WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

ENROLLED

HOUSE BILL No. 1136

(By Mr. Speaker, Mr. Lee)

Passed March 8, 1980
In Effect Ninety Days From Passage
ENROLLED

H. B. 1136
(By Mr. Speaker, Mr. See)

[Passed March 8, 1980; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article eighteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the corporate powers of the West Virginia housing development fund generally; providing for the housing development fund to make and to re-finance loans for the rehabilitation or improvement of existing residential housing.

Be it enacted by the Legislature of West Virginia:

That section six, article eighteen, 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 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.
§31-18-6. Corporate powers.

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

5 (1) To make or participate in the making of federally insured construction loans to sponsors of land development for residential housing for occupancy by eligible persons and families or to sponsors of residential housing for occupancy by eligible persons and families. Such loans shall be made only upon determination by the housing development fund that
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11 construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

14 (2) To make temporary loans, with or without interest, but with such security for repayment as the housing development fund determines reasonably necessary and practicable, from the operating loan fund, if created, established, organized and operated in accordance with the provisions of section nineteen of this article, to defray development costs to sponsors of land development for residential housing for occupancy by persons and families of low and moderate income or residential housing construction for occupancy by persons and families of low and moderate income which is eligible or potentially eligible for federally insured construction loans, federally insured mortgages, federal mortgages, or uninsured construction loans or uninsured mortgage loans;

27 (3) To make or participate in the making of long-term federally insured mortgage loans to sponsors of residential housing for occupancy by eligible persons and families, or to eligible persons and families, who may purchase or construct such residential housing. Such loans shall be made only upon determination by the housing development fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

36 (4) To accept appropriations, gifts, grants, bequests and devises, and to utilize or dispose of the same to carry out its corporate purpose;

39 (5) To make and execute contracts, releases, compromises, compositions and other instruments necessary or convenient for the exercise of its powers, or to carry out its corporate purpose;

43 (6) To collect reasonable fees and charges in connection with making and servicing its loans, notes, bonds, obligations, commitments and other evidences of indebtedness, and in connection with providing technical, consultative and project assistance services. Such fees and charges shall be limited to the amounts required to pay the costs of the housing development
fund, including operating and administrative expenses, and
reasonable allowances for losses which may be incurred;

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

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

(ii) Bonds, debentures, notes or other evidences of indebt-
edness issued by any of the following agencies: Banks for co-
operatives; federal intermediate credit banks; federal home loan
bank system; Export-Import Bank of the United States; federal
land banks; the Federal National Mortgage Association or the
Government National Mortgage Association;

(iii) Public housing bonds issued by public agencies
or municipalities and fully secured as to the pay-
ment of both principal and interest by a pledge of
annual contributions under an annual contributions con-
tract or contracts with the United States of America;
or temporary notes issued by public agencies or muni-
cipalities or preliminary loan notes issued by public
agencies or municipalities in each case, fully secured
as to the payment of both principal and interest by a
requisition or payment agreement with the United States of
America;

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

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

(vi) Direct and general obligations of any other state within
the territorial United States, to the payment of the principal
of and interest on which the full faith and credit of such state
is pledged: Provided, That at the time of their purchase, such
obligations are rated in either of the two highest rating cate-
gories by a nationally recognized bond-rating agency; and

(vii) Any fixed interest bond, note or debenture of any
corporation organized and operating within the United States:
Provided, however, That such corporation shall have a mini-
mum net worth of fifteen million dollars and its securities or
its parent corporation’s securities are listed on one or more
of the national stock exchanges: Provided further, That (1)
such corporation has earned a profit in eight of the preceding
ten fiscal years as reflected in its statements, and (2) such cor-
poration has not defaulted in the payment of principal or
interest on any of its outstanding funded indebtedness during
its preceding ten fiscal years, and (3) the bonds, notes or
debentures of such corporation to be purchased are rated “AA”
or the equivalent thereof or better than “AA” or the equiva-
 lent thereof by at least two or more nationally recognized
rating services such as Standard and Poor’s, Dun & Bradstreet
or Moody’s;

(8) To sue and be sued;

(9) To have a seal and alter the same at will;

(10) To make, and from time to time, amend and repeal
bylaws and rules and regulations not inconsistent with the
provisions of this article;

(11) To appoint such officers, employees and consultants
as it deems advisable and to fix their compensation and pre-
scribe their duties;

(12) To acquire, hold and dispose of personal property for
its corporate purposes;

(13) To enter into agreements or other transactions with any
federal or state agency, any person and any domestic or for-
 eign partnership, corporation, association or organization:

(14) To acquire real property, or an interest therein, in its
own name, by purchase or foreclosure, where such acquisition
is necessary or appropriate to protect any loan in which the
housing development fund has an interest and to sell, transfer
and convey any such property to a buyer and, in the event such
sale, transfer or conveyance cannot be effected with reasonable
promptness or at a reasonable price, to lease such property to
a tenant;

(15) To sell, at public or private sale, any mortgage or
other negotiable instrument or obligation securing a construc-
tion, rehabilitation, improvement, land development, mortgage or temporary loan;

(16) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(17) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other terms, of mortgage loan, mortgage loan commitment, construction loan, rehabilitation loan, improvement loan, temporary loan, contract or agreement of any kind to which the housing development fund is a party;

