WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED

HOUSE BILL No. 1697

(By Mr. Allbright, Speaker, and Del. Devon)
(By request of the Executive)

Passed April 2, 1985

In Effect
From Passage
ENROLLED

H. B. 1697

(BY MR. SPEAKER, MR. ALBRIGHT, and DELEGATE SWANN)

(By request of the Executive)

[Passed April 2, 1985; in effect from passage.]

AN ACT to amend and reenact sections three, six, eighteen and twenty, article eighteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section nine, article eighteen-b of said chapter, all relating to the West Virginia housing development fund; defining eligible persons and families by including persons or families of higher income; defining temporary housing to include temporary residential housing for shelters for homeless people, housing for victims of flood and other disasters, shelters for abused or battered persons and their children, housing for families with hospitalized family members, housing for students and student families and housing for handicapped; authorizing the housing development fund to own real property and to make loans for temporary housing; providing tax exemption; authorizing a limit on borrowing; providing that the housing development fund may contract with private institutions to place and service loans and authorizing an increase in the interest rate for servicing of loans.

Be it enacted by the Legislature of West Virginia:

That sections three, six, eighteen and twenty, article eighteen, chapter thirty-one of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, be amended and reenacted; and that section nine, article eighteen-b of said chapter be amended and reenacted, all to read as follows:

ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.


1 As used in this article, unless the context otherwise requires:

2 (1) “Annual sinking fund payment” means the amount of money specified in the resolution or resolutions authorizing term bonds as payable into a sinking fund during a particular calendar year for the retirement of term bonds at maturity after such calendar year, but shall not include any amount payable by reason only of the maturity of a bond;

3 (2) “Development costs” means the costs approved by the housing development fund as appropriate expenditures by the housing development fund, by sponsors of land development for residential housing, or by sponsors of residential housing, within this State, including, but not limited to:

4 (a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the housing development fund, payments for the purchase of such properties;

5 (b) Legal and organization expenses, including payments of attorneys' fees, project manager and clerical staff salaries, office rent and other incidental expenses;

6 (c) Payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work;

7 (d) Expenses for tenant surveys and market analyses; and

8 (e) Necessary application and other fees.

9 (3) “Eligible persons and families” means:

10 (a) Persons and families of low and moderate income; or

11 (b) Persons or families of higher income to the extent the housing development fund shall find and determine; by resolution, that construction of new or rehabilitated residential housing for occupancy by them will cause to be vacated existing sanitary, decent and safe residential housing available at prices or rentals which persons and families of low and
moderate income can afford; or

(c) Persons or families of higher income to the extent the
housing development fund shall find and determine, by
resolution, that construction of new or rehabilitated multi-
family rental housing or new, rehabilitated or existing home
ownership housing in the state for occupancy by them will
further economic growth, increase the housing stock in the
state by eliminating substandard or deteriorating housing
conditions, or provide additional housing opportunities in the
state; or

(d) Persons who because of age or physical disability are
found and determined by the housing development fund, by
resolution, to require residential housing of a special location
or design in order to provide them with sanitary, decent and
safe residential housing; or

(e) Persons and families for whom, as found and determined
by the housing development fund by resolution, construction
of new or rehabilitated residential housing some designated
area or areas of the state is necessary for the purpose of
retaining in, or attracting to, such area or areas qualified
manpower resources essential to modern mining, industrial
and commercial operations and development in such area or
areas;

(4) “Federally insured construction loan” means a construc-
tion loan for land development for residential housing or for
residential housing which is either secured by a federally
insured mortgage or a federal mortgage, or which is insured
by the United States or an instrumentality thereof, or a
commitment by the United States or an instrumentality thereof
to insure such loan;

(5) “Federally insured mortgage” means a mortgage loan for
land development for residential housing or for residential
housing insured or guaranteed by the United States or an
instrumentality thereof to insure such a mortgage;

(6) “Federal mortgage” means mortgage loan for land
development for residential housing or for residential housing
made by the United States or an instrumentality thereof, or
a commitment by the United States or an instrumentality
thereof to make such a mortgage loan;
(7) "Housing development fund" means the West Virginia housing development fund heretofore created and established by section four of this article;

(8) "Land development" means the process of acquiring land for residential housing construction and of making, installing or constructing nonresidential housing improvements, including waterlines and water supply installations, sewer lines and sewage disposal installations, steam, gas and electric lines and installations, roads, streets, curbs, gutters, sidewalks, whether on or off the site, which the housing development fund deems necessary or desirable to prepare such land for residential housing construction within this state;

(9) "Land development fund" means the land development fund which may be created and established by the housing development fund in accordance with section twenty-a of this article;

