

70: 525

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1986



ENROLLED

SENATE BILL NO. 525

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



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,
CRAIGO, 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
2 throughout the state are experiencing economic stagnation
3 or decline, that high interest rates have caused small
4 businesses in this state to suffer disproportionately in
5 profitability and competition and that such high interest
6 rates have fostered a serious increase in unemployment. The
7 linked deposit program provided for by this article is
8 intended to provide a statewide availability of lower cost
9 funds for lending purposes that will materially contribute
10 to the economic revitalization of this state. Accordingly, it
11 is declared to be the public policy of the state through the
12 linked deposit program to create an availability of lower-
13 cost funds to inject needed capital into the business
14 community, sustain or improve business profitability,

15 protect the jobs of citizens of this state and assist businesses
16 located in any county declared to be a federal disaster area
17 by the Federal Emergency Management Agency.

§12-1A-4. Applications for loan priority; loan package.

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

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

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

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

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 5. EMERGENCY SERVICES.

§15-5-1. Policy and purpose.

1 In view of the existing and increasing possibility of the
2 occurrence of disasters of unprecedented size and

3 destructiveness, resulting from enemy attack, sabotage or
4 other hostile action, or from fire, flood, earthquakes or
5 other natural or man-made causes and in order to insure
6 that preparations of this state will be adequate to deal with
7 such disasters, and generally to provide for the common
8 defense and to protect the public peace, health and safety
9 and to preserve the lives and property of the people of the
10 state, it is hereby found and declared to be necessary: (1) To
11 create a state emergency services agency and to authorize
12 the creation of local and regional organizations for
13 emergency services in the political subdivisions of the state;
14 (2) to confer upon the governor, and upon the executive
15 heads of governing bodies of the political subdivisions of
16 the state the emergency powers provided herein; (3) to
17 provide for the rendering of mutual aid among the political
18 subdivisions of the state and with other states and to
19 cooperate with the federal government with respect to the
20 carrying out of emergency services functions; (4) and to
21 establish and implement a comprehensive emergency
22 service plan to deal with such disasters.

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

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

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

7 In performing his duties under this article, the governor is
8 authorized to cooperate with the federal government, other
9 states and private agencies in all matters pertaining to the
10 provisions of emergency services for this state and the
11 nation.

12 In performing his duties under this article to effect its
13 policy and purpose, the governor is further authorized and
14 empowered:

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

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

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

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

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

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

50 (7) To appoint a disaster recovery team composed of
51 departmental heads, members of the executive, political
52 subdivision representatives, technicians, members of the
53 public and other representatives, the composition of which

54 team shall reflect the character and extent of the disaster
55 itself.

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

58 (9) To cooperate with the president and the heads of the
59 armed forces, the civil defense agency of the United States
60 and other appropriate federal officers and agencies and
61 with the officers and agencies of other states in matters
62 pertaining to the civil defense of the state and nation,
63 including the direction and control of (a) blackouts and
64 practice blackouts, air raid drills, mobilization of
65 emergency services and civil defense forces and other tests
66 and exercises; (b) warnings and signals for drills or attacks
67 and the mechanical devices to be used in connection
68 therewith; (c) the effective screening or extinguishing of all
69 lights and lighting devices and appliances; (d) shutting off
70 water mains, gas mains, electric power connections and the
71 suspension of all other utility services; (e) the conduct of
72 civilians and the movement and cessation of movement of
73 pedestrians and vehicular traffic during, prior and
74 subsequent to drills or attack; (f) public meetings or
75 gatherings; and (g) the evacuation and reception of the
76 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.

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

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

13 Within the employment term there shall be an

14 instructional term for pupils of not less than one hundred
15 eighty nor more than one hundred eighty-five instructional
16 days: *Provided*, That the minimum instructional term may
17 be decreased, by order of the state superintendent of
18 schools, in any West Virginia county declared to be a federal
19 disaster area by the Federal Emergency Management
20 Agency. Instructional and noninstructional activities may
21 be scheduled during the same employment day. The
22 instructional term shall commence no earlier than the first
23 day of September and shall terminate no later than the
24 eighth day of June.

