

No. 439

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

ENROLLED

SENATE BILL NO. 439

(By Senator Tucker, Mr. President, et al)

PASSED April 8, 1989

In Effect from Passage

ENROLLED

Senate Bill No. 439

(BY SENATORS TUCKER, MR. PRESIDENT, AND JACKSON)

[Passed April 8, 1989; in effect from passage.]

AN ACT to amend and reenact sections two, three, six, twenty-a, twenty-one and twenty-four, article eighteen, chapter thirty-one, of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article eighteen by adding thereto two new sections, designated sections twenty-six and twenty-seven, all relating to the West Virginia housing development fund; providing additional legislative findings; adding, amending and clarifying certain definitions; expanding and clarifying the powers of the fund; providing additional purposes for the fund; authorizing fund to finance or otherwise participate in certain nonresidential projects under certain conditions; adding certain provisions relating to conflict of interest involving officers or directors of the fund; prohibiting certain transactions involving such officers and directors except in certain circumstances; permitting annual audits to be performed by a nonresident as well as resident independent certified public accountant; declaring that projects shall not be deemed public improvements; and providing for confidentiality of documentary materials and other data received or made by fund.

Be it enacted by the Legislature of West Virginia:

That sections two, three, six, twenty-a, twenty-one and twenty-four, article eighteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article eighteen be further amended by adding thereto two new sections, designated sections twenty-six and twenty-seven, all to read as follows:

ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

§31-18-2. Legislative findings and purpose.

1 (a) The Legislature hereby finds and declares that as
2 a result of public actions involving highways, public
3 facilities, flood-control projects and urban renewal
4 activities, and as a result of the spread of slum
5 conditions and blight to formerly sound urban and
6 rural neighborhoods, there exists in the state of West
7 Virginia a serious shortage of sanitary, decent and safe
8 residential housing available at low prices or rentals to
9 persons and families of low and moderate income. This
10 shortage is severe in certain urban areas of the state,
11 is especially critical in the rural areas of West Virginia,
12 and is inimical to the health, welfare and prosperity of
13 all residents of the state and to the sound growth of
14 West Virginia communities.

15 (b) The Legislature hereby finds and declares fur-
16 ther that private enterprise and investment have not
17 been able to produce, without assistance, the needed
18 construction of sanitary, decent and safe residential
19 housing at low prices or rentals which persons and
20 families of low and moderate income can afford, to
21 provide sufficient long-term mortgage financing for
22 residential housing for occupancy by persons and
23 families of low and moderate income or to achieve the
24 urgently needed rehabilitation of much of the present
25 low and moderate income housing stock. It is imper-
26 ative that the supply of residential housing for persons
27 and families displaced by public actions or natural
28 disaster be increased; that private enterprise and
29 investment be encouraged both to sponsor land devel-
30 opment for residential housing for such persons and

31 families and to sponsor, build and rehabilitate residen-
32 tial housing for such persons and families; and that
33 private financing be supplemented by financing as in
34 this article provided, to help prevent the recurrence of
35 slum conditions and blight and assist in their perma-
36 nent elimination throughout West Virginia.

37 (c) The Legislature hereby finds and declares fur-
38 ther that experience has demonstrated that concentra-
39 tion in residential housing developments, or residen-
40 tial housing areas, of only persons and families who,
41 without some form of private or public assistance, do
42 not have incomes sufficient to afford sanitary, decent
43 and safe residential housing, frequently does not
44 eliminate, or avoid, undesirable social conditions and
45 frequently does not permanently eliminate, or avoid,
46 slum conditions, and that in such instances occupancy
47 of some of the residential housing units in such
48 residential housing developments, or residential hous-
49 ing areas, by persons and families of higher income is
50 desirable and beneficial in achieving the stated public
51 purposes for enacting this legislation.

52 (d) The Legislature hereby finds and declares fur-
53 ther that depressed economic conditions in this state
54 and a related lack of employment and business oppor-
55 tunities caused thousands of people to leave this state
56 to find employment elsewhere; that such depressed
57 economic conditions and related exodus of population
58 adversely affected the property tax base of this state,
59 adversely affected the excise tax base of this state,
60 diminished the manpower resources of this state
61 necessary for modern mining, industrial and commer-
62 cial operations and development in this state, caused
63 the population of this state to include a disproportion-
64 ately high number of elderly, disabled and economi-
65 cally disadvantaged persons, resulted in the spread of
66 slum conditions and blight to formerly sound urban
67 and rural neighborhoods, retarded, and continue to
68 retard, the repair and improvement of existing resi-
69 dential housing and the construction of new residen-
70 tial housing, adversely affected, and continue to
71 adversely affect, land development, including the

72 extension and construction of water systems, nonpolluting sewer systems, other utility facilities and off-highway streets and roads essential to new industrial, commercial and residential housing development, critically restricted, and continue to critically restrict, the construction of public housing for occupancy by persons and families at the lowest level of the low and moderate income segment of the population of this state, critically restricted, and continue to critically restrict, the opportunities of persons and families at all levels of the low and moderate income segment of the population of this state for improved residential housing, either newly constructed or which would normally become available to them when vacated by persons and families of higher income occupying newly constructed residential housing, and critically restricted, and continue to critically restrict, the construction of new residential housing, including, but not limited to, nursing homes and intermediate care facilities, of design and location suitable for occupancy by disabled and by elderly persons; that as a result of public actions involving highways, public facilities, flood-control projects and urban-renewal activities undertaken as a part of the programs of this state to improve economic conditions and increase employment opportunities in this state with a view to improving the health, welfare and prosperity of residents of this state and reversing the outward movement of population in this state, extensive areas which are suitable for industrial, commercial and residential housing uses have been, or in the near future will be, opened up for development for such purposes but in many instances will be without the land development, including water and nonpolluting sewer systems, other utility facilities and off-highway street and road improvements essential to use of the same for such purposes; that as a result of the unique physical, economic, demographic and other characteristics of this state, including its rugged mountainous terrain, scarcity of land at low or moderate cost suitable for residential housing, low population density and cultural preferences which are not suited for the denser,

114 larger-scale housing projects typical of more urban
115 areas and high costs of land development and housing
116 construction, the difficulties of providing land develop-
117 ment, including water and nonpolluting sewer sys-
118 tems, other utility facilities and off-highway streets
119 and roads, and of providing residential housing, are
120 unusually severe within this state and have restricted
121 and continue to restrict, land development and hous-
122 ing construction needed for the people of the state;
123 that as a direct consequence of the foregoing there
124 exists in this state a serious shortage of sanitary,
125 decent and safe residential housing available for
126 occupancy by persons and families of all but the
127 highest income levels and there exists in this state a
128 serious shortage of water and nonpolluting sewer
129 systems, other utility facilities and off-highway street
130 and road developments essential to utilization of land
131 for industrial, commercial and residential housing
132 purposes which, due to public actions involving high-
133 ways, public facilities, flood-control projects and
134 urban-renewal activities, is, or will soon become,
135 available for needed industrial, commercial and resi-
136 dential housing purposes; that these shortages are
137 severe in certain urban areas of this state, are espe-
138 cially critical in rural areas of this state and are
139 inimical to the present and future health, welfare and
140 prosperity of all residents of this state and to the sound
141 growth and development of communities in this state;
142 and that unless promptly remedied these shortages
143 will continue to seriously retard the sound economic
144 growth and development of this state, the related
145 property tax and excise tax bases of this state and the
146 availability in this state of manpower resources
147 essential to modern mining, industrial and commercial
148 operations and development which are essential to the
149 health, welfare and prosperity of this state and its
150 residents.

