

SB 252

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



ENROLLED

SENATE BILL NO. 252

(By Senator WOOTON, ET AL)



PASSED FEBRUARY 24, 1998

In Effect NINETY Days From Passage

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

ENROLLED

Senate Bill No. 252

(BY SENATORS WOOTON, BALL, BOWMAN, DITTMAR, FANNING,
HUNTER, KESSLER, OLIVERIO, ROSS, SCHOONOVER, SNYDER,
WHITE, BUCKALEW, DEEM, KIMBLE AND SCOTT)

[Passed February 24, 1998; in effect ninety days from passage.]

AN ACT to repeal section one-a, article fifteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one, two, three, four, six, seven, seven-a, seven-b, eight, nine, ten, eleven, twelve, fourteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four and twenty-five of said article; and to further amend said article by adding thereto two new sections, designated sections three-a and thirteen, all relating to creating and operating housing authorities; defining terms; repealing section defining other terms; declaring necessity for housing authorities; providing for creation of city and county housing authorities; transacting business; exercising powers; determining need for housing authority; requiring resolution

of governing body; appointing members; establishing terms of office; providing for expenses; providing for removal of commissioners; providing for regional housing authorities; requiring adoption of resolution to create regional housing authorities; providing for withdrawal from regional housing authority; prohibiting certain persons from acquiring interest in property or contracts; requiring disclosure of prior interest; prohibiting compensation of commissioners; providing for reimbursement of necessary expenditures; providing that housing authority is body corporate and politic; providing authority with powers necessary to effectuate purposes of article; authorizing authority to investigate living and housing conditions in area or operation; authorizing authority to study and make recommendations concerning the city or county plan; authorizing authority to form and operate nonprofit corporations; allowing authority to participate in cooperative arrangements with persons and for-profit entities; allowing authority to participate as a general or limited partner, co-venturer, shareholder; allowing authority to require contractors to comply with requirements of minimum wages and maximum hours of labor; providing for joint undertakings by authorities; establishing areas of operation; providing for the acquisition of land by purchase or by right of eminent domain; providing that developments are subject to ordinances of locality in which situated; providing that restrictions regarding acquisition, operation or disposition of property by public bodies do not apply to an authority unless specified by the Legislature; providing for the amount and nature of indebtedness; establishing rights of creditors; allowing authority to enter into agreement for supervision and control of development; requiring authority to report to mayor or county governing body; authorizing creation of community and economic development fund; providing for tax and licensing exemptions; providing for the security of funds of authority deposited in bank; establishing policy of state as to rentals; providing for occupancy standards and requirements to prohibit any criminal or

other activity that threatens health, safety or right to peaceful enjoyment of premises; authorizing provision of housing, rental, supportive services and programs to advance social, educational and economic self-sufficiency; encouraging increase availability of financing for purchase of dwellings; home improvements and repairs for persons of low or moderate income; establishing duties and limiting powers of authority; providing for an authority to lease or rent property; providing that rent will be established in appropriate manner; permitting existing tenants to occupy property upon terms and conditions set by authority; authorizing programs to increase home ownership by residents of developments; allowing authority to acquire, own and operate non-residential property for certain limited purposes; providing for programs to rehabilitate, maintain, procure, and preserve existing affordable housing; requiring authority to conduct affairs in accordance with sound financial and business practices; providing power to issue bonds; establishing how bonds secured; providing for bonds to be authorized by resolution; establishing interest rate and life; providing for redemption; providing for payment; providing for sale; providing for presumption of validity commissioners signatures; establishing powers of authority in connection with issuance of bonds; incurring obligations under leases; securing payment of bonds; providing for enforcement of performance of contracts; enjoining unlawful acts; surrendering possession of development upon default by authority; appointing a receiver; requiring accounting by commissioners; authorizing housing assistance for farmers of low and moderate income; and providing for application for low-cost housing by farmers.

