WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1986

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ENROLLED

SENATE BILL NO. 525

(By Senator...Fanning...et al.)

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PASSED March 8, 1986

In Effect from Passage
ENROLLED

Senate Bill No. 525

(By Senators Fanning, Spears, Parker, Whitacre, Harman, Ash, Boettner, Boley, Burdette, Chafin, Chernenko, Colombo, Cook, Craig, Holliday, Holmes, Jarrell, Karras, Kaufman, Lucht, Sharpe, Shaw, Stacy, Tomblin, Tucker, Whitlow, B. Williams, R. Williams and Yanero)

[Passed March 8, 1986; in effect from passage]

AN ACT to amend and reenact sections two and four, article one-a, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one and five, article five, chapter fifteen of said code; to amend and reenact section fifteen, article five, chapter eighteen of said code; to amend and reenact section seven-b, article fifteen, chapter thirty-one of said code; to amend and reenact section six, article eighteen of said chapter; and to amend and reenact sections one and three, article eighteen-b of said chapter, relating to omnibus flood recovery programs generally; linked deposit program to assist business recovery in federal declared disaster areas; legislative findings and loan eligibility; relating to emergency services and emergency powers of the governor in connection with disasters; specifying general power of governor to implement plans for emergency services, including formation of disaster recovery team and composition thereof; relating to minimum school term and authority to decrease due to declared federal disaster;
relating to West Virginia economic development authority loans and assistance for disaster recovery; expanding investment powers and providing for additional authorized types of investment for the West Virginia housing development fund in aid of effectuating its corporate purposes and for disaster recovery; providing for mortgage and industrial development investment pool activities to include single-family residential unit mortgages and funds for replacement housing in federal declared disaster areas; and limitations.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 1A. LINKED DEPOSIT PROGRAM.

§12-1A-2. Legislative findings.

1 The Legislature finds that many small businesses throughout the state are experiencing economic stagnation or decline, that high interest rates have caused small businesses in this state to suffer disproportionately in profitability and competition and that such high interest rates have fostered a serious increase in unemployment. The linked deposit program provided for by this article is intended to provide a statewide availability of lower cost funds for lending purposes that will materially contribute to the economic revitalization of this state. Accordingly, it is declared to be the public policy of the state through the linked deposit program to create an availability of lower-cost funds to inject needed capital into the business community, sustain or improve business profitability,
§12-1A-4. Applications for loan priority; loan package.

(a) An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible small businesses. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible small business.

(b) An eligible small business shall certify on its loan application that the reduced rate loan will be used exclusively to create new jobs or preserve existing jobs and employment opportunities. Whoever knowingly makes a false statement concerning such application shall be prohibited from entering into the linked deposit loan program.

(c) In considering which eligible small businesses should receive reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area in which the business is located, including whether the business is located in a county declared to be a federal disaster area by the Federal Emergency Management Agency, and the number of jobs to be created or preserved by the receipt of such loan.

(d) The eligible financial institution shall forward to the state treasurer a linked deposit loan package, in the form and manner as prescribed by the state treasurer. The package shall include such information as required by the state treasurer, including the amount of the loan requested and the number of jobs to be created or sustained by each eligible small business. The institution shall certify that each applicant is an eligible small business, and shall, for each business, certify the present borrowing rate applicable to each specific eligible business.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 5. EMERGENCY SERVICES.

§15-5-1. Policy and purpose.

In view of the existing and increasing possibility of the occurrence of disasters of unprecedented size and
destructiveness, resulting from enemy attack, sabotage or other hostile action, or from fire, flood, earthquakes or other natural or man-made causes and in order to insure that preparations of this state will be adequate to deal with such disasters, and generally to provide for the common defense and to protect the public peace, health and safety and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

1. To create a state emergency services agency and to authorize the creation of local and regional organizations for emergency services in the political subdivisions of the state;
2. To confer upon the governor, and upon the executive heads of governing bodies of the political subdivisions of the state the emergency powers provided herein;
3. To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to the carrying out of emergency services functions;
4. To establish and implement a comprehensive emergency service plan to deal with such disasters.