151 (e) The Legislature hereby finds and declares fur-
152 ther that private enterprise and investment have not
153 been able to produce, or provide mortgage financing
154 for, sufficient new sanitary, decent and safe residential
155 housing at prices or rentals low enough to enable

156 sufficient persons and families having incomes at or
157 immediately above the higher level of the low and
158 moderate income segment of the population of this
159 state to occupy the same and thereby provide oppor-
160 tunities for persons and families of lesser income to
161 occupy existing sanitary, decent and safe residential
162 housing thereby vacated, have not been able to
163 produce, or provide mortgage financing for, sufficient
164 new residential housing essential to retain and attract
165 qualified manpower resources in and to many areas of
166 this state where such resources are, or shortly will be,
167 critically needed for existing, expanding and new
168 mining, industrial and commercial operations and
169 development, have not been able to produce, or
170 provide mortgage financing for, sufficient new resi-
171 dential housing, including, but not limited to, nursing
172 homes and intermediate care facilities, of design and
173 location suitable for occupancy by elderly and by
174 disabled persons, have not been able to finance
175 sufficient land development, including extensions or
176 construction of water and nonpolluting sewer systems,
177 other utility facilities and off-highway streets and
178 roads, essential to utilization of undeveloped areas of
179 this state for industrial, commercial and residential
180 housing purposes, and have not been able to achieve
181 urgently needed rehabilitation of much of the present
182 housing stock of this state; that it is imperative that
183 the supply of residential housing necessary to retain
184 and attract qualified manpower resources in and to
185 many areas of this state where such resources are, or
186 shortly will be, critically needed for existing, expand-
187 ing and new mining, industrial and commercial
188 operations and developments be provided, that suffi-
189 cient new residential housing, including, without
190 limitation, nursing homes and intermediate care
191 facilities, designed and located so as to be suitable for
192 occupancy by elderly persons and by disabled persons
193 be provided, that needed public housing for occupancy
194 by persons and families at the lowest level of the low
195 and moderate income segment of the population of
196 this state be provided, that land development, includ-
197 ing water and nonpolluting sewer systems and other

198 utilities and off-highway streets and roads in this state
199 necessary or desirable for new commercial, industrial
200 and residential housing uses be provided, and that the
201 existing political subdivisions of this state, and private
202 enterprise and investment resources in this state, be
203 encouraged to sponsor and finance land development,
204 including water and nonpolluting sewer systems, other
205 utilities and off-highway streets and roads, and to
206 finance, construct and rehabilitate such residential
207 housing; and that it is necessary that such efforts be
208 supplemented by this state as in this article provided.

209 (f) The Legislature hereby finds and declares further
210 that political subdivisions in West Virginia which are
211 presently authorized and empowered by law to
212 acquire, construct, operate and manage public housing
213 projects have not been able to acquire and construct,
214 even with available federal and state assistance, public
215 housing projects sufficient to fulfill the needs for
216 sanitary, decent and safe residential housing for
217 occupancy by persons and families at the lowest level
218 of the low and moderate income segment of the
219 population of this state who have been entitled to
220 occupy public housing in many smaller municipalities
221 in West Virginia and especially in the rural areas of
222 West Virginia; that the primary cause of such shortage
223 of needed public housing projects is the inability of
224 such political subdivisions to remedy such shortages
225 because the number of units of public housing needed
226 within its territorial jurisdiction is not sufficient to
227 generate, and justify the expenditure of, adequate
228 funds to provide the requisite arranging of financing
229 for, and planning, development, acquisition, construc-
230 tion, operation and management of such public hous-
231 ing; and that the acquisition, construction, planning,
232 development, financing and management of public
233 housing projects in this state by a governmental
234 instrumentality and public body corporate with state-
235 wide jurisdiction as authorized herein will permit or
236 facilitate the arranging of financing for, and planning,
237 development, acquisition, construction, operation or
238 management of public housing units, even though
239 such units are included in several projects each of

240 which contains a relatively small number of such
241 units, sufficient in the aggregate to generate, and
242 justify the expenditure of, sufficient funds to provide
243 the requisite arranging of financing for, and planning,
244 development, acquisition, construction, operation and
245 management of such public housing, thereby provid-
246 ing the means to alleviate the existing shortages of
247 public housing in many municipalities in West Vir-
248 ginia and in the rural areas of West Virginia.

249 (g) The Legislature hereby finds and declares fur-
250 ther that its intention by enacting this legislation is to
251 provide for the continuation of the West Virginia
252 housing development fund, the corporate purpose of
253 which is to provide financing for development costs
254 and land development to public and private sponsors
255 of land development in this state; further to provide
256 federally insured construction loans to public and
257 private sponsors of land development or to public and
258 private sponsors of residential housing for occupancy
259 by eligible persons and families; further to provide
260 uninsured construction loans to public and private
261 sponsors of land development or to public and private
262 sponsors of residential housing for occupancy by
263 eligible persons and families or to eligible persons and
264 families who may construct such housing; further to
265 provide long term federally insured mortgage loans to
266 public and private sponsors of residential housing for
267 occupancy by eligible persons and families and to
268 eligible persons and families who may purchase or
269 construct such housing; further to provide long-term
270 uninsured mortgage loans to public and private spon-
271 sors of residential housing for occupancy by eligible
272 persons and families and to eligible persons and
273 families who may purchase or construct such housing;
274 further to provide technical, consultative and project
275 assistance service to public and private sponsors of
276 such land development or residential housing; further
277 to increase the construction of residential housing for
278 occupancy by eligible persons and families through
279 participating in the making of, or the making of, loans
280 to mortgagees approved by the housing development
281 fund, and taking as collateral security therefor, or

282 purchasing, or investing in long-term federal mort-
283 gages or federally insured mortgages, or uninsured
284 mortgages, on residential housing constructed in this
285 state, thereby increasing the supply of funds for long-
286 term mortgage financing of residential housing for
287 occupancy by eligible persons and families and freeing
288 funds for use in short-term construction financing of
289 residential housing for occupancy by eligible persons
290 and families; further to plan, develop, finance, acquire,
291 construct, mortgage or otherwise encumber, operate,
292 manage, sell, lease or otherwise dispose of public
293 housing projects; and finally to assist in coordinating
294 federal, state, regional and local public and private
295 efforts and resources to otherwise increase the supply
296 of such residential housing.

