

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-29-82

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED

Committee Substitute for
SENATE BILL NO. 409

(By Mr. *McGraw*, Mr. President)

PASSED March 13, 1982

In Effect ninety days from Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 409

(BY MR. MCGRAW, MR. PRESIDENT, *original sponsor*)

[Passed March 13, 1982; in effect ninety days from passage.]

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eighteen-b, relating to the state mortgage and industrial development pool; making legislative findings; establishing the pool; providing that the state board of investments provide funds for the pool from workmen's compensation and other accounts, but not from pension accounts; providing for short-term investment of such funds; providing for the release of such funds if not needed; providing that the housing development authority shall make fifty million dollars of such funds available for mortgages on single-family residential housing of up to eighty-five percent of appraised value; providing that the economic development authority make fifty million dollars of pool funds available for business loans; providing for collateral; providing for reversion to the control of the state board of investments if such funds are not needed; providing for interest rates of between ten and twelve percent for mortgages; providing that

private institutions may make mortgage loans; providing for crediting of interest earned to the accounts; and providing for procedural rules.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eighteen-b, to read as follows:

**ARTICLE 18B. MORTGAGE AND INDUSTRIAL DEVELOPMENT
INVESTMENT POOL.**

§31-18B-1. Legislative intent.

1 The Legislature finds and declares that:

2 (1) The vast majority of West Virginians have pursued a
3 goal of owning a home, a center of family life and family
4 independence deeply cherished and highly valued.

5 (2) In many parts of the state there is a large number of
6 single-family residential units that cannot presently be
7 marketed because of high interest rates and adverse
8 economic conditions.

9 (3) In addition, the state and its inhabitants are suffering
10 high unemployment and low income because of the
11 depressed state of the housing market and because of its
12 inability to attract new business. This situation adversely
13 affects potential home buyers, home builders, skilled
14 craftsmen, realtors and their employees and other citizens.
15 These conditions also reduce state revenues and frustrate the
16 laudable aspirations of many West Virginians to enjoy the
17 pleasures of home ownership and pursue productive
18 employment.

19 (4) By the cooperative efforts of our citizens there is a large
20 pool of resources held in trust by the state for the sole benefit
21 of West Virginians, including funds reserved for workers
22 injured in the course of employment.

23 (5) Some of these funds, particularly the workmen's
24 compensation fund, are invested under the actuarial
25 assumption of a yield less than that of current market
26 investments. Yet the current yield on some of these funds,
27 and particularly the workmen's compensation fund, is lower
28 than the actuarially assumed interest rate, and has been for at
29 least three years.

30 (6) The common good does not require that all of these
31 funds be invested so as to yield the very highest investment
32 return offered in the market, especially when the current rate
33 of market interest is:

34 (a) so high that it stifles the legitimate aspirations and
35 attainable dreams of so many West Virginians and West
36 Virginia businesses; and

37 (b) so high that it encourages the flight of capital
38 accumulated by West Virginians for the benefit of West
39 Virginians to national markets where the only consideration
40 is the highest rate of return.

41 (7) In these circumstances, prudence does not require that
42 the state board of investments seek the highest rate of return
43 on all investments. Rather, prudence requires that in
44 investing federally tax-free funds the state board of
45 investments should seek a rate of return commensurate with
46 its public charter. Furthermore, prudence demands that the
47 board immediately seek fiscally sound investments within
48 the state of West Virginia which offer sound security and
49 directly serve the hopes and aspirations in housing and
50 employment of the inhabitants of this state.

51 (8) The survival and renewal of a vibrant market for single
52 family residential units and the opportunity to attract new
53 businesses to the state is a sound and preferred investment
54 for the resources held in trust by this state for its citizens.
55 Such investments deserve precedence and encouragement,
56 even at the expense of foregoing the highest rate of
57 investment return, an investment return which the tax paying
58 investor might gain in the current market place but which
59 prudence dictates that the state board of investment need not
60 pursue.