Be it enacted by the Legislature of West Virginia:

That section one-a, article fifteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections one, two, three, four, six, seven, seven-a, seven-b, eight, nine, ten, eleven, twelve, fourteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two,

twenty-three, twenty-four and twenty-five be amended and reenacted; and that said article be further amended by adding thereto two new sections, designated sections three-a and thirteen, all to read as follows:

ARTICLE 15. STATE HOUSING LAW.

§16-15-1. Definitions.

1 The following terms, wherever used or referred to in this
2 article, shall have the following respective meanings,
3 unless in any case a different meaning clearly appears
4 from the context:

5 (1) "Affiliate" means any corporation, entity, partner-
6 ship, venture, syndicate or arrangement in which a
7 housing authority participates by holding an ownership
8 interest or participating in its governance, including both
9 controlled and non-controlled affiliates as herein defined.

10 (2) "Affordable housing" means dwelling units that may
11 be rented or purchased, as the case may be, by persons of
12 eligible income, as defined herein.

13 (3) "Annual sinking fund payment" means the amount of
14 money specified in the resolution or resolutions authoriz-
15 ing term bonds as payable into a sinking fund during a
16 particular calendar year for the retirement of term bonds
17 at maturity after such calendar year, but shall not include
18 any amount payable by reason only of the maturity of a
19 bond.

20 (4) "Area of operation" means the geographical area
21 within which a housing authority owns or operates
22 housing developments or administers other housing
23 programs including any city, county or combination
24 thereof in which it was operating on the effective date of
25 this article.

26 (5) "Arrangement" means a legal relationship with
27 another party that may include, but not be limited to, a
28 general or limited partnership; joint venture; syndicate or

29 syndication; corporation; limited liability cooperative,
30 corporation or partnership; an unincorporated association;
31 a cooperative; a consortium; and all other structures,
32 organizations, and forms of legal relationships with third
33 parties.

34 (6) "Authority" or "housing authority" means a corporate
35 body organized in accordance with the provisions of this
36 article for the purposes, with the powers, and subject to
37 the restrictions hereinafter set forth. Where the context
38 requires or permits, this term shall be deemed to include
39 regional housing authorities and/or controlled affiliates of
40 a housing authority.

41 (7) "Bond" or "bonds" means any bonds, notes, interim
42 certificates, debentures, or other obligations issued by an
43 authority pursuant to this article.

44 (8) "City" means and includes any political subdivision
45 of this state, whether incorporated or unincorporated,
46 known as a city, municipality, town or village. With
47 respect to the provisions of other sections of this article
48 and their application to housing authorities of counties,
49 the term "city" shall be construed as referring to a county
50 unless a different meaning clearly appears from the
51 context.

52 (9) "Clerk" means the clerk or recorder of the city or the
53 clerk of the county, as the case may be, or the officer
54 charged with the duties customarily imposed on the clerk
55 or recorder.

56 (10) "Commissioner" means one of the members of the
57 governing board of a housing authority appointed in
58 accordance with the provisions of this article.

59 (11) "Community facilities" means lands, buildings and
60 equipment, real and personal property suitable for recre-
61 ational, or social assembly, for educational, health, or
62 welfare purposes and other necessary activities for the use
63 and benefit of the occupants of housing developments and

64 the public.

65 (12) "Controlled affiliate" means any affiliate of a
66 housing authority: (i) In which commissioners, officers,
67 employees and agents of the authority constitute a major-
68 ity of the governing body; or (ii) in which the authority
69 holds a majority of the ownership interests.

70 (13) "Council" means the chief legislative body of the
71 city.

72 (14) "County" means and includes any political subdivi-
73 sion of this State known as a county.

74 (15) "Development" or "housing development" means
75 and includes all dwellings and associated appurtenances,
76 including real and personal property, and all other
77 facilities and improvements of every kind and description,
78 which a housing authority may own or operate or in which
79 it may hold an interest under the provisions of this article,
80 all land upon which such dwellings, appurtenances, and
81 facilities are situate; all work and activities undertaken by
82 a housing authority or others relating to the creation of
83 such property; all tangible and intangible personal
84 property relating thereto, including all leases, licenses,
85 agreements, and other instruments and all rights and
86 obligations arising thereunder, establishing or confirming
87 ownership, title, or right of use or possession in or to any
88 such property by a housing authority, all as more particu-
89 larly described and authorized in this article.