297 (h) The Legislature hereby finds and declares
298 further that in accomplishing this purpose, the West
299 Virginia housing development fund, heretofore
300 created and established by this article, is acting in all
301 respects for the benefit of the people of the state of
302 West Virginia to serve a public purpose in improving
303 and otherwise promoting their health, welfare and
304 prosperity, and that the West Virginia housing devel-
305 opment fund, heretofore created and established, is
306 empowered, hereby, to act on behalf of the state of
307 West Virginia and its people in serving this public
308 purpose for the benefit of the general public.

309 (i) The Legislature hereby finds and declares further
310 that during a period of national growth this state has
311 experienced a lack of employment and business
312 opportunities, which have caused a reduction in the
313 tax base of the state, diminishing the resources
314 available to this state to provide for the health, safety
315 and welfare of its citizens; that there has been and
316 continues to be a need for economic development and
317 improvement and capital investment in this state,
318 including, but not limited to, the real estate and
319 construction industries, both residential and nonresi-
320 dential; that there exists in this state a shortage of the
321 capital needed to finance general economic develop-
322 ment through investment in enterprises which have

323 the potential to create new employment opportunities
324 in this state and that there also exists a shortage of
325 construction and real estate development financing,
326 underwriting and construction expertise, which short-
327 age can be alleviated by utilizing the expertise of the
328 housing development fund and its staff, which are
329 hereby determined to be suited to facilitate, imple-
330 ment and undertake the general economic develop-
331 ment and real estate construction and development
332 projects, both residential and nonresidential, which
333 are necessary to support the capital base and employ-
334 ment levels and remedy many of the underlying
335 causes of the current economic difficulties existing in
336 this state; that many other states have facilitated the
337 development of capital and the growth of employment
338 opportunities through state programs which provide
339 combined technical and financial assistance for busi-
340 ness and real estate development in such states; and
341 the Legislature hereby finds and declares further in
342 support of the foregoing that it shall be a corporate
343 purpose of the housing development fund to provide
344 assistance by loans, grants or otherwise for the costs,
345 including development and direct and indirect costs,
346 and financing for public and private sponsors of land
347 development, residential housing and nonresidential
348 projects in this state, and further to provide construc-
349 tion loans and mortgage loans (including privately
350 insured and uninsured) to public and private sponsors
351 of land development and residential housing and
352 nonresidential projects in this state, to make grants
353 and provide technical, consultative and project assis-
354 tance services to public and private sponsors of land
355 development and residential housing and nonresiden-
356 tial projects in this state, and to plan, develop, finance,
357 acquire, construct, renovate, improve, mortgage or
358 otherwise encumber, operate, manage, sell, lease or
359 otherwise dispose of general economic development
360 and land development projects and residential projects
361 and nonresidential projects in this state.

362 (j) The Legislature hereby finds and declares further
363 that the housing development fund and its staff have
364 extensive expertise in real estate development financ-

365 ing, underwriting and construction activities, and
366 further that there is a need on behalf of public and
367 educational bodies to facilitate the construction of new
368 facilities or renovation of existing facilities, which
369 need can best be met by making available to such
370 public agencies and bodies the real estate and con-
371 struction development services and consultative exper-
372 tise of the housing development fund at such cost and
373 fees as the housing development fund would normally
374 impose, subject to the provisions of this article relating
375 to the powers of the housing development fund.

§31-18-3. Definitions.

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

3 (1) "Annual sinking fund payment" means the
4 amount of money specified in the resolution or reso-
5 lutions authorizing term bonds as payable into a
6 sinking fund during a particular calendar year for the
7 retirement of term bonds at maturity after such
8 calendar year, but shall not include any amount
9 payable by reason only of the maturity of a bond.

10 (2) "Development costs" means the costs approved
11 by the housing development fund as appropriate
12 expenditures by the housing development fund or by
13 sponsors, for land development, of residential housing,
14 or nonresidential projects within this state, including,
15 but not limited to:

16 (a) Payments for options to purchase proposed sites
17 necessary easements and other related property rights,
18 deposits on contracts of purchase, or, with prior
19 approval of the housing development fund, payments
20 for the purchase of such properties;

21 (b) Legal and organizational expenses, including
22 payments of attorneys' fees, utility and governmental
23 application and filing fees and expenses, project
24 manager and clerical staff salaries, office rent and
25 other incidental expenses;

26 (c) Payment of fees and expenses for preliminary
27 feasibility studies and costs estimates and advances for

28 planning, engineering and architectural work;

29 (d) Expenses for tenant surveys and market analy-
30 ses; and

31 (e) Necessary application, approval and other fees.

32 (3) "Eligible persons and families" means:

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

35 (b) Persons or families of higher income to the
36 extent the housing development fund shall find and
37 determine, by resolution, that construction of new or
38 rehabilitated residential housing for occupancy by
39 them will cause to be vacated existing sanitary, decent
40 and safe residential housing available at prices or
41 rentals which persons and families of low and moder-
42 ate income can afford; or

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

53 (d) Persons who because of age or physical disability
54 are found and determined by the housing develop-
55 ment fund, by resolution, to require residential
56 housing of a special location or design in order to
57 provide them with sanitary, decent and safe residen-
58 tial housing; or

59 (e) Persons and families for whom, as found and
60 determined by the housing development fund by
61 resolution, construction of new or rehabilitated resi-
62 dential housing in some designated area or areas of the
63 state is necessary for the purpose of retaining in, or
64 attracting to, such area or areas qualified manpower
65 resources essential to modern mining, industrial and

66 commercial operations and development in such area
67 or areas.

68 (4) "Federally insured construction loan" means a
69 construction loan for land development, residential
70 housing or nonresidential projects, which are either
71 secured or guaranteed, in whole or in part, by a
72 federally insured mortgage or a federal mortgage, or
73 which are insured or guaranteed, in whole or in part,
74 by the United States or an instrumentality thereof, or
75 a commitment by the United States or an instrumen-
76 tality thereof to insure such loan.

77 (5) "Federally insured mortgage" means a mortgage
78 loan for land development, residential housing or
79 nonresidential projects with a commitment by the
80 United States or an instrumentality thereof to insure
81 or guarantee such a mortgage.