61 (9) The success of the undertakings required by this
62 article will be amply demonstrated by: (a) the increased
63 financial stability of the state, (b) the contribution which will
64 occur when the dreams of hundreds of West Virginians are
65 realized, (c) the intrinsic worth of enhancing the cooperative
66 spirit of the inhabitants of this state in employment and
67 housing, and (d) the enhancement of revenue to the state
68 which will be generated by the commerce West Virginia seeks
69 to stimulate. In addition, the rate of return realized by these
70 funds will be at least as high as the actuarial assumptions,
71 and, given the rates of return demonstrated over the past
72 three years, probably higher than the current rate of return.

§31-18B-2. Establishment of state mortgage and industrial development investment pool; investment of workmen's compensation funds and other funds in such pool; schedule of moneys invested; authority of state board of investments to invest funds from the pool in short-term investments; reversion of control of state board of investments.

1 (a) There is hereby created and established a "state
2 mortgage and industrial development investment pool" into
3 which moneys shall be paid as provided in this section. The
4 state mortgage and industrial development investment pool
5 shall consist of a portion of the moneys and funds entrusted
6 to the state board of investments by the commissioner of
7 workmen's compensation and other state agencies and
8 organizations, which funds are invested by the state board of
9 investments in long-term securities according to the
10 provisions of this code: *Provided*, That no moneys or funds
11 from any pension plan shall be invested in the state mortgage
12 and industrial development investment pool.

13 (b) Notwithstanding any of the restrictions of section nine,
14 article six, chapter twelve, the state board of investments
15 shall make available from the workmen's compensation
16 funds and other such funds which it invests, moneys for the
17 state mortgage and industrial development investment pool.
18 Such moneys shall be drawn from workmen's compensation
19 funds and other funds except pension funds currently
20 invested by the state board of investments and shall be made
21 available for investment on or before the dates established in
22 subsection (c) of this section: *Provided, however*, That should
23 the workmen's compensation fund fall below three hundred
24 million dollars, then no further transfers provided in this
25 section be granted until the fund again reaches four hundred
26 million dollars.

27 (c) The state board of investments shall make available for
28 investment in the state mortgage and industrial development
29 investment pool the funds identified in subsection (a) and (b)
30 of this section according to the following schedule:

31 (1) On the effective date of this act, twenty-five million
32 dollars of which twenty million dollars is to be deposited in
33 the pool for investment by the housing development fund,
34 and five million dollars is to be deposited in the pool for
35 investment by the economic development authority.

36 (2) On the first day of October, one thousand nine hundred
37 eighty-two, twenty-five million dollars, of which twenty
38 million dollars is to be deposited in the pool for investment by
39 the housing development fund, and five million is to be
40 deposited in the pool for investment by the economic
41 development authority.

42 (3) On the first day of January, one thousand nine hundred
43 eighty-three, twenty-five million dollars, of which ten million
44 dollars is to be deposited in the pool for investment by the
45 housing development fund, and fifteen million dollars is to be
46 deposited in the pool for investment by the economic
47 development authority.

48 (4) On the first day of April, one thousand nine hundred
49 eighty-three, twenty-five million dollars, all of which is to be
50 deposited in the pool for investment by the economic
51 development authority.

52 Investments by the housing development fund are to be
53 made pursuant to the provisions of section three of this
54 article, and by the economic development authority pursuant
55 to section four of this article.

56 (d) The state board of investments may, after committing
57 these funds to the state mortgage and industrial development
58 investment pool, invest the moneys of such pool in any
59 short-term investments as may be deemed to be prudent and
60 proper until such funds are invested by the housing
61 development fund or the West Virginia economic
62 development authority. The income from such short-term
63 investments shall accrue to and be credited to the accounts
64 from which such funds were drawn in proportion to the
65 amount of funds so drawn.

66 (e) The funds invested in the state mortgage and industrial
67 development pool shall be invested solely for the benefit of
68 the accounts from which the funds are drawn in proportion to
69 the amount so drawn. For purposes of crediting of investment
70 returns to the proper account, the state board of investments
71 is to consider the state mortgage and industrial development
72 investment pool as it would any other long-term investment
73 at a fixed rate of return.