90 (16) "Farmers of low or moderate income" means persons
91 or families who at the time of their admission to occu-
92 pancy in a dwelling of the authority: (A) Live under
93 unsafe and unsanitary housing conditions; (B) derive their
94 principal income from operating or working upon a farm;
95 and (C) had an aggregate average annual net income for
96 the three years preceding their admission that was less
97 than the amount determined by the authority to be
98 necessary, within its area of operation, to enable them,

99 without financial assistance, to obtain decent, safe and
100 sanitary housing.

101 (17) "Governing body" means, in the case of a city, the
102 council of the city, and in the case of a county, the county
103 commission.

104 (18) "Government" means the state and federal govern-
105 ments and any subdivisions, authority or instrumentality,
106 corporate or otherwise, of either of them.

107 (19) "Guest" means any person, not a resident of the
108 development, who is present within the development, or
109 within a dwelling in a development, as an invitee of or
110 otherwise with the express or implied consent of a resident
111 of the development or dwelling.

112 (20) "Hold an interest" means ownership or control of, or
113 participation in an arrangement with respect to, a devel-
114 opment by a housing authority or any affiliate thereof.

115 (21) "Low-cost housing" shall include any housing
116 accommodations which are or are to be rented at not in
117 excess of a maximum rate per room, or maximum average
118 rate per room, which shall be specified or provided by the
119 housing authority of the city in which such housing
120 accommodations are or are to be located, or the Legisla-
121 ture, or a duly constituted agency of the state, or of the
122 United States of America.

123 (22) "Mayor" means the chief executive of the city,
124 whether the official designation of his office be mayor,
125 city manager or otherwise: *Provided*, That the term
126 "mayor" may also be the chief elected officer of the
127 municipality regardless of whether or not the corporate
128 charter provides for a city manager appointed by the city
129 council who is the chief executive officer.

130 (23) "Non-controlled affiliate" means affiliate in which
131 a housing authority participates, but does not constitute
132 a majority of the governing body nor have a majority

133 ownership interest.

134 (24) "Obligee of the authority" or "obligee" means any
135 bondholder, trustee or trustees for any bondholders, or
136 lessor demising to an authority property used in connec-
137 tion with a housing development, or any assignee or
138 assignees of the lessor's interest or any part thereof, and
139 the federal government when it is a party to any contract
140 with the authority.

141 (25) "Person" means a family and, where the context so
142 requires, a household.

143 (26) "Persons of eligible income" means individuals or
144 families as defined by a public housing authority within
145 the applicable local, state and federal funding guidelines.

146 (27) "Public agency" means and includes: (i) Any county;
147 city; village; township; any school, drainage, tax, improve-
148 ment or other district; any department, division, or
149 political subdivision of this state or another state; any
150 housing authority, housing finance authority, or housing
151 trust of this state or another state; and any other agency,
152 bureau, office, authority, or instrumentality of this State
153 of another state; (ii) any board, agency, commission,
154 division or other instrumentality of a city or county; and
155 (iii) any board, commission, agency, department, or other
156 instrumentality of the United States, or any political
157 subdivision or governmental unit of any of them.

158 (28) "Regional housing authority" means a housing
159 authority formed by two or more cities or counties pursu-
160 ant to the authority provided in section three-a of this
161 article.

162 (29) "Resident" means a person residing in a develop-
163 ment of a housing authority, with the consent of such
164 authority, according to its policies, rules and procedures.

165 (30) "Slum clearance" means the removal of housing
166 conditions which shall be considered by the housing

167 authority of the city in which such conditions exist to be
168 unsanitary or substandard or a menace to public health.

169 (31) "State" means the state of West Virginia and its duly
170 constituted government.