25 Noninstructional days in the employment term may be
26 used for making up canceled instructional days, curriculum
27 development, preparation for opening and closing of the
28 instructional term, in-service and professional training of
29 teachers, teacher-pupil-parent conferences, professional
30 meetings and other related activities. In addition, each
31 board may designate and schedule for teachers and service
32 personnel a maximum of four days to be used by the
33 employee outside the school environment. However, no
34 more than seven noninstructional days, except holidays,
35 may be scheduled prior to the first day of January in a
36 school term.

37 Notwithstanding any other provisions of the law to the
38 contrary, if the board has canceled instructional days equal
39 to the difference between the total instructional days
40 scheduled and one hundred seventy-eight, each succeeding
41 instructional day canceled shall be rescheduled, utilizing
42 only the remaining noninstructional days, except holidays,
43 following such cancellation, which are available prior to
44 the second day before the end of the employment term
45 established by such county board.

46 Where the employment term overlaps a teacher's or
47 service personnel's participation in a summer institute or
48 institution of higher education for the purpose of
49 advancement or professional growth, the teacher or service
50 personnel may substitute, with the approval of the county
51 superintendent, such participation for not more than five of
52 the noninstructional days of the employment term.

53 The board may extend the instructional term beyond one
54 hundred eighty-five instructional days provided the
55 employment term is extended an equal number of days. If

56 the state revenues and regular levies, as provided by law,
57 are insufficient to enable the board of education to provide
58 for the school term, the board may at any general or special
59 election, if petitioned by at least five percent of the
60 qualified voters in the district, submit the question of
61 additional levies to the voters. If at the election sixty
62 percent of the qualified voters cast their ballots in favor of
63 the additional levy, the board shall fix the term and lay a
64 levy necessary to pay the cost of the additional term. The
65 additional levy fixed by the election shall not continue
66 longer than five years without submission to the voters. The
67 additional rate shall not exceed by more than one hundred
68 percent the maximum school rate prescribed by article
69 eight, chapter eleven of the code, as amended.

70 The public schools shall be open for the full instructional
71 term to all persons who have attained the entrance age as
72 stated in section five, article two and section eighteen,
73 article five, chapter eighteen of this code: *Provided*, That
74 persons over the age of twenty-one may enter only those
75 programs or classes authorized by the state board of
76 education and deemed appropriate by the county board of
77 education conducting any such program or class: *Provided*,
78 *however*, That authorization for such programs or classes
79 shall in no way serve to affect or eliminate programs or
80 classes offered by county boards of education at the adult
81 level for which fees are charged to support such programs or
82 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.**

1 (a) At the request of the governor or the appropriate
2 state agency or authority, the authority may lend money to
3 such office, agency or authority for the acquisition,

4 construction, improvement or alteration of projects for
5 electrical power generating facilities, natural gas
6 transmission lines, coal processing plants and other energy
7 projects.

8 (b) At the request of the department of commerce or the
9 office of community and industrial development, the
10 authority may lend money to any person or entity for the
11 acquisition, construction, improvement or alteration of any
12 project relative to export development, farm development,
13 job development, forest development, disaster recovery
14 development including, but not limited to, the
15 establishment of new economic development programs for
16 any counties declared to be a federal disaster area by the
17 Federal Emergency Management Agency.

18 (c) At the request of the West Virginia automobile
19 assistance corporation, the authority may lend money to
20 any person or entity for the acquisition, construction,
21 improvement or alteration of any project relative thereto.

22 (d) At the request of the West Virginia industrial and
23 trade jobs development corporation, the authority may lend
24 money to any person or entity for acquisition, construction,
25 improvement or alteration of any project relative thereto.

26 (e) A loan shall not be made unless the authority is
27 reasonably satisfied that the project will produce revenues
28 sufficient, together with any other revenues pledged, to
29 meet the principal and interest on the loan, other costs,
30 expenses and charges in connection with the loan and other
31 charges or obligations of the project which may be prior or
32 equal to the loan, promptly as they become due; that the
33 project is otherwise soundly financed; that the loan
34 application requirements of section eight of this article
35 have been satisfied; that the project will be owned and
36 operated by the state of West Virginia. A loan made
37 pursuant to this subsection shall not exceed the project
38 costs as determined by the authority. A loan shall be
39 secured in the manner required by the authority, shall be
40 repaid in a period and bear interest at a rate as determined
41 by the authority, which interest rate may be decreased or
42 increased so that it shall in no event be less than the rate
43 paid by the authority on notes, renewal notes or bonds
44 issued to fund the loan, and shall have such terms and
45 conditions as are required by the authority, all which shall