It is further declared to be the purpose of this article and the policy of the state that all emergency services functions of this state be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities and of private agencies of every type, so that the most effective preparation and use may be made of the nation's manpower, resources and facilities for dealing with any disaster that may occur.

§15-5-5. General powers of the governor.

The governor shall have general direction and control of the office of emergency services and shall be responsible for the carrying out of the provisions of this article and, in the event of disaster beyond local control, may assume direct operational control over all or any part of the emergency services functions within this state.

In performing his duties under this article, the governor is authorized to cooperate with the federal government, other states and private agencies in all matters pertaining to the provisions of emergency services for this state and the nation.
In performing his duties under this article to effect its policy and purpose, the governor is further authorized and empowered:

(1) To make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of this article within the limits of the authority conferred upon him herein, with due consideration of the plans of the federal government.

(2) To prepare and implement a comprehensive plan and program for the provision of emergency services in this state, such plan and program to be integrated into and coordinated with comparable plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of such plans and programs by the political subdivisions of this state, such plans to be integrated into and coordinated with the state plan and program to the fullest possible extent.

(3) In accordance with such state plan and program, to procure supplies and equipment, to institute training and public information programs, to take all other preparatory steps including the partial or full mobilization of emergency services organizations in advance of actual disaster and to insure the furnishing of adequately trained and equipped emergency services personnel in time of need.

(4) To make such studies and surveys of industries, resources and facilities in this state as may be necessary to ascertain the capabilities of the state for providing emergency services and to plan for the most efficient emergency use thereof.

(5) On behalf of the state, to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of this state.

(6) To delegate the administrative authority vested in him under this article, to provide for the delegation or transfer or both of the authority vested in the director under the provisions of this article, to any other person as the governor in his discretion may direct, and to provide for the subdelegation of any such authority.

(7) To appoint a disaster recovery team composed of departmental heads, members of the executive, political subdivision representatives, technicians, members of the public and other representatives, the composition of which
team shall reflect the character and extent of the disaster itself.

(8) To appoint, in cooperation with local authorities, metropolitan area directors when practicable.

(9) To cooperate with the president and the heads of the armed forces, the civil defense agency of the United States and other appropriate federal officers and agencies and with the officers and agencies of other states in matters pertaining to the civil defense of the state and nation, including the direction and control of (a) blackouts and practice blackouts, air raid drills, mobilization of emergency services and civil defense forces and other tests and exercises; (b) warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith; (c) the effective screening or extinguishing of all lights and lighting devices and appliances; (d) shutting off water mains, gas mains, electric power connections and the suspension of all other utility services; (e) the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to drills or attack; (f) public meetings or gatherings; and (g) the evacuation and reception of the civilian population.

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-15. School term; exception; levies; ages of persons to whom schools are open.

The board shall provide a school term for its schools which shall be comprised of (a) an employment term for teachers, and (b) an instructional term for pupils.

The employment term for teachers shall be no less than ten months, a month to be defined as twenty employment days exclusive of Saturdays and Sundays: Provided, That the board may contract with all or part of the personnel for a longer term. The employment term shall be fixed within such beginning and closing dates as established by the state board: Provided, however, That the time between the beginning and closing dates does not exceed forty-three weeks.