74 (f) The housing development fund and the West Virginia
75 economic development authority may release the funds from
76 the state mortgage and industrial development investment
77 pool to the control of the state board of investment if it
78 determines that lower interest rates than those now

79 prevailing require that such funds cannot be competitively
80 invested in first mortgages on residential property or
81 industrial development projects located in the state.

§31-18B-3. Housing development fund to make available state mortgage and industrial development investment pool funds for mortgages on single-family residential units; limitations upon type and size of such mortgages.

1 (a) The housing development fund shall make available at
2 the interest rate specified in section six of this article, one half
3 of the moneys from the state mortgage and industrial
4 development investment pool for investment in mortgages on
5 single-family residential units, twenty-five percent of which
6 shall be designated and restricted, for a period of twelve
7 months, to new and never occupied single-family residential
8 units which shall, if not so used, revert to investments in
9 other non-restricted mortgages. For the purposes of this
10 article, a single-family residential unit means a detached unit
11 on a separate piece of land used solely for the housing of one
12 family, and only one family, which family owns the dwelling
13 and the land or has a mortgage thereupon, and also includes
14 townhouses or row houses used by a family as a residential
15 dwelling, and owned by the family.

16 (b) Loans made by the housing development fund from
17 the state mortgage and industrial development investment
18 pool are to be made solely for the purpose of purchasing real
19 estate upon which is situate a single-family unit, or for the
20 construction of a single-family residential unit upon real
21 estate by the buyer of such unit to provide housing for only
22 himself and his family, or for the purpose of the payment of a
23 loan theretofore made for the construction of a single-family
24 residential unit, or for the purpose of purchasing real estate
25 upon which is situate a single-family residential unit and
26 making additions or improvements thereto: *Provided*, That
27 none of these loans shall be used to refinance existing loans,
28 except construction loans. Each such loan must be secured
29 by a first mortgage or first deed of trust upon such real
30 property. Such mortgage or deed of trust shall be held by the
31 housing development fund or its assignee.

32 (c) Loans made pursuant to the provisions of this section
33 may not exceed eighty-five percent of the appraised value of
34 the real estate and single-family residential unit: *Provided*,

35 *however*, That if the loan is for the purchase of a single-family
36 residential unit for the purpose of making additions and
37 improvements thereto, such loan shall be no more than
38 eighty-five percent of the appraised value of the property
39 including such improvements when made, as estimated by an
40 appraiser retained by the fund.

41 (d) In no event may a loan obtained pursuant to this
42 section be for an amount greater than seventy-five thousand
43 dollars.

44 (e) Mortgage loans made pursuant to the provisions of this
45 section shall be insured for at least twenty percent of the
46 amount of the loan by either an agency of the federal
47 government or a private mortgage insurance company
48 licensed in the state.

**§31-18B-4. West Virginia economic development authority to
make available state mortgage and industrial
development investment pool funds for
investment in industrial development; amount of
funds available; interest rate specified.**

1 (a) The West Virginia economic development authority
2 may use for any investments authorized by sections seven
3 and seven-a, article fifteen, chapter thirty-one of this code up
4 to one half of the funds of the state mortgage and industrial
5 development investment pool: *Provided*, That the economic
6 development authority shall deposit with the treasurer of the
7 state for the credit of the state mortgage and industrial
8 development pool such notes, security interests, or bonds
9 issued by the economic development authority evidencing
10 the indebtedness of the authority to the pool: *Provided*,
11 *however*, That such notes, security interests, or bonds issued
12 by the authority shall be secured by security equal to or better
13 than the highest rating of at least two or more nationally
14 recognized rating services such as Standard and Poor's, Dun
15 and Bradstreet or Moody's.