46 be set forth in a loan agreement and related documents as
47 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;

38 (4) To establish new housing and housing development
39 projects for counties declared to be in a federal disaster area
40 by the Federal Emergency Management Agency;

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

44 (6) To make and execute contracts, releases,
45 compromises, compositions and other instruments
46 necessary or convenient for the exercise of its powers, or to
47 carry out its corporate purpose;

48 (7) To collect reasonable fees and charges in connection
49 with making and servicing its loans, notes, bonds,
50 obligations, commitments and other evidences of
51 indebtedness, and in connection with providing technical,
52 consultative and project assistance services. Such fees and
53 charges shall be limited to the amounts required to pay the
54 costs of the housing development fund, including operating
55 and administrative expenses, and reasonable allowances
56 for losses which may be incurred;

57 (8) To invest any funds not required for immediate
58 disbursement in any of the following securities:

59 (i) Direct obligations of or obligations guaranteed by
60 the United States of America or for the payment of the
61 principal and interest on which the full faith and credit of
62 the United States of America is pledged;

63 (ii) Bonds, debentures, notes or other evidences of
64 indebtedness issued by any of the following agencies: Banks
65 for cooperatives; federal intermediate credit banks; federal
66 home loan bank system; Export-Import Bank of the United
67 States; federal land banks; Tennessee Valley Authority;
68 United States Postal Service; Inter-American Development
69 Bank; International Bank for Reconstruction and
70 Development; Small Business Administration; Washington
71 Metropolitan Area Transit Authority; General Services
72 Administration; Federal Financing Bank; Federal Home
73 Loan Mortgage Corporation; Student Loan Marketing
74 Association; Farmer's Home Administration; the Federal
75 National Mortgage Association or the Government
76 National Mortgage Association; or any bond, debenture,
77 note, participation certificate or other similar obligation to
78 the extent such obligations are guaranteed by the
79 Government National Mortgage Association or Federal

80 National Mortgage Association or are issued by any other
81 federal agency and backed by the full faith and credit of the
82 United States of America;

83 (iii) Public housing bonds issued by public agencies or
84 municipalities and fully secured as to the payment of both
85 principal and interest by a pledge of annual contributions
86 under an annual contributions contract or contracts with
87 the United States of America; or temporary notes,
88 preliminary loan notes, or project notes issued by public
89 agencies or municipalities, in each case, fully secured as to
90 the payment of both principal and interest by a requisition
91 or payment agreement with the United States of America;

92 (iv) Certificates of deposit, time deposits, investment
93 agreements, repurchase agreements or similar banking
94 arrangements with a member bank or banks of the federal
95 reserve system or a bank the deposits of which are insured
96 by the Federal Deposit Insurance Corporation, or its
97 successor, or a savings and loan association or savings bank
98 the deposits of which are insured by the Federal Savings
99 and Loan Insurance Corporation, or its successor, or
100 government bond dealers reporting to, trading with and
101 recognized as primary dealers by a Federal Reserve Bank:
102 *Provided*, That such investments shall only be made to the
103 extent insured by the Federal Deposit Insurance
104 Corporation or the Federal Savings and Loan Insurance
105 Corporation or to the extent that the principal amount
106 thereof shall be fully collateralized by obligations which
107 are authorized investments for the housing development
108 fund pursuant to this section;

109 (v) Direct obligations of or obligations guaranteed by
110 the state of West Virginia;

111 (vi) Direct and general obligations of any other state,
112 municipality or other political subdivision within the
113 territorial United States: *Provided*, That at the time of their
114 purchase, such obligations are rated in either of the two
115 highest rating categories by a nationally recognized bond-
116 rating agency; and

117 (vii) Any bond, note, debenture or annuity issued by any
118 corporation organized and operating within the United
119 States: *Provided*, That such corporation shall have a
120 minimum net worth of fifteen million dollars and its
121 securities or its parent corporation's securities are listed on