**§16-15-2. Legislative declaration of necessity for creation of
housing authority corporations.**

1 It is hereby declared as a matter of legislative determi-
2 nation that in order to promote and protect the health,
3 safety, morals and welfare of the public, it is necessary in
4 the public interest to provide for the creation of public
5 corporate bodies to be known as housing authorities, and
6 to confer upon and vest in said housing authorities all
7 powers necessary or appropriate in order that they may
8 engage in low and moderate cost housing development and
9 slum clearance projects; and that the powers herein
10 conferred upon the housing authorities, including the
11 power to acquire and dispose of property, to remove
12 unsanitary or substandard conditions, to construct and
13 operate housing developments and to borrow, expend and
14 repay moneys for the purpose herein set forth, are public
15 objects essential to the public interest.

**§16-15-3. City and county housing authorities created; when to
transact business or exercise powers; determina-
tion of need for housing authority; resolution of
governing body proof of establishment; appoint-
ment, term, expenses and removal of commis-
sioners.**

1 (a) In each city and in each county there is hereby
2 created a housing authority which shall be a public body
3 corporate and politic. No authority hereby created shall
4 transact any business or exercise its powers hereunder
5 until or unless the governing body of the city or the
6 county, by proper resolution, determines that there is need
7 for an authority: *Provided*, That nothing contained herein
8 shall be construed as creating an additional housing
9 authority in a city where a housing authority has been

10 created pursuant to prior law, but each housing authority
11 shall continue as a public body corporate and politic and
12 shall have the area of operation defined in section one for
13 a city or county housing authority. Each housing authority
14 created pursuant to this section shall adopt a name for all
15 legal and operating purposes.

16 (b) The determination as to whether or not there is a
17 need for an authority: (1) May be made by the governing
18 body on its own motion; or (2) shall be made by the
19 governing body upon the filing of a petition signed by
20 twenty-five residents of the city or county asserting that
21 there is need for an authority to function in the city or
22 county and requesting that the governing body so declare.
23 The governing body shall adopt a resolution declaring that
24 there is need for a housing authority in the city or county
25 if it finds: (1) That unsanitary or unsafe inhabited dwell-
26 ings exist in the city or county; or (2) that there is a
27 shortage of safe or sanitary dwellings in the city or county
28 available to persons of low or moderate income at rental
29 rates or purchase prices they can afford. In determining
30 whether dwellings are unsafe or unsanitary the governing
31 body may take into consideration the degree of over-
32 crowding, the percentage of land coverage, the light, air,
33 space and access available to the inhabitants of the
34 dwellings, the size and arrangement of the rooms, the
35 sanitary facilities, and the extent to which conditions exist
36 in the dwellings which endanger life or property by fire or
37 other cause.

38 (c) In any suit, action or proceeding involving the
39 validity or enforcement of or relating to any contract of
40 the authority, the authority shall be conclusively deemed
41 to have become established and authorized to transact
42 business and exercise its powers hereunder upon proof of
43 the adoption of a resolution by the governing body declar-
44 ing the need for the authority. An adopted resolution shall
45 be deemed sufficient if it declares that there is need for an
46 authority and finds in substantially the foregoing terms
47 (no further detail being necessary) that either or both of

48 the above-enumerated conditions exist. A copy of a
49 resolution duly certified by the clerk shall be admissible in
50 evidence in any suit, action or proceeding.

51 (d) When the governing body of a city adopts a resolu-
52 tion as aforesaid, it shall promptly notify the mayor of the
53 adoption. Upon receiving the notice, the mayor shall
54 appoint five persons as commissioners of the authority
55 created for the city. When the governing body of a county
56 adopts a resolution as aforesaid, it shall appoint five
57 persons as commissioners of the authority created for the
58 county. The commissioners who are first appointed shall
59 be designated to serve for terms of one, two, three, four
60 and five years, respectively, from the date of their ap-
61 pointment. Thereafter commissioners shall be appointed
62 for a term of office of five years, except that all vacancies
63 shall be filled for the unexpired term. No commissioner of
64 an authority may be an officer or employee of the city or
65 county for which the authority is created. A commissioner
66 shall hold office until his or her successor has been
67 appointed and has qualified, unless sooner removed
68 according to this article. A certificate of the appointment
69 or reappointment of any commissioner shall be filed with
70 the clerk and shall be conclusive evidence of the due and
71 proper appointment of a commissioner. A commissioner
72 shall receive no compensation for his or her services, but
73 he or she shall be entitled to the necessary expenses,
74 including traveling expenses, incurred in the discharge of
75 his or her duties.