16 (b) The interest rate and the maturity dates of the notes,
17 security interests, or bonds held by the treasurer for the state
18 mortgage and industrial development pool shall be
19 determined by the economic development authority
20 according to the provisions of section eleven, article fifteen,
21 chapter thirty-one of this code: *Provided further*, That such
22 interest rate shall not be less than ten percent per annum.

§31-18B-5. Reversion to state board of investments of money not used for mortgages.

1 Should the housing development fund or its agents or the
2 economic development authority fail to loan all or a portion of
3 the funds made available pursuant to section two of this
4 article within one year of the date those funds become a part
5 of the state mortgage and industrial development investment
6 pool, then that portion of the funds not invested shall revert
7 to the exclusive control of the state board of investments and
8 shall no longer be required to be available to the state
9 mortgage and industrial development investment pool:
10 *Provided*, That no part of the pool available for the economic
11 development authority shall revert to the state board of
12 investments until four years after these funds become part of
13 the pool.

§31-18B-6. Interest rate charged by housing development fund; other charges; points.

1 (a) The interest charged for mortgage loans obtained
2 according to the provisions of section three of this article
3 shall not exceed the monthly index of long-term United
4 States government bond yields for the calendar month
5 preceding the date the commitment for such loan is made:
6 *Provided*, That in no event shall the interest rate be more than
7 twelve percent per annum, nor less than ten percent per
8 annum. For the purposes of this section, the monthly index of
9 long-term United States government bond yields means the
10 monthly unweighted average of the daily unweighted average
11 of the closing bid yield quotations in the over-the-counter
12 market for all outstanding United States treasury bond issues
13 which mature twenty years or more from the date the index is
14 calculated, but shall not include such bonds as are
15 redeemable at par for payment of federal estate taxes.

16 (b) The housing development fund may charge such
17 points to the seller of the real estate covered by the first
18 mortgage deed or deed of trust as are necessary to offset costs
19 of making the loan, including, but not limited to, the costs of
20 processing the loan application and the costs of interest
21 charges incurred between the commitment date of the loan
22 and the date the property is actually purchased: *Provided*,
23 That such points charged shall not exceed two points and
24 shall be charged to the seller: *Provided, however*, That the
25 real estate broker shall, from his or her commission, pay an
26 amount equal to one point. The seller shall furnish to the fund

27 satisfactory proof that he or she has not within the two years
28 preceding the contract of the sale offered the house to the
29 buyer for less than the sale price provided in the contract or
30 sale between them. The proceeds from such points paid by
31 the seller and broker to the housing development fund, less
32 actual housing development fund expenses up to one half of
33 one point, and less an amount equal to the first year cost for
34 mortgage insurance required by section three of this article,
35 shall be transmitted to the state board of investments as
36 provided in section ten of this article.

§31-18B-7. Term of mortgage loans; renegotiation after ten years; promulgation of legislative rules.

1 (a) The term of the loans made pursuant to the provisions
2 of this article shall be not less than twenty nor more than
3 thirty years and shall be assumable by a person financially
4 qualified according to the provisions of section eight of this
5 article.

6 (b) The housing development fund may include in the first
7 mortgage agreement or deed of trust a provision which allows
8 it to renegotiate the rate of return after ten years. Such
9 provision may be written to allow the housing development
10 fund to increase the interest rate for the remainder of the loan
11 to the then monthly index of long-term United States
12 government bond yields as defined in section six of this
13 article for the calendar month preceding registration, as
14 defined in section six of this article, plus two percent per
15 annum: *Provided*, That the maximum renegotiated rate may
16 not exceed fourteen percent per annum: *Provided, however*,
17 That if the holder of the mortgage presents evidence that his
18 average gross income for the two years prior to the
19 renegotiation is no more than one sixth greater than his
20 income at the time the loan was made, then the loan shall not
21 be renegotiated.

22 (c) The housing development fund shall propose
23 legislative rules according to the provisions of chapter
24 twenty-nine-a of this code to implement this section.

§31-18B-8. Persons eligible for loans from the state mortgage and industrial development investment pool; housing development fund to have sole discretion in determining who is to receive loans; discrimination prohibited.