82 (6) "Federal mortgage" means a mortgage loan for
83 land development, residential housing or nonresiden-
84 tial projects made by the United States or an instru-
85 mentality thereof, or a commitment by the United
86 States or an instrumentality thereof to make such a
87 mortgage loan.

88 (7) "Housing development fund" means the West
89 Virginia housing development fund heretofore created
90 and established by section four of this article.

91 (8) "Land development" means the process of
92 acquiring land for residential housing construction or
93 nonresidential projects or of making, installing or
94 constructing improvements, including waterlines and
95 water supply installations, sewer lines and sewage
96 disposal installations, steam, gas, telephone and tele-
97 communications and electric lines and installations,
98 roads, railroad spurs, docking and shipping facilities,
99 streets, curbs, gutters, sidewalks, drainage and flood
100 control facilities, whether on or off the site, which the
101 housing development fund deems necessary or desir-
102 able to prepare such land for construction within this
103 state.

104 (9) "Land development fund" means the land devel-

105 opment fund which may be created and established by
106 the housing development fund in accordance with
107 section twenty-a of this article.

108 (10) "Minimum bond insurance requirement"
109 means, as of any particular date of computation, an
110 amount of money equal to the greatest of the respec-
111 tive amounts, for the then current or any future
112 calendar year, of annual debt service of the housing
113 development fund on all outstanding mortgage finance
114 bonds, such annual debt service for any calendar year
115 being the amount of money equal to the aggregate of
116 (a) all interest payable during such calendar year on
117 such mortgage finance bonds on said date of computa-
118 tion, plus (b) the principal amount of such mortgage
119 finance bonds outstanding which matures during such
120 calendar year, other than mortgage finance bonds for
121 which annual sinking fund payments have been or are
122 to be made in accordance with the resolution authoriz-
123 ing such bonds, plus (c) the amount of all annual
124 sinking fund payments payable during such calendar
125 year with respect to any such mortgage finance bonds,
126 all calculated on the assumption that bonds will after
127 said date of computation cease to be outstanding by
128 reason, but only by reason, of the payment of bonds
129 when due, and the payment when due and application
130 in accordance with the resolution authorizing such
131 bonds of all such sinking fund payments payable at or
132 after said date of computation.

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

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

143 (13) "Nonresidential project" means a project in the
144 state, whether or not directly related to the providing

145 of residential housing, determined by the housing
146 development fund as likely to foster and enhance
147 economic growth and development in the area of the
148 state in which such project is developed, for retail,
149 commercial, industrial, community improvement or
150 preservation or other proper purpose, including tour-
151 ism and recreational housing, land, air or water
152 transportation facilities, facilities for vocational or
153 other training or to provide medical care and other
154 special needs of persons residing in the state, sports
155 complexes and cultural, artistic and other exhibition
156 centers, industrial or commercial projects and facili-
157 ties, mail order, wholesale and retail sales facilities
158 and other real or personal properties including facili-
159 ties which are owned or leased by this state, any
160 county or municipality or other public body within the
161 state, and includes, without limitation, the process of
162 acquiring, holding, operating, planning, financing,
163 demolition, construction, renovation, leasing or other-
164 wise disposing of such project or any part thereof or
165 interest therein. Any such project may include appur-
166 tenant machinery and equipment.

167 (14) "Operating loan fund" means the operating loan
168 fund which may be created and established by the
169 housing development fund in accordance with section
170 nineteen of this article.

171 (15) "Persons and families of low and moderate
172 income" means persons and families, irrespective of
173 race, creed, national origin or sex, determined by the
174 housing development fund to require such assistance
175 as is made available by this article on account of
176 personal or family income not sufficient to afford
177 sanitary, decent and safe housing, and to be eligible or
178 potentially eligible to occupy residential housing
179 constructed and financed, wholly or in part, with
180 federally insured construction loans, federally insured
181 mortgages, federal mortgages or with other public or
182 private assistance, or with uninsured construction
183 loans, or uninsured mortgage loans, and in making
184 such determination the fund shall take into account
185 the following: (a) The amount of the total income of

186 such persons and families available for housing needs,
187 (b) the size of the family, (c) the cost and condition of
188 housing facilities available, (d) the eligibility of such
189 persons and families for federal housing assistance of
190 any type predicated upon low or moderate income
191 basis, and (e) the ability of such persons and families
192 to compete successfully in the normal housing market
193 and to pay the amounts at which private enterprise is
194 providing sanitary, decent and safe housing: *Provided*,
195 That to the extent found and determined by the
196 housing development fund, by resolution, to be neces-
197 sary or appropriate for the purposes of eliminating
198 undesirable social conditions and permanently elimi-
199 nating slum conditions, the income limitation require-
200 ments of this article may be waived as to any persons
201 or families who are eligible to occupy residential
202 housing constructed in whole, or in part, with feder-
203 ally insured construction loans, federally insured
204 mortgages or federal mortgages under housing assis-
205 tance or mortgage insurance programs of the United
206 States, or an instrumentality thereof, predicated upon
207 any low or moderate income basis.

208 (16) "Residential housing" means a specific work or
209 improvement within this state undertaken primarily
210 to provide dwelling accommodations, including the
211 acquisition, construction or rehabilitation of land,
212 buildings and improvements thereto, for residential
213 housing for occupancy by eligible persons and families,
214 including, but not limited to, facilities for temporary
215 housing and emergency housing, nursing homes and
216 intermediate care facilities, and such other nonhousing
217 facilities as may be incidental or appurtenant thereto.

218 (17) "Special bond insurance commitment fee"
219 means a fee in the amount of one per centum of the
220 total principal amount of each loan which is to be
221 temporarily or permanently financed from the pro-
222 ceeds of mortgage finance bonds, other than a feder-
223 ally insured construction loan, a federally insured
224 mortgage or a federal mortgage, or an amount equal to
225 an equivalent discount on each loan purchased or
226 invested in by the housing development fund from the

227 proceeds of mortgage finance bonds, other than a
228 federally insured construction loan, a federally insured
229 mortgage or a federal mortgage, and which may be
230 payable from the proceeds of such bonds or any other
231 source available to the housing development fund for
232 such use: *Provided*, That if the period of time between
233 the first disbursement of proceeds of such loan and the
234 date upon which it is specified that the first repay-
235 ment of principal of such a loan shall be payable
236 exceeds twelve months, an additional amount com-
237 puted on the basis of one twelfth of one per centum
238 per month on the total principal amount of such loan
239 over the number of months of such period of time in
240 excess of twelve months shall be included in such fee.