Within the employment term there shall be an
instructional term for pupils of not less than one hundred
eighty nor more than one hundred eighty-five instructional
days: Provided, That the minimum instructional term may
be decreased, by order of the state superintendent of
schools, in any West Virginia county declared to be a federal
disaster area by the Federal Emergency Management
Agency. Instructional and noninstructional activities may
be scheduled during the same employment day. The
instructional term shall commence no earlier than the first
day of September and shall terminate no later than the
eighth day of June.
Noninstructional days in the employment term may be
used for making up canceled instructional days, curriculum
development, preparation for opening and closing of the
instructional term, in-service and professional training of
teachers, teacher-pupil-parent conferences, professional
meetings and other related activities. In addition, each
board may designate and schedule for teachers and service
personnel a maximum of four days to be used by the
employee outside the school environment. However, no
more than seven noninstructional days, except holidays,
may be scheduled prior to the first day of January in a
school term.
Notwithstanding any other provisions of the law to the
contrary, if the board has canceled instructional days equal
to the difference between the total instructional days
scheduled and one hundred seventy-eight, each succeeding
instructional day canceled shall be rescheduled, utilizing
only the remaining noninstructional days, except holidays,
following such cancellation, which are available prior to
the second day before the end of the employment term
established by such county board.
Where the employment term overlaps a teacher's or
service personnel's participation in a summer institute or
institution of higher education for the purpose of
advancement or professional growth, the teacher or service
personnel may substitute, with the approval of the county
superintendent, such participation for not more than five of
the noninstructional days of the employment term.
The board may extend the instructional term beyond one
hundred eighty-five instructional days provided the
employment term is extended an equal number of days. If
the state revenues and regular levies, as provided by law, are insufficient to enable the board of education to provide for the school term, the board may at any general or special election, if petitioned by at least five percent of the qualified voters in the district, submit the question of additional levies to the voters. If at the election sixty percent of the qualified voters cast their ballots in favor of the additional levy, the board shall fix the term and lay a levy necessary to pay the cost of the additional term. The additional levy fixed by the election shall not continue longer than five years without submission to the voters. The additional rate shall not exceed by more than one hundred percent the maximum school rate prescribed by article eight, chapter eleven of the code, as amended.

The public schools shall be open for the full instructional term to all persons who have attained the entrance age as stated in section five, article two and section eighteen, article five, chapter eighteen of this code: Provided, That persons over the age of twenty-one may enter only those programs or classes authorized by the state board of education and deemed appropriate by the county board of education conducting any such program or class: Provided, however, That authorization for such programs or classes shall in no way serve to affect or eliminate programs or classes offered by county boards of education at the adult level for which fees are charged to support such programs or classes.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-7b. Loans for construction of electrical power generating facilities, natural gas transmission lines, coal processing plants, other energy projects; and export development, farm development, job development, forest development, disaster recovery development projects.

(a) At the request of the governor or the appropriate state agency or authority, the authority may lend money to such office, agency or authority for the acquisition,
construction, improvement or alteration of projects for
electrical power generating facilities, natural gas
transmission lines, coal processing plants and other energy
projects.
(b) At the request of the department of commerce or the
office of community and industrial development, the
authority may lend money to any person or entity for the
acquisition, construction, improvement or alteration of any
project relative to export development, farm development,
job development, forest development, disaster recovery
development including, but not limited to, the
establishment of new economic development programs for
any counties declared to be a federal disaster area by the
Federal Emergency Management Agency.
(c) At the request of the West Virginia automobile
assistance corporation, the authority may lend money to
any person or entity for the acquisition, construction,
improvement or alteration of any project relative thereto.
(d) At the request of the West Virginia industrial and
trade jobs development corporation, the authority may lend
money to any person or entity for acquisition, construction,
improvement or alteration of any project relative thereto.
(e) A loan shall not be made unless the authority is
reasonably satisfied that the project will produce revenues
sufficient, together with any other revenues pledged, to
meet the principal and interest on the loan, other costs,
expenses and charges in connection with the loan and other
charges or obligations of the project which may be prior or
equal to the loan, promptly as they become due; that the
project is otherwise soundly financed; that the loan
application requirements of section eight of this article
have been satisfied; that the project will be owned and
operated by the state of West Virginia. A loan made
pursuant to this subsection shall not exceed the project
costs as determined by the authority. A loan shall be
secured in the manner required by the authority, shall be
repaid in a period and bear interest at a rate as determined
by the authority, which interest rate may be decreased or
increased so that it shall in no event be less than the rate
paid by the authority on notes, renewal notes or bonds
issued to fund the loan, and shall have such terms and
conditions as are required by the authority, all which shall
be set forth in a loan agreement and related documents as
required by the authority.