(10) "Minimum bond insurance requirement" means, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future calendar year, of annual debt service of the housing development fund on all outstanding mortgage finance bonds, such annual debt service for any calendar year being the amount of money equal to the aggregate of (a) all interest payable during such calendar year on such mortgage finance bonds on said date of computation, plus (b) the principal amount of such mortgage finance bonds outstanding which matures during such calendar year, other than mortgage finance bonds for which annual sinking fund payments have been or are to be made in accordance with the resolution authorizing such bonds, plus (c) the amount of all annual sinking fund payments payable during such calendar year with respect to any such mortgage finance bonds, all calculated on the assumption that bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due and application in accordance with the resolution authorizing such bonds of all such sinking fund payments payable at or after said date of computation;

(11) "Mortgage finance bonds" means bonds issued or to be issued by the housing development fund and secured by a
pledge of amounts payable from the mortgage finance bond
insurance fund in the manner and to the extent provided in
section twenty-b of this article;

(12) "Mortgage finance bond insurance fund" means the
special trust fund created and established in the state treasury
in accordance with section twenty-b of this article;

(13) "Operating loan fund" means the operating loan fund
which may be created and established by the housing
development fund in accordance with section nineteen of this
article;

(14) "Persons and families of low and moderate income"
means persons and families, irrespective of race, creed,
national origin or sex, determined by the housing development
fund to require such assistance as is made available by this
article on account of personal or family income not sufficient
to afford sanitary, decent and safe housing, and to be eligible
or potentially eligible to occupy residential housing con-
structed and financed, wholly or in part, with federally insured
construction loans, federally insured mortgages, federal
mortgages or with other public or private assistance, or with
uninsured construction loans, or uninsured mortgage loans,
and in making such determination the fund shall take into
account the following: (a) The amount of the total income of
such persons and families available for housing needs, (b) the
size of the family, (c) the cost and condition of housing
facilities available, (d) the eligibility of such persons and
families for federal housing assistance of any type predicated
upon low or moderate income basis, and (e) the ability of such
persons and families to compete successfully in the normal
housing market and to pay the amounts at which private
enterprise is providing sanitary, decent and safe housing:

Provided, That to the extent found and determined by the
housing development fund, by resolution, to be necessary or
appropriate for the purposes of eliminating undesirable social
conditions and permanently eliminating slum conditions, the
income limitation requirements of this article may be waived
as to any persons or families who are eligible to occupy
residential housing constructed in whole, or in part, with
federally insured construction loans, federally insured
mortgages or federal mortgages under housing assistance or
mortgage insurance programs of the United States, or an
instrumentality thereof, predicated upon any low or moderate income basis;

(15) "Residential housing" means a specific work or improvement within this State undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to nursing homes and intermediate care facilities, and such other nonhousing facilities as may be incidental or appurtenant thereto;

(16) "Special bond insurance commitment fee" means a fee in the amount of one per centum of the total principal amount of each loan which is to be temporarily or permanently financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, or an amount equal to an equivalent discount on each loan purchased or invested in by the housing development fund from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, and which may be payable from the proceeds of such bonds or any other source available to the housing development fund for such use: Provided, That if the period of time between the first disbursement of proceeds of such loan and the date upon which it is specified that the first repayment of principal of such a loan shall be payable exceeds twelve months, an additional amount computed on the basis of one twelfth of one per centum per month on the total principal amount of such loan over the number of months of such period of time in excess of twelve months shall be included in such fee;

(17) "Special bond insurance premium" means (i) a fee at the rate of one half of one percent per annum on the outstanding principal balance which the housing development fund shall charge the borrower of a mortgage loan, or of a loan secured by a mortgage, financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, which shall accrue from a date which is one month prior to the date on which the first installment payment of principal of such a loan is payable and which shall be payable thereafter in monthly installments on the same day of each
successive month that installment payments of principal of
such a loan are payable, and (ii) with respect to any loan, other
than a federally insured construction loan, a federally insured
mortgage or a federal mortgage, purchased, or invested in with
such proceeds, an equivalent amount which the housing
development fund shall set aside from payments it receives on
such loan or from any other source available to the housing
development fund for such use;

(18) “State sinking fund commission” means the commis-

sion known as such and continued in existence pursuant to
article three, chapter thirteen of this code and any body,
board, person or commission which shall, by law, hereafter
succeed to the powers and duties of such commission;