241 (18) "Special bond insurance premium" means (i) a
242 fee at the rate of one half of one percent per annum
243 on the outstanding principal balance which the hous-
244 ing development fund shall charge the borrower of a
245 mortgage loan, or of a loan secured by a mortgage,
246 financed from the proceeds of mortgage finance bonds,
247 other than a federally insured construction loan, a
248 federally insured mortgage or a federal mortgage,
249 which shall accrue from a date which is one month
250 prior to the date on which the first installment
251 payment of principal of such a loan is payable and
252 which shall be payable thereafter in monthly instal-
253 lments on the same day of each successive month that
254 installment payments of principal of such a loan are
255 payable, and (ii) with respect to any loan, other than
256 a federally insured construction loan, a federally
257 insured mortgage or a federal mortgage, purchased, or
258 invested in with such proceeds, an equivalent amount
259 which the housing development fund shall set aside
260 from payments it receives on such loan or from any
261 other source available to the housing development
262 fund for such use.

263 (19) "State sinking fund commission" means the
264 commission known as such and continued in existence
265 pursuant to article three, chapter thirteen of this code
266 and any body, board, person or commission which
267 shall, by law, hereafter succeed to the powers and

268 duties of such commission.

269 (20) "Temporary housing" means a specific work or
270 improvement within this state undertaken primarily
271 to provide dwelling accommodations, including the
272 acquisition, construction or rehabilitation of land,
273 buildings and improvements thereto, for temporary
274 residential housing, including, but not limited to,
275 shelters for homeless people, housing for victims of
276 floods and other disasters, shelters for abused or
277 battered persons and their children, housing for
278 families with hospitalized family members, housing
279 for students and student families, and housing for the
280 handicapped and such other nonhousing facilities as
281 may be incidental or appurtenant thereto.

282 (21) "Uninsured construction loans" means a con-
283 struction loan for land development, residential hous-
284 ing or nonresidential projects which is not secured by
285 either a federally insured mortgage or a federal
286 mortgage, and which is not insured by the United
287 States or an instrumentality thereof, and as to which
288 there is no commitment by the United States or an
289 instrumentality thereof to provide insurance.

290 (22) "Uninsured mortgage" and "uninsured mort-
291 gage loan" means mortgage loans for land develop-
292 ment, residential housing or nonresidential projects
293 which are not insured or guaranteed by the United
294 States or an instrumentality thereof, and as to which
295 there is no commitment by the United States or an
296 instrumentality thereof to provide insurance.

§31-18-6. Corporate powers.

1 The housing development fund is hereby granted,
2 has and may exercise all powers necessary or appro-
3 priate to carry out and effectuate its corporate pur-
4 pose, including, but not limited to, the following,
5 except that notwithstanding any other provision of this
6 article, the housing development fund shall not
7 directly or indirectly make a loan for or otherwise
8 finance or review any nonresidential project unless (a)
9 the governor's office of community and industrial
10 development, in writing, has referred the nonresiden-

11 tial project under consideration to the housing devel-
12 opment fund, and (b) the board of directors of the
13 housing development fund shall have by resolution
14 first found and determined (i) that such loan or other
15 financing is not available upon reasonably equivalent
16 terms and conditions from financial institutions, based
17 upon, among other pertinent factors, that at least
18 three financial institutions have had at least forty-five
19 days to make a loan to or otherwise finance such
20 project, but have failed to act upon or declined or
21 refused opportunity within such forty-five day period;
22 and (ii) that such loan or other financing is not
23 available on reasonably equivalent terms and condi-
24 tions from the United States, this state, any county or
25 municipality in this state or any board, agency,
26 department or commission of any thereof:

27 (1) To make or participate in the making of federally
28 insured construction loans to sponsors of land develop-
29 ment, residential housing or nonresidential projects.
30 Such loans shall be made only upon determination by
31 the housing development fund that construction loans
32 are not otherwise available, wholly or in part, from
33 private lenders upon reasonably equivalent terms and
34 conditions;

35 (2) To make temporary loans, with or without
36 interest, but with such security for repayment as the
37 housing development fund determines reasonably
38 necessary and practicable, from the operating loan
39 fund, if created, established, organized and operated in
40 accordance with the provisions of section nineteen of
41 this article, to defray development costs to sponsors of
42 land development, residential housing or nonresiden-
43 tial projects which are eligible or potentially eligible
44 for federally insured construction loans, federally
45 insured mortgages, federal mortgages, or uninsured
46 construction loans or uninsured mortgage loans;

47 (3) To make or participate in the making of long-
48 term federally insured mortgage loans to sponsors of
49 land development, residential housing or nonresiden-
50 tial projects. Such loans shall be made only upon
51 determination by the housing development fund that

52 long-term mortgage loans are not otherwise available,
53 wholly or in part, from private lenders upon reason-
54 ably equivalent terms and conditions;

55 (4) To establish residential housing and nonresiden-
56 tial and land development projects for counties
57 declared to be in a disaster area by the Federal
58 Emergency Management Agency or other agency or
59 instrumentality of the United States or this state;

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

63 (6) To make and execute contracts, releases, com-
64 promises, compositions and other instruments neces-
65 sary or convenient for the exercise of its powers, or to
66 carry out its corporate purpose;

67 (7) To collect reasonable fees and charges in connec-
68 tion with making and servicing loans, notes, bonds,
69 obligations, commitments and other evidences of
70 indebtedness, and in connection with providing techni-
71 cal, consultative and project assistance services;

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

74 (i) Direct obligations of or obligations guaranteed by
75 the United States of America or for the payment of
76 the principal and interest on which the full faith and
77 credit of the United States of America is pledged;

78 (ii) Bonds, debentures, notes or other evidences of
79 indebtedness issued by any of the following agencies:
80 Banks for cooperatives; federal intermediate credit
81 banks; federal home loan bank system; Export-Import
82 Bank of the United States; federal land banks; Tennes-
83 see Valley Authority; United States Postal Service;
84 Inter-American Development Bank; International
85 Bank for Reconstruction and Development; Small
86 Business Administration; Washington Metropolitan
87 Area Transit Authority; General Services Administra-
88 tion; Federal Financing Bank; Federal Home Loan
89 Mortgage Corporation; Student Loan Marketing Asso-
90 ciation; Farmer's Home Administration; the Federal

91 National Mortgage Association or the Government
92 National Mortgage Association; or any bond, debenture,
93 note, participation certificate or other similar
94 obligation to the extent such obligations are guaranteed
95 by the Government National Mortgage Association or
96 Federal National Mortgage Association or are
97 issued by any other federal agency and backed by the
98 full faith and credit of the United States of America;

99 (iii) Public housing bonds issued by public agencies
100 or municipalities and fully secured as to the payment
101 of both principal and interest by a pledge of annual
102 contributions under an annual contributions contract
103 or contracts with the United States of America; or
104 temporary notes, preliminary loan notes, or project
105 notes issued by public agencies or municipalities, in
106 each case, fully secured as to the payment of both
107 principal and interest by a requisition or payment
108 agreement with the United States of America;