76 (e) For inefficiency or neglect of duty or misconduct in
77 office, a commissioner of an authority may be removed by
78 the mayor or by the county commission. A commissioner
79 shall be removed only after being given a copy of the
80 charges and notice of a hearing. The charges shall be sent
81 to the commissioner at least ten days prior to the hearing
82 and shall notify the commissioner that he or she has an
83 opportunity to be heard in person or by counsel. In the
84 event of the removal of any commissioner, a record of the

85 proceedings, together with the charges and findings
86 thereon, shall be filed in the office of the clerk. The
87 powers of each authority shall be vested in its commis-
88 sioners.

§16-15-3a. Regional housing authorities.

1 (a) Any two or more cities or counties, or any combina-
2 tion thereof, may, by resolution of their separate govern-
3 ing bodies, establish a regional housing authority, by
4 adopting a joint resolution declaring that there is a need
5 for a regional housing authority to provide decent, safe
6 and sanitary housing that is affordable to persons of low
7 and moderate income residing in a multi-jurisdictional
8 area and that this need would be more efficiently served
9 by the establishment of a regional housing authority:
10 *Provided*, That any authority in existence prior to the
11 effective date of this article that is providing services
12 outside of the city or county boundaries will continue to
13 have jurisdiction in the areas where the authority is
14 providing services on the effective date of this article.

15 (b) Upon adoption of a resolution by two or more cities
16 or counties, or a combination thereof, a regional housing
17 authority shall be established and, except as otherwise
18 provided in this article, the regional housing authority
19 shall have perpetual existence, unless dissolved in accor-
20 dance with law. Each regional housing authority estab-
21 lished pursuant to this section, shall adopt a name for all
22 legal and operating purposes.

23 (c) A certified copy of the resolutions establishing a
24 regional housing authority shall serve as conclusive
25 evidence that the authority has been properly established,
26 is authorized to transact business, and exercise its powers
27 under this article.

28 (d) After a regional housing authority has been estab-
29 lished, any additional city or county may elect to partici-
30 pate as a member of the regional housing authority, upon

31 adoption of a resolution to that effect: *Provided*, That a
32 majority of the existing commissioners of the regional
33 housing authority and all participating political subdivi-
34 sions, by action of their respective governing bodies, shall
35 consent to the additional member or members.

36 (e) Any city or county may withdraw from participation
37 in the regional housing authority by resolution of its
38 governing body. Any withdrawal from participation shall
39 be subject to the following conditions:

40 (1) The regional housing authority has no bonds, notes,
41 or other obligations outstanding, or adequate provision for
42 payment of bonds, notes, or other obligations, by escrow
43 or otherwise, has been made. Past performance without
44 breach or default of an obligation secured only by one or
45 more developments or the income thereof shall be deemed
46 to be "adequate provision";

47 (2) The withdrawing city or county shall make adequate
48 provision for the performance of all of its outstanding
49 obligations and responsibilities as a participant in the
50 regional housing authority;

51 (3) The withdrawing city or county shall give six months
52 written notice to the regional housing authority and all
53 other cities and counties participating therein; or

54 (4) The commissioner or commissioners appointed by the
55 withdrawing city or county shall be deemed to have
56 resigned as of the date upon which the withdrawal is
57 effective. Vacancies on the board of commissioners
58 created by withdrawal of a city or county shall be filled in
59 such manner as the cities and counties remaining as
60 participants shall agree.

61 Notwithstanding the withdrawal of any participating
62 city or county, the legal title to and operating responsibil-
63 ity for any development located outside the area of
64 operation of the regional housing authority remaining
65 after such withdrawal has occurred shall continue to be

66 vested in the regional housing authority, unless a different
67 arrangement is made.