(19) “Temporary housing” means a specific work or
improvement within this state undertaken primarily to provide
dwelling accommodations, including the acquisition, construc-
tion, or rehabilitation of land, buildings and improvements
thereto, for temporary residential housing, including but not
limited to shelters for homeless people, housing for victims of
floods and other disasters, shelters for abused or battered
persons and their children, housing for families with
hospitalized family members, housing for students and student
families, and housing for the handicapped and such other
nonhousing facilities as may be incidental or appurtenant
thereto;

(20) “Uninsured construction loans” means a construction
loan for land development or for residential housing which is
not secured by either a federally insured mortgage or a federal
mortgage, and which is not insured by the United States or
an instrumentality thereof, and as to which there is no
commitment by the United States or an instrumentality thereof
to provide insurance;

(21) “Uninsured mortgage” and “uninsured mortgage loan”
means a mortgage loan for land development or for residential
housing which is not insured or guaranteed by the United
States or an instrumentality thereof, and as to which there is
no commitment by the United States or an instrumentality
thereof to provide insurance.

§31-18-6. Corporate powers.
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:

(1) To make or participate in the making of federally insured construction loans to sponsors of land development for residential or temporary housing for occupancy by eligible persons and families or to sponsors of residential or temporary housing for occupancy by eligible persons and families. 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;

(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 or temporary housing for occupancy by persons and families of low and moderate income or residential or temporary 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;

(3) To make or participate in the making of long-term federally insured mortgage loans to sponsors of residential or temporary housing for occupancy by eligible persons and families, or to eligible persons and families, who may purchase or construct such residential or temporary 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;

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

(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;

(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 disbursement 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 indebtedness issued by any of the following agencies: Banks for cooperatives; 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 payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes issued by public agencies or municipalities 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 obligation 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
categories 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, That such corporation shall have a minimum 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, however, That (1) such
corporation has earned a profit in eight of the preceding ten
fiscal years as reflected in its statements, and (2) such
corporation 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
equivalent thereof 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 prescribe
their duties;

(12) To acquire, hold and dispose of real and 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
foreign 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 construction, 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, or rehabilitation or improvement of residential and temporary housing for occupancy by eligible persons and families or land development for residential and temporary housing for occupancy by eligible persons and families;

(23) To provide consultative project assistance services for residential and temporary housing for occupancy by eligible persons and families and for land development for residential and temporary 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 and temporary, 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 and temporary 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 and temporary 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 or temporary housing for occupancy by eligible persons and families or to sponsors of residential or temporary 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 or temporary 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 or temporary 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 and temporary 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 or temporary 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 or temporary housing: Provided, 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 or
temporary 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, establish, organized and operated in accordance with the provisions of section twenty-nine 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;

(31) To make or participate in the making of loans to eligible persons and families for the purpose of rehabilitating or improving existing residential and temporary housing, or to owners of existing residential or temporary housing for occupancy by eligible persons and families for the purpose of rehabilitating or improving such residential or temporary 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 28 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 28 of this section are hereby declared to be public
purposes for which private property may be taken. For the
purposes of this section, the determinateion 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 commis-
sioner 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 housing development fund shall not be required to pay
any taxes and assessments to the state of West Virginia, or
any county, municipality or other governmental subdivision of
the state of West Virginia, upon any of its property or upon
its obligations or other evidences of indebtedness pursuant to
the provisions of this article, or upon any moneys, funds
revenues or other income held or received by the housing
development fund. The notes and bonds of the housing
development fund and the income therefrom shall at all times
be exempt from taxation, except for death and gift taxes, taxes
on transfers, sales taxes, real property taxes and business and
occupation taxes.


The aggregate principal amount of bonds and notes issued
by the housing development fund shall not exceed one billion,
two hundred fifty million dollars outstanding at any one time:
Provided, That in computing the total amount of bonds and
notes which may at any one time be outstanding, the principal
amount of any outstanding bonds or notes refunded or to be
refunded either by application of the proceeds of the sale of
any refunding bonds or notes of the housing development fund
or by exchange for any such refunding bonds or notes, shall
be excluded.

ARTICLE 18B. MORTGAGE AND INDUSTRIAL DEVELOPMENT
INVESTMENT POOL.

§31-18B-9. Housing development fund may contract with private
institutions to place and service loans or may itself provide such servicing; increasing interest rate and payment of a portion of interest to cover cost of servicing.

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

(b) Notwithstanding the maximum interest rate specified in section six of this article, the housing development fund is authorized to increase the interest rate, up to one half of one percent over the rate provided in section six to pay the cost of placing and servicing the mortgages.

(c) If the housing development fund so determines, one of the points provided for in section six of this article may be paid to the private mortgage company, bank or savings and loan to cover the expense of origination of the loan.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within .................................... this the ................... day of .................................., 1985.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/10/85
Time 9:31 A.M.