
7 trial development agency an amount not in excess of  
8 fifty percent of the cost or estimated cost of such in-  
9 dustrial subdivision project acquisition or improvement,  
10 except as to shell buildings, in which case the agency  
11 may contract to loan an amount not in excess of ninety per-  
12 cent of the cost of such shell building, subject to the  
13 following conditions:

14 (1) The authority shall have determined that the in-  
15 dustrial development agency has obtained from other  
16 independent and responsible sources, such as banks and  
17 insurance companies, a firm commitment for all other  
18 funds, over and above the loan of the authority, necessary  
19 for payment of all the estimated cost of the industrial sub-  
20 division project acquisition or improvement and that the  
21 sum of all these funds is adequate to insure completion of  
22 the project acquisition or improvement.

23 (2) The authority shall have also determined that the  
24 industrial development agency has or proposes to ac-  
25 quire clear and marketable legal title to the industrial  
26 subdivision project to be improved or acquired.

27 (3) The industrial development agency shall covenant  
28 in writing with the authority that, as long as any loan  
29 made by the authority to the agency for the acquisition or  
30 improvement of any industrial subdivision project remains  
31 unpaid, no portion of such industrial subdivision project  
32 shall be sold, leased or otherwise encumbered except for  
33 the purpose of establishing an industrial development  
34 project on such land by the agency.

35 (4) In the case of a contract to loan more than fifty per-  
36 cent of the cost of a shell building, subject to the maximum  
37 limitation of ninety percent as aforesaid, the industrial de-  
38 velopment agency shall furnish to the authority evidence  
39 that such industrial development agency has entered  
40 into a contract whereby a responsible buyer or responsible  
41 tenant is legally obligated to acquire or lease such shell  
42 building. The Legislature finds and declares that it does  
43 not believe it would be in the best interest of the state

44 for the authority to contract to loan more than fifty per-  
45 cent of the cost of a shell building, subject to the maximum  
46 limitation of ninety percent as aforesaid, unless it is clear  
47 that the use to be made of such shell building will result  
48 in the employment of a reasonably substantial work force.

49 The loan of the authority shall be for such period of  
50 time and shall bear interest at such rate as the authority  
51 determines and it shall be secured by the negotiable  
52 promissory note of the industrial development agency  
53 and by deed of trust on the industrial subdivision project  
54 for which the loan was made, such deed of trust to be  
55 second and subordinate only to the deed of trust securing  
56 the first lien obligation issued to secure the commitment  
57 of funds from the independent and responsible sources  
58 and used in the financing of the industrial subdivision  
59 project acquisition or improvement.

60 The authority may, in its discretion, defer the payment  
61 of principal and interest, or principal only, or interest  
62 only, upon any loan made to an industrial development  
63 agency for any industrial subdivision project acquisition  
64 or improvement, such deferment to be for such period  
65 as the authority determines, not to exceed five years from  
66 the date of the deed of trust securing the loan. If any  
67 portion of such industrial subdivision project is sold or  
68 leased by the agency prior to the expiration of the five-  
69 year period, all deferred installments of the principal of  
70 the loan accrued on the date of such sale or lease, or the  
71 proportionate part of such deferred principal which the  
72 sold or leased portion of the project bears to its total acre-  
73 age, together with all unpaid interest accrued on the date  
74 of such sale or lease, shall, at the option of the authority,  
75 become due and payable immediately or subject to re-  
76 negotiation by either increasing or decreasing the number  
77 and amount of each installment of principal and interest,  
78 without effecting any change in the amount of principal of  
79 the original loan or the rate of interest as originally fixed  
80 by the authority in the deed of trust and note.

81 Money loaned by the authority to an industrial develop-  
82 ment agency shall be withdrawn from the fund and paid  
83 over to the agency in such manner as is provided by rules  
84 and regulations of the authority.

85 The authority shall deposit all payments of interest on  
86 any loans and the principal thereof in the fund.

87 Where any federal agency participating in the financing  
88 of industrial subdivision project acquisition or improve-  
89 ment is not permitted to take as security for such partic-  
90 ipation a deed of trust or assignment of deed of trust  
91 and other security the lien of which is junior to the deed  
92 of trust or assignment of deed of trust and other security  
93 of the authority, the authority may take as security for  
94 its loan to the industrial development agency a deed of  
95 trust or assignment of deed of trust and other security  
96 junior in lien to that of the federal agency.

**§31-15-8. Loan application requirements; hearings.**

1 Prior to the loaning of any funds to an industrial  
2 development agency for an industrial development project  
3 or for an industrial subdivision project acquisition or  
4 improvement, the authority shall receive from such agency  
5 a loan application in such form as adopted by the author-  
6 ity.