1 (a) Any person is entitled to receive a first mortgage or
2 deed of trust from the state mortgage and industrial

3 development investment pool for real estate situated within
4 the boundaries of the state if the person's family income for
5 each of the two years preceding the commitment year is fifty
6 thousand dollars or less: *Provided*, That such person must be
7 purchasing the real estate for use as his or her single-family
8 residential unit as defined in section three of this article:
9 *Provided, however*, That such person is qualified for the loan
10 as provided in this section.

11 (b) The housing development fund shall have sole
12 discretion in determining who is qualified to receive
13 mortgage loans from the state mortgage and industrial
14 development investment pool, subject to the provisions of
15 section fourteen of this article. The housing development
16 fund shall establish by interpretive rule promulgated
17 pursuant to the provisions of chapter twenty-nine-a
18 guidelines for the exercise of this discretion.

19 (c) The housing development fund shall issue mortgage
20 loans to such qualified buyers on the basis of the first of such
21 buyers in the order in which the applications are approved.

22 (d) In view of the uncertain economic conditions
23 prevailing, the fund may propose legislative rules which, if
24 promulgated, suspend all or any of the provisions of this
25 section.

26 (e) The housing development fund shall not discriminate
27 against buyers on the basis of race, sex, national origin,
28 religion, or location in the state in which the buyer resides.

**§31-18B-9. Housing development fund may contract with
private institutions to place and service loans;
payment of a portion of interest to such
institutions.**

1 (a) The housing development fund may contract with
2 private mortgage companies, savings and loan associations,
3 or banks to provide for the placement, origination and
4 servicing of the mortgages described in this article: *Provided*,
5 That such institutions must be licensed to do business in
6 West Virginia and, in the case of a savings and loan, or a bank,
7 must be under the supervision of the department of banking
8 of this state as provided in chapter thirty-one-a of this code or
9 must be a national bank or a federally insured savings and
10 loan. Such institutions shall follow the same restrictions as
11 the housing development fund, and shall act only as the agent
12 for such.

13 (b) Notwithstanding the maximum interest rate specified
14 in section six of this article, the housing development fund is
15 authorized to increase the interest rate, up to one half of one
16 percent over the rate provided in section six if the loan has
17 been placed and serviced by a mortgage company, savings
18 and loan, or bank. Such mortgage company, savings and loan,
19 or bank shall receive such extra amount as payment for its
20 services.

21 (c) If the housing development fund so determines, one of
22 the points provided for in section six of this article may be
23 paid to the private mortgage company, bank, or savings and
24 loan to cover the expense of originating the loan.

§31-18B-10. Disposition of interest income and repayments of principal.

1 (a) The interest received from mortgage payments made
2 pursuant to the provisions of this article shall be transmitted
3 to the state board of investments monthly.

4 (b) Such interest shall be treated by the state board of
5 investments as an investment return, and shall be credited to
6 the workmen's compensation account or other appropriate
7 accounts in the same manner as interest received on other
8 investments.

9 (c) The funds from repayment of principal of mortgage
10 loans shall be reinvested by the housing development fund
11 according to the provisions of section five of this article.
12 Funds which have been repaid to the state mortgage and
13 industrial development investment pool and not reinvested
14 in mortgages within one year shall revert to the sole control of
15 the state board of investments and shall no longer be
16 considered part of the state mortgage and industrial
17 development investment pool.

§31-18B-11. Procedural rules required.

1 The housing development fund may promulgate
2 procedural rules pursuant to chapter twenty-nine-a which
3 describe procedures used to procure a loan pursuant to the
4 provisions of this article and to introduce such forms as may
5 be required.

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

R. P. Baylor
Chairman Senate Committee

Tony E. Whittow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Judd C. Welch
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

Walter R. McAdoo
President of the Senate

Walter M. Reed, Jr.
Speaker House of Delegates

The within *is approved* this the *29*

day of *March*, 1982.

Paul R. [Signature]
Governor

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