(18) To make and publish rules and regulations respecting its federally insured mortgage lending, uninsured mortgage lending, construction lending, rehabilitation lending, improvement lending and lending to defray development costs and any such other rules and regulations as are necessary to effectuate its corporate purpose;

(19) To borrow money to carry out and effectuate its corporate purpose and to issue its bonds or notes as evidence of any such borrowing in such principal amounts and upon such terms as shall be necessary to provide sufficient funds for achieving its corporate purpose, except that no notes shall be issued to mature more than ten years from date of issuance and no bonds shall be issued to mature more than fifty years from date of issuance;

(20) To issue renewal notes, to issue bonds to pay notes and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured except that no such renewal notes shall be issued to mature more than ten years from date of issuance of the notes renewed and no such refunding bonds shall be issued to mature more than fifty years from the date of issuance;

(21) To apply the proceeds from the sale of renewal notes or refunding bonds to the purchase, redemption or payment of the notes or bonds to be refunded;
(22) To provide technical services to assist in the planning, processing, design, construction, rehabilitation or improvement of residential housing for occupancy by eligible persons and families or land development for residential housing for occupancy by eligible persons and families;

(23) To provide consultative project assistance services for residential housing for occupancy by eligible persons and families and for land development for residential housing for occupancy by eligible persons and families and for the residents thereof with respect to management, training and social services;

(24) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(25) With the proceeds from the issuance of notes or bonds of the housing development fund, including, but not limited to, mortgage finance bonds, or with other funds available to the housing development fund for such purpose, to participate in the making of or to make loans to mortgagees approved by the housing development fund and take such collateral security therefor as is approved by the housing development fund and to invest in, purchase, acquire, sell or participate in the sale of, or take assignments of, notes and mortgages, evidencing loans for the construction, rehabilitation, improvement, purchase or refinancing of residential housing in this state: Provided, That the housing development fund shall obtain such written assurances as shall be satisfactory to it that the proceeds of such loans, investments or purchases will be used, as nearly as practicable, for the making of or investment in long-term federally insured mortgage loans or federally insured construction loans, uninsured mortgage loans, or uninsured construction loans, for residential housing for occupancy by eligible persons and families in this state or that other moneys in an amount approximately equal to such proceeds shall be committed and used for such purpose;

(26) To make or participate in the making of uninsured construction loans to sponsors of land development for residential housing for occupancy by eligible persons and families
or to sponsors of residential housing for occupancy by eligible persons and families, or to eligible persons and families who may construct such housing. Such loans shall be made only upon determination by the housing development fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(27) To make or participate in the making of long-term uninsured mortgage loans to sponsors of residential housing for occupancy by eligible persons and families, or to eligible persons and families who may purchase or construct such residential housing. Such loans shall be made only upon determination by the housing development fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(28) To obtain options to acquire and to acquire real property, or any interest therein, in its own name, by purchase, or lease, or otherwise, which is found by the housing development fund to be suitable, or potentially suitable, as a site, or as part of a site, for the construction of residential housing; to hold such real property; to make loans to finance the performance of land development activities on or in connection with any such real property or to perform land development activities on or in connection with any such real property; to sponsor the development of residential housing for occupancy by eligible persons and families on such real property; and to sell, transfer and convey, lease or otherwise dispose of such real property, or lots, tracts or parcels of such real property, or residential housing, for such prices, upon such terms, conditions and limitations, and at such time or times as the housing development fund shall determine, to sponsors of residential housing: Provided, however, That if the housing development fund shall determine that any such real property or any lots, tracts or parcels of such real property are not at any time or times needed for present or future residential housing, the housing development fund may sell, transfer and convey, lease or otherwise dispose of the same, to such purchasers or lessees, for such prices, upon such terms, conditions and limitations,
and for such uses and purposes as the housing development fund shall determine;

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

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

(31) To make or participate in the making of loans to eligible persons and families for the purpose of rehabilitating or improving existing residential housing, or to owners of existing residential housing for occupancy by eligible persons and families for the purpose of rehabilitating or improving such residential housing and, in connection therewith, to refinance existing loans involving the same property. Such loans shall be made only upon determination by the housing development fund that rehabilitation or improvement loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(32) Whenever the housing development fund deems it necessary, in order to exercise any of its powers set forth in subdivision twenty-eight of this section, and upon being unable to agree with the owner or owners of real property or interest therein sought to be acquired by the fund upon a price for acquisition of private property not being used or operated by the owner in the production of agricultural products, to exercise the powers of eminent domain in the acquisition of such real property or interest therein in the manner provided under chapter fifty-four of this code, and the purposes set forth in subdivision twenty-eight of this section are hereby declared to be public purposes for which private property may be taken. For the purposes of this section, the determination
of 'use or operation by the owner in the production of agricultural products' means that the principal use of such real estate is for the production of food and fiber by agricultural production other than forestry, and the fund shall not initiate or exercise any powers of eminent domain without first receiving an opinion in writing from both the governor and the commissioner of agriculture of this state that at the time the fund has first attempted to acquire such real estate or interest therein, such real estate or interest therein was not in fact being used or operated by the owner in the production of agricultural products.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

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Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Joseph C. Wells  
Clerk of the Senate

The within _______ this the _______ day of _______, 1980.

Governor