7 (1) If the loan application is for an industrial develop-  
8 ment project, the form shall contain at least the follow-  
9 ing:

10 (a) A general description of the project and a general  
11 description of the industrial, commercial, manufacturing  
12 or tourist enterprise for which the project has been or  
13 will be established.

14 (b) A legally sufficient description of all real estate  
15 necessary for the project.

16 (c) Such plans and other documents as may be  
17 required to show the type, structure and general character  
18 of the project.

19 (d) A general description of the type, classes and  
20 number of employees employed or to be employed in the  
21 operation of the project.

22 (e) Cost or estimates of cost of establishing the project.

23 (f) A general description and statement of value of any  
24 property, real or personal, of the industrial development  
25 agency applied or to be applied to the establishment of  
26 the project.

27 (g) A statement of cash funds previously applied, or held  
28 by the industrial development agency, which are available  
29 for and are to be applied to the establishment of the project.

30 (h) Evidence of the arrangement made by the industrial  
31 development agency for the financing of all cost of the  
32 project over and above its own participation.

33 (i) A general description of the responsible tenant to  
34 which the industrial development agency has leased or  
35 will lease the project or of the responsible buyer to which  
36 the agency has sold or will sell the project.

37 (j) A general description of the form of lease or sales  
38 agreement entered into or to be entered into between the  
39 industrial development agency and its responsible tenant  
40 or responsible buyer.

41 (k) Evidence that the establishment of the project  
42 will not cause the removal of an industrial, commercial,  
43 manufacturing or tourist facility from one area of the  
44 state to another area of the state.

45 (2) If the loan application is for an industrial sub-  
46 division project acquisition or improvement, the form  
47 shall contain at least the following:

48 (a) A general description of the industrial subdivision  
49 project and a general description of its adaptability to  
50 industrial, commercial, manufacturing or tourist pur-  
51 poses, including the type of industrial development project  
52 which may be established thereon upon completion of the  
53 acquisition or improvement for which the loan is re-  
54 quested.

55 (b) A legally sufficient description of the industrial  
56 subdivision project.

57 (c) Such plans and other documents as may be re-  
58 quired to show the type, structure and general character  
59 of the proposed industrial subdivision project acquisition  
60 or improvement.

61 (d) Cost or estimates of cost of the proposed industrial  
62 subdivision project acquisition or improvement.

63 (e) Evidence of the arrangement made by the industrial  
64 development agency for the financing of all cost of the  
65 industrial subdivision project acquisition or improvement  
66 over and above its own participation.

67 (f) Evidence that the establishment of the project to be  
68 acquired or improved will not cause the removal of an in-  
69 dustrial, commercial, manufacturing or tourist facility  
70 from one area of the state to another area of the state.

71 The board of the authority shall hold such hearings  
72 and examinations on each loan application as shall be  
73 necessary to determine whether the public purposes of  
74 this article will be accomplished by the granting of such  
75 loan.

76 When the board determines that a loan will accomplish  
77 the public purposes of this article, it shall grant such loan  
78 in accordance with the provisions of this article.

**§31-15-9. Economic development fund.**

1 The industrial development fund, to which shall be  
2 credited any appropriation made by the Legislature to  
3 the authority and such other deposits as are provided  
4 for in this section, is hereby continued in the state trea-  
5 sury as a special account, but shall hereafter be known  
6 as the economic development fund.

7 The authority shall requisition from the fund such  
8 amounts as are necessary to provide for the payment of  
9 the administrative expenses of this article. Whenever the  
10 authority determines it to be necessary to purchase at a  
11 foreclosure sale any industrial development project or in-  
12 dustrial subdivision project pursuant to subdivision (o),  
13 section six of this article, it may requisition from the fund  
14 such amount as is necessary to pay the purchase price  
15 thereof, notwithstanding that the purchase price in the  
16 foreclosure sale of any industrial development project  
17 may exceed fifty percent of the original cost of the proj-  
18 ect, or that in the foreclosure sale of any industrial subdivi-  
19 sion project the purchase price may exceed fifty percent  
20 of the original cost of the project or improvement thereon.

21 The authority shall requisition from the fund such  
22 amounts as are allocated and appropriated for loans to  
23 industrial development agencies for industrial develop-  
24 ment projects, industrial subdivision projects and indus-  
25 trial subdivision project acquisitions or improvements.  
26 As loans to industrial development agencies are repaid

27 to the authority pursuant to the terms of mortgages and  
28 other agreements, the authority shall pay such amounts  
29 into the fund, consistent with the intent of this article  
30 that the fund shall operate as a revolving fund whereby  
31 all appropriations and payments made thereto may be  
32 applied and reapplied for the purposes of this article.