109 (iv) Certificates of deposit, time deposits, investment
110 agreements, repurchase agreements or similar banking
111 arrangements with a member bank or banks of the
112 federal reserve system or a bank the deposits of which
113 are insured by the Federal Deposit Insurance Corporation,
114 or its successor, or a savings and loan association
115 or savings bank the deposits of which are insured
116 by the Federal Savings and Loan Insurance Corporation,
117 or its successor, or government bond dealers
118 reporting to, trading with and recognized as primary
119 dealers by a Federal Reserve Bank: *Provided*, That
120 such investments shall only be made to the extent
121 insured by the Federal Deposit Insurance Corporation
122 or the Federal Savings and Loan Insurance Corporation
123 or to the extent that the principal amount thereof
124 shall be fully collateralized by obligations which are
125 authorized investments for the housing development
126 fund pursuant to this section;

127 (v) Direct obligations of or obligations guaranteed by
128 the state of West Virginia;

129 (vi) Direct and general obligations of any other state,
130 municipality or other political subdivision within the

131 territorial United States: *Provided*, That at the time of
132 their purchase, such obligations are rated in either of
133 the two highest rating categories by a nationally
134 recognized bond-rating agency;

135 (vii) Any bond, note, debenture or annuity issued by
136 any corporation organized and operating within the
137 United States: *Provided*, That such corporation shall
138 have a minimum net worth of fifteen million dollars
139 and its securities or its parent corporation's securities
140 are listed on one or more of the national stock
141 exchanges: *Provided, however*, That (1) such corpora-
142 tion has earned a profit in eight of the preceding ten
143 fiscal years as reflected in its statements, and (2) such
144 corporation has not defaulted in the payment of
145 principal or interest on any of its outstanding funded
146 indebtedness during its preceding ten fiscal years, and
147 (3) the bonds, notes or debentures of such corporation
148 to be purchased are rated "AA" or the equivalent
149 thereof or better than "AA" or the equivalent thereof
150 by at least two or more nationally recognized rating
151 services such as Standard and Poor's, Dun & Brad-
152 street, Best's or Moody's;

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

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

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

180 (9) To sue and be sued;

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

182 (11) To make, and from time to time, amend and
183 repeal bylaws and rules and regulations not inconsis-
184 tent with the provisions of this article;

185 (12) To appoint such officers, employees and consul-
186 tants as it deems advisable and to fix their compensa-
187 tion and prescribe their duties;

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

190 (14) To enter into agreements or other transactions
191 with any federal or state agency, any person and any
192 domestic or foreign partnership, corporation, associa-
193 tion or organization;

194 (15) To acquire real property, or an interest therein,
195 in its own name, by purchase or foreclosure, where
196 such acquisition is necessary or appropriate to protect
197 any loan in which the housing development fund has
198 an interest and to sell, transfer and convey any such
199 property to a buyer and, in the event of such sale,
200 transfer or conveyance cannot be effected with reason-
201 able promptness or at a reasonable price, to lease such
202 property to a tenant;

203 (16) To purchase or sell, at public or private sale, any
204 mortgage or other negotiable instrument or obligation
205 securing a construction, rehabilitation, improvement,
206 land development, mortgage or temporary loan;

207 (17) To procure insurance against any loss in connec-
208 tion with its property in such amounts, and from such
209 insurers, as may be necessary or desirable;

210 (18) To consent, whenever it deems it necessary or
211 desirable in the fulfillment of its corporate purpose, to
212 the modification of the rate of interest, time of
213 payment or any installment of principal or interest, or
214 any other terms, of mortgage loan, mortgage loan
215 commitment, construction loan, rehabilitation loan,
216 improvement loan, temporary loan, contract or agree-
217 ment of any kind to which the housing development
218 fund is a party;

219 (19) To make and publish rules and regulations
220 respecting its federally insured mortgage lending,
221 uninsured mortgage lending, construction lending,
222 rehabilitation lending, improvement lending and
223 lending to defray development costs and any such
224 other rules and regulations as are necessary to effec-
225 tuate its corporate purpose;

226 (20) To borrow money to carry out and effectuate its
227 corporate purpose and to issue its bonds or notes as
228 evidence of any such borrowing in such principal
229 amounts and upon such terms as shall be necessary to
230 provide sufficient funds for achieving its corporate
231 purpose, except that no notes shall be issued to mature
232 more than ten years from date of issuance and no
233 bonds shall be issued to mature more than fifty years
234 from date of issuance;

235 (21) To issue renewal notes, to issue bonds to pay
236 notes and, whenever it deems refunding expedient, to
237 refund any bonds by the issuance of new bonds,
238 whether the bonds to be refunded have or have not
239 matured except that no such renewal notes shall be
240 issued to mature more than ten years from date of
241 issuance of the notes renewed and no such refunding
242 bonds shall be issued to mature more than fifty years
243 from the date of issuance;

244 (22) To apply the proceeds from the sale of renewal
245 notes or refunding bonds to the purchase, redemption
246 or payment of the notes or bonds to be refunded;

247 (23) To make grants and provide technical services to
248 assist in the purchase or other acquisition, planning,
249 processing, design, construction, or rehabilitation,

250 improvement or operation of residential housing,
251 nonresidential projects or land development: *Provided*,
252 That no such grant or other financial assistance shall
253 be provided except upon a finding by the housing
254 development fund that such assistance and the man-
255 ner in which it will be provided will preserve and
256 promote residential housing in this state or the
257 interests of this state in maintaining or increasing
258 employment or the tax base;

259 (24) To provide project assistance services for resi-
260 dential housing, nonresidential projects and land
261 development, including, but not limited to, manage-
262 ment, training and social and other services;

263 (25) To promote research and development in scien-
264 tific methods of constructing low cost land develop-
265 ment, residential housing or nonresidential projects of
266 high durability including grants, loans or equity
267 contributions for research and development purposes:
268 *Provided*, That no such grant or other financial
269 assistance shall be provided except upon a finding by
270 the housing development fund that such assistance
271 and the manner in which it will be provided will
272 preserve and promote residential housing in this state
273 or the interests of this state in maintaining and
274 increasing employment and the tax base;

275 (26) With the proceeds from the issuance of notes or
276 bonds of the housing development fund, including, but
277 not limited to, mortgage finance bonds, or with other
278 funds available to the housing development fund for
279 such purpose, to participate in the making of or to
280 make loans to mortgagees approved by the housing
281 development fund and take such collateral security
282 therefor as is approved by the housing development
283 fund and to invest in, purchase, acquire, sell or
284 participate in the sale of, or take assignments of, notes
285 and mortgages, evidencing loans for the construction,
286 rehabilitation, improvement, purchase or refinancing
287 of land development, residential housing or nonresi-
288 dential projects in this state: *Provided*, That the
289 housing development fund shall obtain such written
290 assurances as shall be satisfactory to it that the

