WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED

SENATE BILL NO. 408

(By Mr.________________, Mr. President)

PASSED ____________________ 1982
In Effect ninety days from Passage
AN ACT to amend and reenact sections seven and seven-a, article fifteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to loans to industrial development agencies for industrial development projects and for industrial subdivision project acquisitions and improvements.

Be it enacted by the Legislature of West Virginia:

That sections seven and seven-a, article fifteen, 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 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

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

1 When it has determined upon application of an industrial development agency and upon hearing in the manner hereinafter provided that the establishment or acquisition of a particular industrial development project has accomplished or will accomplish the public purposes of this article, the authority may contract to loan such agency up to one hundred percent of the estimated cost of such project when financed by bonds issued by the authority, or the authority may contract to loan such agency an amount not in excess of fifty percent of the cost or estimated cost of such project, as
11 established, to be established or proposed to be acquired, when the project is not financed by bonds issued by the authority, subject to the following conditions:
14 (a) The West Virginia economic development authority shall make every reasonable effort to ensure that West Virginia firms and West Virginia workers are used in such projects.
18 (b) Industrial development projects to be established or acquired.
20 (1) The authority shall have first determined that the industrial development agency holds funds in an amount equal to or property of a value equal to not less than ten percent of the estimated cost of establishing or acquiring the industrial development project, which funds or property are available for and shall be applied to the establishment or acquisition of the project.
27 (2) The authority shall have also determined that the industrial development agency has obtained from other independent and responsible sources, such as banks and insurance companies, a firm commitment for all other funds over and above the loan of the authority and such funds or property as the agency may hold, necessary for payment of all the estimated cost of establishing or acquiring the industrial development project and that the sum of all these funds is adequate to ensure completion and operation of the industrial development project.
37 (c) Industrial development projects established or acquired with initial authority loan participation.
39 (1) The authority shall have first determined that the industrial development agency has expended funds in an amount equal to, or has applied property of a value equal to, not less than ten percent of the cost of establishing or acquiring the industrial development project.
44 (2) The authority shall have also determined that the industrial development agency obtained from other independent and responsible sources, such as banks and insurance companies, other funds necessary for payment of all the cost of establishing or acquiring the industrial development project and that the industrial development agency participation and these funds have been adequate to ensure completion and operation or acquisition of the industrial development project. The proceeds of any loan made by the authority to the industrial development agency
pursuant to this subdivision (b) shall be used only for the
establishment or acquisition of industrial development
projects in furtherance of the public purposes of this article.
The loan of the authority shall be for such period of time
and shall bear interest at such rate as the authority
determines and it shall be secured by the negotiable
promissory note of the industrial development agency and by
deed of trust on the industrial development project for which
the loan was made or by assignment of any deed of trust and
negotiable promissory note and other security taken by the
industrial development agency on the industrial
development project, such deed of trust and note, assignment
of deed of trust, and note and other security to be second and
subordinate only to the deed of trust securing the first lien
obligation issued to secure the commitment of funds from the
independent and responsible sources and used in the
financing of the industrial development project.
Money loaned by the authority to an industrial
development agency shall be withdrawn from the fund and
paid over to the agency in such manner as is provided by
rules and regulations of the authority.
The authority shall deposit all payments of interest on loans
and the principal thereof in the fund. When any federal
agency participates, the authority may adjust the required
ratios of financial participation by the industrial development
agency, the source of independent funds and the authority in
such manner as to ensure the maximum benefit available to
the industrial development agency, the authority, or both, by
the participation of the federal agency. When ratios are
adjusted as aforesaid, no such adjustment shall be made
which shall cause the authority to grant a loan to the
industrial development agency in excess of fifty percent of
the cost or estimated cost of the industrial development
project.
Where any federal agency participating in the financing of
an industrial development project is not permitted to take as
security for such participation a deed of trust or assignment
of deed of trust and other security the lien of which is junior
to the deed of trust or assignment of deed of trust and other
security of the authority, the authority may take as security
for its loan to the industrial development agency a deed of
trust or assignment of deed of trust and other security junior
in lien to that of the federal agency.
§31-15-7a. Loans to industrial development agencies of industrial subdivision project acquisitions and improvements.