33 Whenever the authority determines that the balance  
34 in the fund is in excess of the immediate requirements  
35 for loans, it may request that such excess be invested  
36 until needed for loan purposes, in which case such excess  
37 shall be invested in a manner consistent with the in-  
38 vestment of other temporary state funds. Interest earned  
39 on any money invested pursuant to this section shall be  
40 credited to the fund.

41 If the authority determines that funds held in the  
42 fund are in excess of the amount needed to carry out  
43 the purposes of this article, it shall take such action as  
44 is necessary to release such excess and transfer it to the  
45 general fund of the state treasury.

**§31-15-10. Governing body; organization and meetings; quo-  
rum; powers.**

1 The governing body of the authority shall consist of  
2 the members of the authority acting as a board, which  
3 shall exercise all the powers given to the authority in  
4 this article. The governor or his designated representa-  
5 tive shall be chairman of the board and its chief exec-  
6 utive officer. On the second Monday of July of each  
7 year, the board shall meet to elect a secretary and a  
8 treasurer from among its own members.

9 A majority of the members shall constitute a quorum  
10 for the purpose of conducting business. Except in the  
11 case of a loan application or unless the bylaws require  
12 a larger number, action may be taken by majority vote  
13 of the members present. Approval or rejection of a loan  
14 application shall be made by majority vote of the full  
15 membership of the board.

16 The board shall manage the property and business of  
17 the authority and prescribe, amend and repeal bylaws

18 and rules and regulations governing the manner in which  
19 the business of the authority is conducted.

20 The governor shall provide staff services to the au-  
21 thority for administration of this article, including liaison  
22 between the authority and industrial development agen-  
23 cies and related organizations and between the au-  
24 thority and other state agencies whose facilities and  
25 services may be useful to the authority in its work.  
26 The authority may reimburse any state spending unit  
27 for any special expense actually incurred in providing  
28 any service or the use of any facility to the authority.

29 The authority shall employ an executive director and  
30 any other personnel it determines necessary, and may  
31 appoint its own counsel and legal staff, and retain  
32 such temporary engineering, financial and other con-  
33 sultants or technicians as may be required for any spe-  
34 cial study or survey consistent with the provisions of  
35 this article.

**§31-15-11. Money of the authority.**

1 All money accruing to the authority from whatever  
2 source derived, except legislative appropriations, shall  
3 be collected and received by the treasurer of the au-  
4 thority, who shall pay it into the state treasury in the  
5 manner required by section two, article two, chapter  
6 twelve of this code, which shall be credited to the fund.

**§31-15-12. Conflict of interest; when contracts void.**

1 No member, officer or employee of the authority shall  
2 either directly or indirectly be a party to or interested  
3 in any manner in any contract or agreement with the  
4 authority whereby liability or indebtedness against the  
5 authority is in any manner created. Any contract or  
6 agreement made in violation of the provisions of this  
7 section shall be void and no action thereon shall be main-  
8 tained against the authority.

**§31-15-13. Agreement with federal agencies not to alter or  
limit powers of authority.**

1 The state hereby pledges to and agrees with each  
2 federal agency that, if such agency constructs or loans

3 or contributes any funds for the acquisition, construc-  
4 tion, extension, improvement or enlargement of any in-  
5 dustrial development project or industrial subdivision  
6 project or for industrial subdivision project improve-  
7 ments, the state will not alter or limit the rights and  
8 powers of the authority in any manner which would  
9 be inconsistent with the due performance of any agree-  
10 ment between the authority and such federal agency  
11 and that the authority shall continue to have and exer-  
12 cise all powers granted for carrying out the purposes of  
13 this article for so long as necessary.

**§31-15-14. Audits.**

1 The accounts and books of the authority, including  
2 receipts, disbursements, contracts, mortgages, deeds of  
3 trust, investments and all other matters relating to its  
4 operation, finances and affairs, shall be examined and  
5 audited from time to time by the legislative auditor in  
6 accordance with the provisions of article two, chapter  
7 four of this code.

**§31-15-15. Construction.**

1 The provisions of this article are remedial and shall  
2 be liberally construed and applied so as to promote the  
3 purposes set out in section three of this article.

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

*James L. Davis*  
Chairman, Senate Committee

*Dorland C. Covert*  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

*James L. Davis*  
Clerk of the Senate

*W. Blankenship*  
Clerk of the House of Delegates

*W. F. Burtch*  
President of the Senate

*Donald L. Kopp*  
Speaker House of Delegates

The within is approved this the 15  
day of April, 1977.

*John D. Rhyne*  
Governor



APPROVED AND SIGNED BY THE GOVERNOR

RECEIVED  
APR 9 2 59 PM '77  
OFFICE OF THE GOVERNOR

Date April 15, 1977  
Time 9:30 AM

OFFICE  
SECY. OF STATE

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