291 proceeds of such loans, investments or purchases will
292 be used, as nearly as practicable, for the making of or
293 investment in long-term federally insured mortgage
294 loans or federally insured construction loans, unin-
295 sured mortgage loans or uninsured construction loans,
296 for land development, residential housing or nonresi-
297 dential projects or that other moneys in an amount
298 approximately equal to such proceeds shall be commit-
299 ted and used for such purpose;

300 (27) To make or participate in the making of unin-
301 sured construction loans for land development, resi-
302 dential housing or nonresidential projects. Such loans
303 shall be made only upon determination by the housing
304 development fund that construction loans are not
305 otherwise available, wholly or in part, from private
306 lenders upon reasonably equivalent terms and
307 conditions;

308 (28) To make or participate in the making of long-
309 term uninsured mortgage loans for land development,
310 residential housing or nonresidential projects. Such
311 loans shall be made only upon determination by the
312 housing development fund that long-term mortgage
313 loans are not otherwise available, wholly or in part,
314 from private lenders upon reasonably equivalent
315 terms and conditions;

316 (29) To obtain options to acquire real property, or
317 any interest therein, in its own name, by purchase, or
318 lease, or otherwise, which is found by the housing
319 development fund to be suitable, or potentially suit-
320 able, as a site, or as part of a site, for land development
321 or the construction of residential housing or nonresi-
322 dential projects; to hold such real property or to
323 acquire by purchase or otherwise and to transfer by
324 sale or otherwise any ownership or equity interests in
325 any other legal entity which holds such real property;
326 to finance the performance of land development,
327 residential housing or nonresidential projects on or in
328 connection with any such real property or to perform
329 land development, residential housing or nonresiden-
330 tial projects on or in connection with any such real
331 property; to own, operate and sponsor or participate in

332 the sponsorship of land development, residential
333 housing or nonresidential projects; or to sell, transfer
334 and convey, lease or otherwise dispose of such real
335 property, or lots, tracts or parcels of such real prop-
336 erty, for such prices, upon such terms, conditions and
337 limitations, and at such time or times as the housing
338 development fund shall determine;

339 (30) To make loans, with or without interest, but
340 with such security for repayment as the housing
341 development fund determines reasonably necessary
342 and practicable from the land development fund, if
343 created, established, organized and operated in accor-
344 dance with the provisions of section twenty-a of this
345 article, to sponsors of land development, to defray
346 development costs and other costs of land development;

347 (31) To exercise all of the rights, powers and author-
348 ities of a public housing authority as set forth and
349 provided in article fifteen, chapter sixteen of this code,
350 in any area or areas of the state which the housing
351 development fund shall determine by resolution to be
352 necessary or appropriate;

353 (32) To provide assistance to urban renewal projects
354 in accordance with the provisions of section twenty-
355 eight, article eighteen, chapter sixteen of this code and
356 in so doing to exercise all of the rights, powers and
357 authorities granted in this article or in article eight-
358 een, chapter sixteen of this code, in and for any
359 communities of the state which the housing develop-
360 ment fund shall determine by resolution to be neces-
361 sary or appropriate;

362 (33) To make or participate in the making of loans
363 for the purpose of rehabilitating or improving existing
364 residential and temporary housing or nonresidential
365 projects, or to owners of existing residential or tempo-
366 rary housing for occupancy by eligible persons and
367 families for the purpose of rehabilitating or improving
368 such residential or temporary housing or nonresiden-
369 tial projects and, in connection therewith, to refinance
370 existing loans involving the same property. Such loans
371 shall be made only upon determination by the housing

372 development fund that rehabilitation or improvement
373 loans are not otherwise available, wholly or in part,
374 from private lenders upon reasonably equivalent
375 terms and conditions;

376 (34) Whenever the housing development fund deems
377 it necessary in order to exercise any of its powers set
378 forth in subdivision (28) of this section, and upon being
379 unable to agree with the owner or owners of real
380 property or interest therein sought to be acquired by
381 the fund upon a price for acquisition of private
382 property not being used or operated by the owner in
383 the production of agricultural products, to exercise the
384 powers of eminent domain in the acquisition of such
385 real property or interest therein in the manner
386 provided under chapter fifty-four of this code, and the
387 purposes set forth in subdivision (28) of this section are
388 hereby declared to be public purposes for which
389 private property may be taken. For the purposes of
390 this section, the determination of "use or operation by
391 the owner in the production of agricultural products"
392 means that the principal use of such real estate is for
393 the production of food and fiber by agricultural
394 production other than forestry, and the fund shall not
395 initiate or exercise any powers of eminent domain
396 without first receiving an opinion in writing from both
397 the governor and the commissioner of agriculture of
398 this state that at the time the fund had first attempted
399 to acquire such real estate or interest therein, such
400 real estate or interest therein was not in fact being
401 used or operated by the owner in the production of
402 agricultural products; and

403 (35) To acquire, by purchase or otherwise, and to
404 hold, transfer, sell, assign, pool or syndicate, or
405 participate in the syndication of, any loans, notes,
406 mortgages, securities or debt instruments collateral-
407 ized by mortgages or interests in mortgages or other
408 instruments evidencing loans or equity interests in or
409 for the construction, rehabilitation, improvement,
410 renovation, purchase or refinancing of land develop-
411 ment, residential housing and nonresidential projects
412 in this state.

§31-18-20a. Land development fund.

1 (a) The board of directors of the housing develop-
2 ment fund may create and establish a special revolv-
3 ing fund of moneys made available by appropriation,
4 grant, contribution or loan, to be known as the land
5 development fund and to be governed, administered
6 and accounted for by the directors, officers and
7 managerial staff of the housing development fund as a
8 special purpose account separate and distinct from any
9 other moneys, fund or funds owned and managed by
10 the housing development fund.

11 (b) The purpose of the land development fund shall
12 be to provide a source from which the housing devel-
13 opment fund may finance development costs and land
14 development in this state by making loans or grants
15 therefrom, such loans to be with or without interest
16 and with such security for repayment as the housing
17 development fund deems reasonably necessary and
18 practicable, or by expending moneys therefrom, for
19 development costs and land development in this state.

20 (c) The housing development fund may invest and
21 reinvest all moneys in the land development fund in
22 any investments authorized under section six of this
23 article, pending the disbursement thereof in connec-
24 tion with the financing of development costs and land
25 development in this state.