68 (f) If only one city or county remains as a participant in
69 any regional housing authority, the regional housing
70 authority shall become the housing authority of the
71 remaining city or county at the discretion of its governing
72 body, or the regional housing authority shall be dissolved
73 and its assets and liabilities transferred to another exist-
74 ing housing authority or to a city or county or other public
75 agency.

**§16-15-4. Persons prohibited from acquiring interest in prop-
erty or contracts; disclosure of prior interest.**

1 No commissioner or employee of an authority shall
2 acquire any interest direct or indirect in any development
3 or in any property included or planned to be included in
4 any development, nor shall he or she have any interest
5 direct or indirect in any contract or proposed contract for
6 materials or services to be furnished or used in connection
7 with any development. If any member or employee of any
8 authority owns or controls an interest direct or indirect in
9 any property included in any development, which was
10 acquired prior to his or her appointment or employment,
11 he or she shall disclose the same in writing to the author-
12 ity. The disclosure shall be entered upon the minutes of
13 the authority.

**§16-15-6. Commissioner to receive no compensation; reim-
bursement for necessary expenditures.**

1 No commissioner shall receive any compensation
2 whether in form of salary, per diem allowances or other-
3 wise, for or in connection with his or her services as
4 commissioner. Each commissioner shall, however, be
5 entitled to reimbursement, to the extent of appropriations
6 or other funds available therefor, for any necessary
7 expenditures in connection with the performance of his or
8 her general duties or in connection with the construction

9 or operation of any development. The authority may
10 allocate such expenses among its developments in such
11 manner as it may consider proper.

**§16-15-7. Authority a body corporate and politic; powers;
investigations or examinations.**

1 (a) An authority shall constitute a body both corporate
2 and politic, exercising public powers, and having all the
3 powers necessary or convenient to carry out and effectuate
4 the purposes and provisions of this article, including the
5 following powers in addition to others herein granted:

6 (1) To investigate living and housing conditions in the
7 authority's area of operation and the means and methods
8 of improving such conditions;

9 (2) To determine whether unsanitary or substandard
10 housing conditions exist;

11 (3) To study and make recommendations concerning the
12 city or county plan in relation to the problems of clearing,
13 replanning, redevelopment and reconstruction of areas in
14 which unsanitary or substandard conditions exist, and the
15 providing of housing accommodations for persons of low
16 and moderate income, and to cooperate with any city,
17 county or regional planning agency, to prepare, carry out
18 and operate developments;

19 (4) To provide for the construction, reconstruction,
20 redevelopment, improvement, alteration or repair of any
21 development or any part thereof;

22 (5) To take over by purchase, lease or otherwise any
23 development undertaken by any government;

24 (6) To act as agent for the federal government in connec-
25 tion with the acquisition, construction, operation and/or
26 management of a development or any part thereof;

27 (7) To arrange with the city or with a government for the
28 furnishing, planning, replanning, opening or closing of

29 streets, roads, roadways, alleys or other places or facili-
30 ties, or for the acquisition by the city, county, state or
31 federal government or any agency, instrumentality or
32 subdivision thereof, of property, options or property rights
33 or for the furnishing of property or services in connection
34 with a development;

35 (8) To sell, lease or rent any of the housing or other
36 accommodations of any of the lands, buildings, structures
37 or facilities embraced in any development, and to estab-
38 lish and revise the rents or charges therefor;

39 (9) To enter upon any building or property in order to
40 conduct investigations or to make surveys or soundings; to
41 purchase, lease, obtain options upon, acquire by eminent
42 domain or otherwise, sell, exchange, transfer, assign or
43 mortgage any property real or personal or any interest
44 therein;

45 (10) To acquire any property real or personal or any
46 interest therein from any person, firm, corporation, or the
47 city, county, state or federal government or any agency,
48 instrumentality or subdivision thereof, by gift, grant,
49 bequest or devise; to own, hold, clear and improve prop-
50 erty; in its discretion, to insure or provide for the insur-
51 ance of the property or operations of the authority against
52 such risks as the authority may deem advisable;