1 When it has been determined upon application of an industrial development agency and upon hearing in the manner hereinafter provided that the acquisition or improvement of a particular industrial subdivision project by such agency will accomplish the public purposes of this article, the authority may contract to loan such industrial development agency up to one hundred percent of the estimated cost of such project when financed by bonds issued by the authority or, when the project is not financed by bonds issued by the authority, the authority may contract to loan such industrial development agency an amount not in excess of fifty percent of the cost or estimated cost of such industrial subdivision project acquisition or improvement, except as to shell buildings, in which case the agency may contract to loan an amount not in excess of ninety percent of the cost of such shell building, subject to the following conditions:

1. The authority shall have determined that the industrial development agency has obtained from other independent and responsible sources, such as banks and insurance companies, a firm commitment for all other funds, over and above the loan of the authority, necessary for payment of all the estimated cost of the industrial subdivision project acquisition or improvement and that the sum of all these funds is adequate to ensure completion of the project acquisition or improvement.

2. The authority shall have also determined that the industrial development agency has or proposes to acquire clear and marketable legal title to the industrial subdivision project to be improved or acquired.

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

4. In the case of a contract to loan more than fifty percent of the cost of a shell building, subject to the maximum limitation of ninety percent as aforesaid, the industrial
development agency shall furnish to the authority evidence
that such industrial development agency has entered into a
contract whereby a responsible buyer or responsible tenant is
legally obligated to acquire or lease such shell building. The
Legislature finds and declares that it does not believe it
would be in the best interest of the state for the authority to
contract to loan more than fifty percent of the cost of a shell
building, subject to the maximum limitation of ninety
percent as aforesaid, unless it is clear that the use to be made
of such shell building will result in the employment of a
reasonably substantial work force.

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

The authority may, in its discretion, defer the payment of
principal and interest, or principal only, or interest only, upon
any loan made to an industrial development agency for any
industrial subdivision project acquisition or improvement,
such deferment to be for such period as the authority
determines, not to exceed five years from the date of the deed
of trust securing the loan. If any portion of such industrial
subdivision project is sold or leased by the agency prior to the
expiration of the five-year period, all deferred installments of
the principal of the loan accrued on the date of such sale or
lease, or the proportionate part of such deferred principal
which the sold or leased portion of the project bears to its
total acreage, together with all unpaid interest accrued on the
date of such sale or lease, shall, at the option of the authority,
become due and payable immediately or subject to
renegotiation by either increasing or decreasing the number
and amount of each installment of principal and interest,
without effecting any change in the amount of principal of the
original loan or the rate of interest as originally fixed by the
authority in the deed of trust and note.
Money loaned by the authority to an industrial development agency shall be withdrawn from the fund and paid over to the agency in such manner as is provided by rules and regulations of the authority. The authority shall deposit all payments of interest on any loans and the principal thereof in the fund. Where any federal agency participating in the financing of industrial subdivision project acquisition or improvement is not permitted to take as security for such participation a deed of trust or assignment of deed of trust and other security the lien of which is junior to the deed of trust or assignment of deed of trust and other security of the authority, the authority may take as security for its loan to the industrial development agency a deed of trust or assignment of deed of trust and other security junior in lien to that of the federal agency.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Byler  
Chairman Senate Committee

Tony E. Whitlow  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Todd C. Weil  
Clerk of the Senate

C.A. Blankenship  
Clerk of the House of Delegates

Warren R. McCrory  
President of the Senate

Michael E. Busch  
Speaker House of Delegates

The within bill is approved this the 29th day of March, 1982.

Governor