122 one or more of the national stock exchanges: *Provided,*
123 *however,* That (1) such corporation has earned a profit in
124 eight of the preceding ten fiscal years as reflected in its
125 statements, and (2) such corporation has not defaulted in
126 the payment of principal or interest on any of its
127 outstanding funded indebtedness during its preceding ten
128 fiscal years, and (3) the bonds, notes or debentures of such
129 corporation to be purchased are rated "AA" or the
130 equivalent thereof or better than "AA" or the equivalent
131 thereof by at least two or more nationally recognized rating
132 services such as Standard and Poor's, Dun & Bradstreet,
133 Best's or Moody's;

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

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

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

158 (9) To sue and be sued;

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

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

163 (12) To appoint such officers, employees and

164 consultants as it deems advisable and to fix their
165 compensation and prescribe their duties;

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

168 (14) To enter into agreements or other transactions with
169 any federal or state agency, any person and any domestic or
170 foreign partnership, corporation, association or
171 organization;

172 (15) To acquire real property, or an interest therein, in
173 its own name, by purchase or foreclosure, where such
174 acquisition is necessary or appropriate to protect any loan
175 in which the housing development fund has an interest and
176 to sell, transfer and convey any such property to a buyer
177 and, in the event of such sale, transfer or conveyance cannot
178 be effected with reasonable promptness or at a reasonable
179 price, to lease such property to a tenant;

180 (16) To sell, at public or private sale, any mortgage or
181 other negotiable instrument or obligation securing a
182 construction, rehabilitation, improvement, land
183 development, mortgage or temporary loan;

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

187 (18) To consent, whenever it deems it necessary or
188 desirable in the fulfillment of its corporate purpose, to the
189 modification of the rate of interest, time of payment or any
190 installment of principal or interest, or any other terms, or
191 mortgage loan, mortgage loan commitment, construction
192 loan, rehabilitation loan, improvement loan, temporary
193 loan, contract or agreement of any kind to which the
194 housing development fund is a party;

195 (19) To make and publish rules and regulations
196 respecting its federally insured mortgage lending,
197 uninsured mortgage lending, construction lending,
198 rehabilitation lending, improvement lending and lending to
199 defray development costs and any such other rules and
200 regulations as are necessary to effectuate its corporate
201 purpose;

202 (20) To borrow money to carry out and effectuate its
203 corporate purpose and to issue its bonds or notes as
204 evidence of any such borrowing in such principal amounts
205 and upon such terms as shall be necessary to provide
206 sufficient funds for achieving its corporate purpose, except

207 that no notes shall be issued to mature more than ten years
208 from date of issuance and no bonds shall be issued to mature
209 more than fifty years from date of issuance;

210 (21) To issue renewal notes, to issue bonds to pay notes
211 and, whenever it deems refunding expedient, to refund any
212 bonds by the issuance of new bonds, whether the bonds to
213 be refunded have or have not matured except that no such
214 renewal notes shall be issued to mature more than ten years
215 from date of issuance of the notes renewed and no such
216 refunding bonds shall be issued to mature more than fifty
217 years from the date of issuance;

218 (22) To apply the proceeds from the sale of renewal
219 notes or refunding bonds to the purchase, redemption or
220 payment of the notes or bonds to be refunded;

221 (23) To provide technical services to assist in the
222 planning, processing, design, construction, or
223 rehabilitation or improvement of residential and temporary
224 housing for occupancy by eligible persons and families or
225 land development for residential and temporary housing
226 for occupancy by eligible persons and families;

227 (24) To provide consultative project assistance services
228 for residential and temporary housing for occupancy by
229 eligible persons and families and for land development for
230 residential and temporary housing for occupancy by
231 eligible persons and families and for the residents thereof
232 with respect to management, training and social services;

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

236 (26) With the proceeds from the issuance of notes or
237 bonds of the housing development fund, including, but not
238 limited to, mortgage finance bonds, or with other funds
239 available to the housing development fund for such
240 purpose, to participate in the making of or to make loans to
241 mortgagees approved by the housing development fund and
242 take such collateral security therefor as is approved by the
243 housing development fund and to invest in, purchase,
244 acquire, sell or participate in the sale of, or take
245 assignments of, notes and mortgages, evidencing loans for
246 the construction, rehabilitation, improvement, purchase or
247 refinancing of residential and temporary housing in this
248 state: *Provided*, That the housing development fund shall