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
3 out and effectuate its corporate purpose, including, but not
4 limited to, the following:
5 (1) To make or participate in the making of federally
6 insured construction loans to sponsors of land development
7 for residential or temporary housing for occupancy by
8 eligible persons and families or to sponsors of residential or
9 temporary housing for occupancy by eligible persons and
10 families. Such loans shall be made only upon determination
11 by the housing development fund that construction loans
12 are not otherwise available, wholly or in part, from private
13 lenders upon reasonably equivalent terms and conditions;
14 (2) To make temporary loans, with or without interest,
15 but with such security for repayment as the housing
16 development fund determines reasonably necessary and
17 practicable, from the operating loan fund, if created,
18 established, organized and operated in accordance with the
19 provisions of section nineteen of this article, to defray
20 development costs to sponsors of land development for
21 residential or temporary housing for occupancy by persons
22 and families of low and moderate income or residential or
23 temporary housing construction for occupancy by persons
24 and families of low and moderate income which is eligible
25 or potentially eligible for federally insured construction
26 loans, federally insured mortgages, federal mortgages, or
27 uninsured construction loans or uninsured mortgage loans;
28 (3) To make or participate in the making of long-term
29 federally insured mortgage loans to sponsors of residential
30 or temporary housing for occupancy by eligible persons and
31 families, or to eligible persons and families, who may
32 purchase or construct such residential or temporary
33 housing. Such loans shall be made only upon determination
34 by the housing development fund that long-term mortgage
35 loans are not otherwise available, wholly or in part, from
36 private lenders upon reasonably equivalent terms and
37 conditions;
(4) To establish new housing and housing development projects for counties declared to be in a federal disaster area by the Federal Emergency Management Agency;

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

(6) 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;

(7) 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;

(8) 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 or for the payment of the principal and interest on which the full faith and credit of the United States of America is pledged;

(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; Tennessee Valley Authority; United States Postal Service; Inter-American Development Bank; International Bank for Reconstruction and Development; Small Business Administration; Washington Metropolitan Area Transit Authority; General Services Administration; Federal Financing Bank; Federal Home Loan Mortgage Corporation; Student Loan Marketing Association; Farmer's Home Administration; the Federal National Mortgage Association or the Government National Mortgage Association; or any bond, debenture, note, participation certificate or other similar obligation to the extent such obligations are guaranteed by the Government National Mortgage Association or Federal
National Mortgage Association or are issued by any other federal agency and backed by the full faith and credit of the United States of America; (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, preliminary loan notes, or project 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, time deposits, investment agreements, repurchase agreements or similar banking arrangements with a member bank or banks of the federal reserve system or a bank the deposits of which are insured by the Federal Deposit Insurance Corporation, or its successor, or a savings and loan association or savings bank the deposits of which are insured by the Federal Savings and Loan Insurance Corporation, or its successor, or government bond dealers reporting to, trading with and recognized as primary dealers by a Federal Reserve Bank: Provided, That such investments shall only be made to the extent insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or to the extent that the principal amount thereof shall be fully collateralized by obligations which are authorized investments for the housing development fund pursuant to this section; (v) Direct obligations of or obligations guaranteed by the state of West Virginia; (vi) Direct and general obligations of any other state, municipality or other political subdivision within the territorial United States: 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 bond, note, debenture or annuity issued by 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
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 by at least two or more nationally recognized rating services such as Standard and Poor's, Dun & Bradstreet, Best's or Moody's;

(viii) If entered into solely for the purpose of reducing investment, interest rate, liquidity or other market risks in relation to obligations issued or to be issued or owned or to be owned by the housing development fund, options, futures contracts (including index futures but exclusive of commodities futures, options or other contracts), standby purchase agreements or similar hedging arrangements listed by a nationally recognized securities exchange or a corporation described in (vii) above;