53 (11) To borrow money upon its bonds, notes, debentures
54 or other evidences of indebtedness, and to secure the same
55 by mortgages upon property held or to be held by it or by
56 pledge of its revenues, or in any other manner;

57 (12) To invest any funds held in reserves or sinking
58 funds, or any funds not required for immediate disburse-
59 ment in property or securities in which savings banks may
60 legally invest funds subject to their control;

61 (13) To sue and be sued;

62 (14) To have a seal, and to alter it;

- 63 (15) To have perpetual succession;
- 64 (16) To make and execute contracts and other instru-
65 ments necessary or convenient to the exercise of the
66 powers of the authority;
- 67 (17) To form and operate nonprofit corporations and
68 other affiliates of every kind and description, which may
69 be wholly or partially owned or controlled, for carrying
70 out the purposes of this article and in connection with the
71 exercise of any of the powers of a housing authority;
- 72 (18) To participate in cooperative arrangements with
73 persons and for-profit entities whose purpose is solely that
74 of pecuniary gain, as well as with nonprofit entities and
75 persons who seek no pecuniary gain. The participation of
76 a housing authority in any arrangement with other
77 persons or entities, including for-profit persons and
78 entities, shall not cause any activity engaged in by the
79 authority to be characterized as proprietary nor deprive
80 the authority of any privilege or immunity otherwise
81 existing under law;
- 82 (19) To participate as a general or limited partner, co-
83 venturer, shareholder, or otherwise as a principal, an
84 investor, a lender, a guarantor, a contracting party, or in
85 any other manner, all upon such terms and conditions, and
86 with such rights and obligations, as the governing board
87 of the housing authority shall, from time to time, in its
88 discretion determine to be appropriate;
- 89 (20) To make and, from time to time, amend and repeal
90 bylaws, rules and regulations not inconsistent with this
91 article to carry into effect the powers and purposes of the
92 authority;
- 93 (21) To conduct examinations and investigations and to
94 hear testimony and take proof under oath at public or
95 private hearings on any matter material for its informa-
96 tion;

97 (22) To issue subpoenas requiring the attendance of
98 witnesses or the production of documents and things, for
99 the examination of witnesses who are out of the state or
100 unable to attend before the authority, or excused from
101 attendance; and

102 (23) To do all things necessary or convenient to carry out
103 the powers given in this article.

104 (b) Any of the investigations or examinations provided
105 for in this article may be conducted by the authority or by
106 a committee appointed by it, consisting of one or more
107 members thereof, or by counsel, or by an officer or em-
108 ployee specifically authorized by the authority to conduct
109 it. Any member of the authority, its counsel, or any
110 person designated by it to conduct an investigation or
111 examination, shall have power to administer oaths, take
112 affidavits and issue subpoenas.

§16-15-7a. Power of authority to include certain stipulations in contracts.

1 A housing authority, in addition to its other powers,
2 shall have the power, notwithstanding any provisions of
3 this code to the contrary, to include in any contract let
4 in connection with a development, stipulations requiring
5 that the contractor and any subcontractors comply with
6 requirements as to minimum wages and maximum hours
7 of labor, and comply with any conditions which the
8 federal government may have attached to its financial
9 aid of the development.

§16-15-7b. Joint undertakings by authorities; areas of operation.

1 (a) Any two or more authorities may join or cooperate
2 with one another in the exercise of any or all of their
3 powers for the purpose of financing, planning, undertak-
4 ing, constructing or operating a housing development or
5 developments located within the area of operation of any
6 one or more such authorities or for the administration of

7 other housing programs.