26 (d) No loans shall be made by the housing develop-
27 ment fund from the land development fund except in
28 accordance with a written loan agreement which shall
29 include, but not be limited to, the following terms and
30 conditions:

31 (1) The proceeds of all such loans shall be used only
32 for development costs and land development;

33 (2) All such loans shall be repaid in full, with or
34 without interest, as provided in the agreement;

35 (3) All repayments shall be made concurrent with
36 receipt by the borrower of the proceeds of a construc-
37 tion loan or mortgage, as the case may be, or at such
38 other times as the housing development fund deems

39 reasonably necessary or practicable; and

40 (4) Specification of such security for repayments
41 upon such terms and conditions as the housing devel-
42 opment fund deems reasonably necessary or
43 practicable.

44 (e) No grants shall be made by the housing develop-
45 ment fund from the land development fund except in
46 accordance with a written grant agreement which
47 shall require that the proceeds of all such grants shall
48 be used only for development costs or land develop-
49 ment and containing such other terms and provisions
50 as the housing development fund may require to
51 ensure that the public purposes of this article are
52 furthered by such grant.

53 (f) The housing development fund may expend any
54 income from the financing of development costs and
55 land development with moneys in the land develop-
56 ment fund, and from investment of such moneys, in
57 payment, or reimbursement, of all expenses of the
58 housing development fund which, as determined in
59 accordance with procedures approved by the board of
60 directors of the housing development fund, are fairly
61 allocable to such financing or its land-development
62 activities: *Provided*, That no funds from the land
63 development fund shall be used to carry on propa-
64 ganda, or otherwise attempt to influence legislation.

**§31-18-21. Prohibition on funds inuring to the benefit of or
being distributable to directors, officers or
private persons; transactions between the
housing development fund and directors or
officers having certain interests in such
transactions.**

1 (a) No part of the funds of the housing development
2 fund, or of the operating loan fund, or of the land
3 development fund, shall inure to the benefit of or be
4 distributable to its directors or officers or other private
5 persons except that the housing development fund
6 shall be authorized and empowered to pay reasonable
7 compensation, other than to the directors, including
8 the chairman, vice chairman and treasurer of the

9 board of directors and the secretary of the board of
10 directors, for services rendered and to make loans and
11 exercise its other powers as previously specified in
12 furtherance of its corporate purpose: *Provided*, That
13 no such loans shall be made, and no property shall be
14 purchased or leased from, or sold, leased or otherwise
15 disposed of, to any director or officer of the housing
16 development fund.

17 (b) Notwithstanding any provision contained in
18 paragraph (a) of this section, no loans shall be made by
19 the housing development fund to, and no property
20 shall be purchased or leased from, or sold, leased or
21 otherwise disposed of to, any corporation or other
22 entity in which any officer or director is a stockholder
23 or is otherwise financially interested, unless:

24 (1) The interest of such director or officer in such
25 transaction is specifically and fully disclosed to the
26 board of directors of the housing development fund at
27 the time it authorizes, approves or ratifies such
28 transaction and the fact and nature of such interest
29 are stated in the minutes of each meeting of the board
30 of directors at which such transaction is considered;

31 (2) Such transaction is fair and reasonable to the
32 housing development fund; and

33 (3) In the case of a director, such director abstains
34 from voting or written consent as to the authorization,
35 approval or ratification of such transaction by the
36 board of directors of the housing development fund.

**§31-18-24. Annual audit; reports to joint committee on
government and finance; information to joint
committee or legislative auditor.**

1 The housing development fund shall cause an
2 annual audit to be made by an independent certified
3 public accountant of its books, accounts and records,
4 with respect to its receipts, disbursements, contracts,
5 mortgages, leases, assignments, loans and all other
6 matters relating to its financial operations, including
7 those of the operating loan fund, the land development
8 fund, and the mortgage finance bond insurance fund.

9 The person performing such audit shall furnish copies
10 of the audit report to the commissioner of finance and
11 administration, where they shall be placed on file and
12 made available for inspection by the general public.
13 The person performing such audit shall also furnish
14 copies of the audit report to the speaker of the House
15 of Delegates, the president of the Senate and the
16 majority and minority leaders of both houses.

17 In addition to the foregoing annual audit report, the
18 housing development fund shall also render every six
19 months to the joint committee on government and
20 finance a report setting forth in detail a complete
21 analysis of the activities, indebtedness, receipts and
22 financial affairs of such fund and the operating loan
23 fund, the land development fund, and the mortgage
24 finance bond insurance fund. Upon demand, the
25 housing development fund shall also submit to the
26 joint committee on government and finance or the
27 legislative auditor any other information requested by
28 such committee or the legislative auditor.

§31-18-26. Projects not to be deemed public improvements.

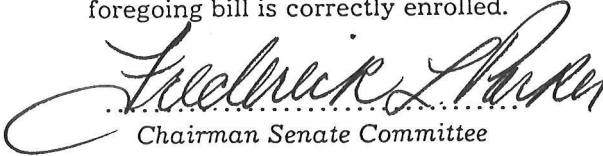
1 No project or business facility acquired, constructed,
2 maintained, or financed in whole or in part by the
3 housing development fund shall be deemed to be a
4 "public improvement" within the meaning of the
5 provisions of article five-a, chapter twenty-one of this
6 code, as a result of such financing.

**§31-18-27. Documentary materials concerning trade secrets;
commercial, financial, or personal informa-
tion; confidentiality.**

1 Any documentary material or data made or received
2 by the housing development fund for the purpose of
3 furnishing assistance, to the extent that such material
4 or data consists of trade secrets, commercial, financial
5 or personal information regarding the financial posi-
6 tion or business operation of such business or person,
7 shall not be considered public records and shall be
8 exempt from disclosure pursuant to the provisions of
9 chapter twenty-nine-b of this code. Any discussion or
10 consideration of such trade secrets, commercial,

11 financial or personal information may be held by the
12 housing development fund in executive session closed
13 to the public, notwithstanding the provisions of article
14 nine-a, chapter six of this code: *Provided*, That the
15 housing development fund shall make publicly avail-
16 able the following information regarding executed
17 loans: (1) The name of the debtor, (2) location(s) of the
18 project, (3) amount of the loan or financial assistance
19 provided by the fund, (4) the purpose of the loan or
20 financial assistance, (5) the term, rate, and interest of
21 the loan, and (6) the fixed assets which serve as
22 security for the loan.


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



.....
Chairman Senate Committee

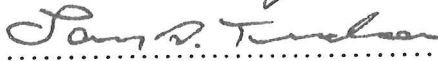

.....
Chairman House Committee

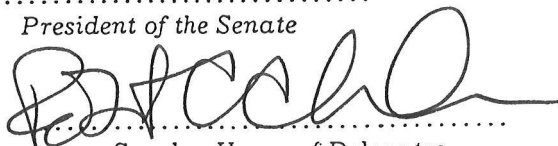
Originated in the Senate.

In effect from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within *is approved* this the *27th*
day of *April* 1989.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/25/19

Time 2:17