(ix) Certificates, shares or other interests in mutual funds, unit trusts or other entities registered under section eight of the United States investment company act of 1940, but only to the extent that the terms on which the underlying investments are to be made prevent any more than a minor portion of the pool which is being invested in to consist of obligations other than investments permitted pursuant to this section; and

(x) To the extent not inconsistent with the express provisions of this section, obligations of the West Virginia state board of investments or any other obligation authorized as an investment for the West Virginia state board of investments under article six of chapter twelve of this code or for a public housing authority under article fifteen of chapter sixteen of this code;

(9) To sue and be sued;

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

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

(12) To appoint such officers, employees and
consultants as it deems advisable and to fix their compensation and prescribe their duties;

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

(14) 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;

(15) 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 of such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

(16) 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;

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

(18) 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, or 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;

(19) 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;

(20) 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;

(21) 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;

(22) 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;

(23) 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;

(24) 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;

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

(26) 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;

(27) 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;

(28) 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;

(29) To obtain options 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;

(30) 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;

(31) 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;

(32) 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; and

(33) 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 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 had 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.

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 goal of owning a home, a center of family life and family independence deeply cherished and highly valued.
3 (2) In many parts of the state there is a large number of single-family residential units that cannot presently be marketed because of high interest rates and adverse economic conditions, or because of having been declared to be a federal disaster area by the Federal Emergency Management Agency.
4 (3) In addition, the state and its inhabitants are suffering high unemployment and low income because of the depressed state of the housing market and because of its inability to attract new business. This situation adversely affects potential home buyers, home builders, skilled
craftsmen, realtors and their employees and other citizens. These conditions also reduce state revenues and frustrate the laudable aspirations of many West Virginians to enjoy the pleasures of home ownership and pursue productive employment, or because of having been declared to be a federal disaster area by the Federal Emergency Management Agency.

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

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

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

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

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

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

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

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

§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.

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

(b) Loans made by the housing development fund from
the state mortgage and industrial development investment
pool are to be made solely for the purpose of purchasing real
estate upon which is situate a single-family unit, or for the
construction of a single-family residential unit upon real
estate by the buyer of such unit to provide housing for only
himself and his family, or for the purpose of the payment of
a loan theretofore made for the construction of a single-
family residential unit, or for the purpose of purchasing real
estate upon which is situate a single-family residential unit
and making additions or improvements thereto: Provided,
That none of these loans shall be used to refinance existing
loans, except construction loans or loans made to such units
situated in a federal disaster area as so declared by the
Federal Emergency Management Agency. Each such loan
must be secured by a first mortgage or first deed of trust
upon such real property. Such mortgage or deed of trust
shall be held by the housing development fund or its
assignee.
(c) Loans made pursuant to the provisions of this
section may not exceed eighty-five percent of the appraised
value of the real estate and single-family residential unit:
Provided, That if the loan is for the purchase of a single-
family residential unit for the purpose of making additions
and improvements thereto, such loan shall be no more than
eighty-five percent of the appraised value of the property
including such improvements when made, as estimated by
an appraiser retained by the fund.
(d) In no event may a loan obtained pursuant to this
section be for an amount greater than seventy-five
thousand dollars.
(e) Mortgage loans made pursuant to the provisions of
this section shall be insured for at least twenty percent of
the amount of the loan by either an agency of the federal
government or a private mortgage insurance company
licensed in the state.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Williams  
Chairman Senate Committee

Floyd Fields  
Chairman House Committee

Originated in the Senate.

In effect from passage.

Joseph H. Stills  
Clerk of the Senate

Donald L. Kopp  
Clerk of the House of Delegates

Ben Tankersley  
President of the Senate

Joseph P. Allegra  
Speaker House of Delegates

The within .........this the .........day of ........., 1986.  

Rita Ream  
Governor
Presented to the Governor

Date: 3/10/66
Time: 14:21 p.m.