

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-24-80

Time 1:30 p.m.

# 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)

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

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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  
2 may exercise all powers necessary or appropriate to carry out  
3 and effectuate its corporate purpose, including, but not limited  
4 to, the following:

5 (1) To make or participate in the making of federally in-  
6 sured construction loans to sponsors of land development for  
7 residential housing for occupancy by eligible persons and  
8 families or to sponsors of residential housing for occupancy by  
9 eligible persons and families. Such loans shall be made only  
10 upon determination by the housing development fund that

11 construction loans are not otherwise available, wholly or in  
12 part, from private lenders upon reasonably equivalent terms  
13 and conditions;

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

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

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

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

43 (6) To collect reasonable fees and charges in connection  
44 with making and servicing its loans, notes, bonds, obligations,  
45 commitments and other evidences of indebtedness, and in con-  
46 nection with providing technical, consultative and project as-  
47 sistance services. Such fees and charges shall be limited to the  
48 amounts required to pay the costs of the housing development

49 fund, including operating and administrative expenses, and  
50 reasonable allowances for losses which may be incurred;

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

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

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

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

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

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

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

82 (vii) Any fixed interest bond, note or debenture of any  
83 corporation organized and operating within the United States:  
84 *Provided, however*, That such corporation shall have a mini-

85 mum net worth of fifteen million dollars and its securities or  
86 its parent corporation's securities are listed on one or more  
87 of the national stock exchanges: *Provided further*, That (1)  
88 such corporation has earned a profit in eight of the preceding  
89 ten fiscal years as reflected in its statements, and (2) such cor-  
90 poration has not defaulted in the payment of principal or  
91 interest on any of its outstanding funded indebtedness during  
92 its preceding ten fiscal years, and (3) the bonds, notes or  
93 debentures of such corporation to be purchased are rated "AA"  
94 or the equivalent thereof or better than "AA" or the equiva-  
95 lent thereof by at least two or more nationally recognized  
96 rating services such as Standard and Poor's, Dun & Bradstreet  
97 or Moody's;

98 (8) To sue and be sued;

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

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

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

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

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

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

119 (15) To sell, at public or private sale, any mortgage or  
120 other negotiable instrument or obligation securing a construc-

121 tion, rehabilitation, improvement, land development, mortgage  
122 or temporary loan;

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

126 (17) To consent, whenever it deems it necessary or desir-  
127 able in the fulfillment of its corporate purpose, to the modifi-  
128 cation of the rate of interest, time of payment or any install-  
129 ment of principal or interest, or any other terms, of mortgage  
130 loan, mortgage loan commitment, construction loan, rehabili-  
131 tation loan, improvement loan, temporary loan, contract or  
132 agreement of any kind to which the housing development fund  
133 is a party;

134 (18) To make and publish rules and regulations respecting  
135 its federally insured mortgage lending, uninsured mortgage  
136 lending, construction lending, rehabilitation lending, improve-  
137 ment lending and lending to defray development costs and any  
138 such other rules and regulations as are necessary to effectuate  
139 its corporate purpose;

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

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

156 (21) To apply the proceeds from the sale of renewal notes  
157 or refunding bonds to the purchase, redemption or payment of  
158 the notes or bonds to be refunded;

159 (22) To provide technical services to assist in the planning,  
160 processing, design, construction, rehabilitation or improve-  
161 ment of residential housing for occupancy by eligible persons  
162 and families or land development for residential housing for  
163 occupancy by eligible persons and families;

164 (23) To provide consultative project assistance services for  
165 residential housing for occupancy by eligible persons and  
166 families and for land development for residential housing for  
167 occupancy by eligible persons and families and for the resi-  
168 dents thereof with respect to management, training and social  
169 services;

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

173 (25) With the proceeds from the issuance of notes or bonds  
174 of the housing development fund, including, but not limited to,  
175 mortgage finance bonds, or with other funds available to the  
176 housing development fund for such purpose, to participate in  
177 the making of or to make loans to mortgagees approved by the  
178 housing development fund and take such collateral security  
179 therefor as is approved by the housing development fund and  
180 to invest in, purchase, acquire, sell or participate in the sale of,  
181 or take assignments of, notes and mortgages, evidencing loans  
182 for the construction, rehabilitation, improvement, purchase or  
183 refinancing of residential housing in this state: *Provided*, That  
184 the housing development fund shall obtain such written assur-  
185 ances as shall be satisfactory to it that the proceeds of such  
186 loans, investments or purchases will be used, as nearly as  
187 practicable, for the making of or investment in long-term fed-  
188 erally insured mortgage loans or federally insured construction  
189 loans, uninsured mortgage loans, or uninsured construction  
190 loans, for residential housing for occupancy by eligible persons  
191 and families in this state or that other moneys in an amount  
192 approximately equal to such proceeds shall be committed and  
193 used for such purpose;