249 obtain such written assurances as shall be satisfactory to it
250 that the proceeds of such loans, investments or purchases
251 will be used, as nearly as practicable, for the making of or
252 investment in long-term federally insured mortgage loans
253 or federally insured construction loans, uninsured
254 mortgage loans or uninsured construction loans, for
255 residential and temporary housing for occupancy by
256 eligible persons and families in this state or that other
257 moneys in an amount approximately equal to such proceeds
258 shall be committed and used for such purpose;

259 (27) To make or participate in the making of uninsured
260 construction loans to sponsors of land development for
261 residential or temporary housing for occupancy by eligible
262 persons and families or to sponsors of residential or
263 temporary housing for occupancy by eligible persons and
264 families, or to eligible persons and families who may
265 construct such housing. Such loans shall be made only upon
266 determination by the housing development fund that
267 construction loans are not otherwise available, wholly or in
268 part, from private lenders upon reasonably equivalent
269 terms and conditions;

270 (28) To make or participate in the making of long-term
271 uninsured mortgage loans to sponsors of residential or
272 temporary housing for occupancy by eligible persons and
273 families, or to eligible persons and families who may
274 purchase or construct such residential housing. Such loans
275 shall be made only upon determination by the housing
276 development fund that long-term mortgage loans are not
277 otherwise available, wholly or in part, from private lenders
278 upon reasonably equivalent terms and conditions;

279 (29) To obtain options to acquire real property, or any
280 interest therein, in its own name, by purchase, or lease, or
281 otherwise, which is found by the housing development fund
282 to be suitable, or potentially suitable, as a site, or as part of a
283 site, for the construction of residential or temporary
284 housing; to hold such real property; to make loans to
285 finance the performance of land development activities on
286 or in connection with any such real property or to perform
287 land development activities on or in connection with any
288 such real property; to sponsor the development of
289 residential and temporary housing for occupancy by
290 eligible persons and families on such real property; and to

291 sell, transfer and convey, lease or otherwise dispose of such
292 real property, or lots, tracts or parcels of such real property,
293 or residential or temporary housing, for such prices, upon
294 such terms, conditions and limitations, and at such time or
295 times as the housing development fund shall determine, to
296 sponsors of residential or temporary housing: *Provided,*
297 That if the housing development fund shall determine that
298 any such real property or any lots, tracts or parcels of such
299 real property are not at any time or times needed for present
300 or future residential or temporary housing, the housing
301 development fund may sell, transfer and convey, lease or
302 otherwise dispose of the same, to such purchasers or lessees,
303 for such prices, upon such terms, conditions and
304 limitations, and for such uses and purposes as the housing
305 development fund shall determine;

306 (30) To make loans, with or without interest, but with
307 such security for repayment as the housing development
308 fund determines reasonably necessary and practicable from
309 the land development fund, if created, established,
310 organized and operated in accordance with the provisions
311 of section twenty-a of this article, to sponsors of land
312 development, to defray development costs and other costs
313 of land development;

314 (31) To exercise all of the rights, powers and authorities
315 of a public housing authority as set forth and provided in
316 article fifteen, chapter sixteen of this code, in any area or
317 areas of the state which the housing development fund shall
318 determine by resolution to be necessary or appropriate;

319 (32) To make or participate in the making of loans to
320 eligible persons and families for the purpose of
321 rehabilitating or improving existing residential and
322 temporary housing, or to owners of existing residential or
323 temporary housing for occupancy by eligible persons and
324 families for the purpose of rehabilitating or improving such
325 residential or temporary housing and, in connection
326 therewith, to refinance existing loans involving the same
327 property. Such loans shall be made only upon
328 determination by the housing development fund that
329 rehabilitation or improvement loans are not otherwise
330 available, wholly or in part, from private lenders upon
331 reasonably equivalent terms and conditions; and

332 (33) Whenever the housing development fund deems it
333 necessary in order to exercise any of its powers set forth in

334 subdivision (28) of this section, and upon being unable to
335 agree with the owner or owners of real property or interest
336 therein sought to be acquired by the fund upon a price for
337 acquisition of private property not being used or operated
338 by the owner in the production of agricultural products, to
339 exercise the powers of eminent domain in the acquisition of
340 such real property or interest therein in the manner
341 provided under chapter fifty-four of this code, and the
342 purposes set forth in subdivision (28) of this section are
343 hereby declared to be public purposes for which private
344 property may be taken. For the purposes of this section, the
345 determination of "use or operation by the owner in the
346 production of agricultural products" means that the
347 principal use of such real estate is for the production of food
348 and fiber by agricultural production other than forestry,
349 and the fund shall not initiate or exercise any powers of
350 eminent domain without first receiving an opinion in
351 writing from both the governor and the commissioner of
352 agriculture of this state that at the time the fund had first
353 attempted to acquire such real estate or interest therein,
354 such real estate or interest therein was not in fact being used
355 or operated by the owner in the production of agricultural
356 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
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, or because of having been declared to
9 be a federal disaster area by the Federal Emergency
10 Management Agency.