194 (26) To make or participate in the making of uninsured  
195 construction loans to sponsors of land development for resi-  
196 dential housing for occupancy by eligible persons and families

197 or to sponsors of residential housing for occupancy by eligible  
198 persons and families, or to eligible persons and families who  
199 may construct such housing. Such loans shall be made only  
200 upon determination by the housing development fund that  
201 construction loans are not otherwise available, wholly or in  
202 part, from private lenders upon reasonably equivalent terms  
203 and conditions;

204 (27) To make or participate in the making of long-term  
205 uninsured mortgage loans to sponsors of residential housing  
206 for occupancy by eligible persons and families, or to eligible  
207 persons and families who may purchase or construct such resi-  
208 dential housing. Such loans shall be made only upon determi-  
209 nation by the housing development fund that long-term mort-  
210 gage loans are not otherwise available, wholly or in part, from  
211 private lenders upon reasonably equivalent terms and condi-  
212 tions;

213 (28) To obtain options to acquire and to acquire real prop-  
214 erty, or any interest therein, in its own name, by purchase, or  
215 lease, or otherwise, which is found by the housing develop-  
216 ment fund to be suitable, or potentially suitable, as a site, or  
217 as part of a site, for the construction of residential housing; to  
218 hold such real property; to make loans to finance the per-  
219 formance of land development activities on or in connection  
220 with any such real property or to perform land development  
221 activities on or in connection with any such real property; to  
222 sponsor the development of residential housing for occupancy  
223 by eligible persons and families on such real property; and to  
224 sell, transfer and convey, lease or otherwise dispose of such  
225 real property, or lots, tracts or parcels of such real property,  
226 or residential housing, for such prices, upon such terms, con-  
227 ditions and limitations, and at such time or times as the hous-  
228 ing development fund shall determine, to sponsors of resi-  
229 dential housing: *Provided, however,* That if the housing devel-  
230 opment fund shall determine that any such real property or any  
231 lots, tracts or parcels of such real property are not at any time  
232 or times needed for present or future residential housing, the  
233 housing development fund may sell, transfer and convey, lease  
234 or otherwise dispose of the same, to such purchasers or leasees,  
235 for such prices, upon such terms, conditions and limitations,



236 and for such uses and purposes as the housing development  
237 fund shall determine;

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

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

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

261 (32) Whenever the housing development fund deems it  
262 necessary, in order to exercise any of its powers set forth in  
263 subdivision twenty-eight of this section, and upon being un-  
264 able to agree with the owner or owners of real property or  
265 interest therein sought to be acquired by the fund upon a price  
266 for acquisition of private property not being used or operated  
267 by the owner in the production of agricultural products, to  
268 exercise the powers of eminent domain in the acquisition of  
269 such real property or interest therein in the manner provided  
270 under chapter fifty-four of this code, and the purposes set  
271 forth in subdivision twenty-eight of this section are hereby  
272 declared to be public purposes for which private property may  
273 be taken. For the purposes of this section, the determination

274 of 'use or operation by the owner in the production of agri-  
275 cultural products' means that the principal use of such real  
276 estate is for the production of food and fiber by agricultural  
277 production other than forestry, and the fund shall not initiate  
278 or exercise any powers of eminent domain without first re-  
279 ceiving an opinion in writing from both the governor and the  
280 commissioner of agriculture of this state that at the time the  
281 fund has first attempted to acquire such real estate or inter-  
282 est therein, such real estate or interest therein was not in fact  
283 being used or operated by the owner in the production of agri-  
284 cultural products.

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

*James L. Davis*  
Chairman Senate Committee

*Lawrence C. Chestnut Jr.*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*Todd C. Miller*  
Clerk of the Senate

*C. Blankenship*  
Clerk of the House of Delegates

*J. W. Brinkley*  
President of the Senate

*Clayton K. Yeager*  
Speaker House of Delegates

The within *is approved* this the *24*  
day of *March*, 1980.

*John D. Jeyaraj*  
Governor

RECEIVED

MAR 17 4 16 PM '80

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