11 (3) In addition, the state and its inhabitants are
12 suffering high unemployment and low income because of
13 the depressed state of the housing market and because of its
14 inability to attract new business. This situation adversely
15 affects potential home buyers, home builders, skilled

16 craftsmen, realtors and their employees and other citizens.
17 These conditions also reduce state revenues and frustrate
18 the laudable aspirations of many West Virginians to enjoy
19 the pleasures of home ownership and pursue productive
20 employment, or because of having been declared to be a
21 federal disaster area by the Federal Emergency
22 Management Agency.

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

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

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

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

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

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

55 (8) The survival and renewal of a vibrant market for
56 single-family residential units and the opportunity to
57 attract new businesses to the state is a sound and preferred
58 investment for the resources held in trust by this state for its

59 citizens. Such investments deserve precedence and
60 encouragement, even at the expense of foregoing the
61 highest rate of investment return, an investment return
62 which the tax paying investor might gain in the current
63 market place but which prudence dictates that the state
64 board of investments need not pursue.

65 (9) The success of the undertakings required by this
66 article will be amply demonstrated by: (a) The increased
67 financial stability of the state, (b) the contribution which
68 will occur when the dreams of hundreds of West Virginians
69 are realized, (c) the intrinsic worth of enhancing the
70 cooperative spirit of the inhabitants of this state in
71 employment and housing, and (d) the enhancement of
72 revenue to the state which will be generated by the
73 commerce West Virginia seeks to stimulate. In addition, the
74 rate of return realized by these funds will be at least as high
75 as the actuarial assumptions, and, given the rates of return
76 demonstrated over the past three years, probably higher
77 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.**

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

17 (b) Loans made by the housing development fund from

18 the state mortgage and industrial development investment
19 pool are to be made solely for the purpose of purchasing real
20 estate upon which is situated a single-family unit, or for the
21 construction of a single-family residential unit upon real
22 estate by the buyer of such unit to provide housing for only
23 himself and his family, or for the purpose of the payment of
24 a loan theretofore made for the construction of a single-
25 family residential unit, or for the purpose of purchasing real
26 estate upon which is situated a single-family residential unit
27 and making additions or improvements thereto: *Provided*,
28 That none of these loans shall be used to refinance existing
29 loans, except construction loans or loans made to such units
30 situated in a federal disaster area as so declared by the
31 Federal Emergency Management Agency. Each such loan
32 must be secured by a first mortgage or first deed of trust
33 upon such real property. Such mortgage or deed of trust
34 shall be held by the housing development fund or its
35 assignee.

36 (c) Loans made pursuant to the provisions of this
37 section may not exceed eighty-five percent of the appraised
38 value of the real estate and single-family residential unit:
39 *Provided*, That if the loan is for the purchase of a single-
40 family residential unit for the purpose of making additions
41 and improvements thereto, such loan shall be no more than
42 eighty-five percent of the appraised value of the property
43 including such improvements when made, as estimated by
44 an appraiser retained by the fund.

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

48 (e) Mortgage loans made pursuant to the provisions of
49 this section shall be insured for at least twenty percent of
50 the amount of the loan by either an agency of the federal
51 government or a private mortgage insurance company
52 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 Fuller
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Jed C. Stull
.....
Clerk of the Senate

Donald D. Kopp
.....
Clerk of the House of Delegates

Sam Tombari
.....
President of the Senate

Joseph P. Allright
.....
Speaker House of Delegates

The within *approved* this the *24th*
day of *March* 1986.

Archa Shaver
.....
Governor



PRESENTED TO THE

GOVERNOR

Date 3/20/86

Time 4:01 p.m.

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SECRETARY OF STATE

FILE IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/26/36