8 (b) The area of operation of a housing authority shall be
9 one of the following:

10 (1) In the case of a housing authority established by a
11 city, the authority's area of operation shall be the city and
12 the area within ten miles from the territorial boundaries
13 thereof. Depending upon the geographical location of the
14 city, the area of operation may include portions of one or
15 more counties. It may also include areas lying within the
16 territorial boundaries of cities outside the city establishing
17 the housing authority. In order to resolve territorial
18 conflicts, the following rules shall apply:

19 (A) In the case of the housing authority's home county,
20 it may operate outside of the area described in this
21 subsection in the unincorporated areas of the home county
22 without the need for the county's consent unless the home
23 county has established its own housing authority. If the
24 home county has established a housing authority, then the
25 city's housing authority may operate outside the area
26 described above only with the consent of the county
27 housing authority;

28 (B) In the case of incorporated areas of a home county,
29 the housing authority may only operate within the territo-
30 rial boundaries thereof by consent of the other city and its
31 housing authority, if any;

32 (C) In the case of unincorporated portions of counties
33 other than the housing authority's home county, it may
34 operate only with the consent of the governing body of the
35 other county, regardless of whether the other county has
36 established a housing authority;

37 (D) In the case of incorporated areas within other
38 counties, it may operate only with the consent of the
39 governing body of any city incorporating such areas, and,
40 if the other city has also established its own housing
41 authority, with the consent of the other housing authority;

42 (E) Notwithstanding any other provision of this section,
43 a housing authority may, subject to the limitations stated
44 in this article, provide rental assistance to persons residing
45 outside the authority's area of operation as defined in this
46 section.

47 For purposes of this section, the term "home county"
48 means the county in which the city establishing the
49 housing authority is situated.

50 (2) In the case of a housing authority established by a
51 county, the authority's area of operation shall be all of the
52 county except that portion which lies within the territorial
53 boundaries of any city in which a housing authority has
54 been established.

55 (3) In the case of a regional housing authority, the
56 authority's area of operation shall be an area equivalent
57 to the total areas of operation which the housing authori-
58 ties, if created separately by political subdivisions estab-
59 lishing the regional housing authority, would have, when
60 aggregated. The area of operation of a regional housing
61 authority shall not include any area which lies within the
62 territorial boundaries of any city or county in which a
63 housing authority has been established and which city or
64 county is not a participant in the regional authority:
65 *Provided*, That the housing authority of the city or county
66 and its governing body may consent to the operation of
67 one or more developments by the regional housing author-
68 ity within the city's or county's territorial boundaries.

69 (4) Whether due to changes in the boundaries of cities or
70 counties which have established housing authorities, or
71 the establishment of new housing authorities, or for any
72 other reason, territories may exist that include the area of
73 operation of two or more housing authorities. Such areas
74 shall be areas of concurrent jurisdiction. No housing
75 authority whose area of operation includes an area of
76 concurrent jurisdiction shall construct, acquire or develop
77 any new housing development within the area of concur-

78 rent jurisdiction without the written agreement of the
79 other authority.

80 (5) Any housing development established by a housing
81 authority pursuant to law shall continue to be maintained
82 and operated by the housing authority establishing the
83 development or its designee, unless the development is
84 conveyed to another housing authority or to a city, county
85 or other public agency or is otherwise disposed of in
86 accordance with law.

87 (6) Notwithstanding the area of operation as defined
88 herein, all housing authorities shall have the jurisdiction
89 and authority to cooperate and contract with any other
90 housing authorities and other public agencies within this
91 State and any public agencies of any other state, with the
92 federal government, and with any person, or entity, public
93 or private, and wherever located, in order to carry out the
94 purposes of this article. Such cooperation may include,
95 but shall not be limited to, activities and operations
96 conducted with the agreement of any public agency.

**§16-15-8. Power to acquire lands, etc., by purchase or by right
of eminent domain.**

1 Whenever it shall be deemed necessary by an authority
2 in connection with the exercise of its powers herein
3 conferred to take or acquire any lands, structures or
4 buildings or other rights, either in fee or as easements for
5 any housing development or slum clearance, the authority
6 may purchase the same directly or through its agent from
7 the owner or owners thereof, or failing to agree with the
8 owner or owners thereof, such authority may exercise the
9 power of eminent domain in the manner provided for
10 condemnation proceedings, in section eight, article one
11 and sections nine and twelve, article two, chapter fifty-
12 four of this code.

**§16-15-9. Developments subject to ordinances, etc., of locality
in which situated; restrictions on acquisition,**

etc., of property; securities need not be offered to sinking fund commission.

1 All developments of an authority shall be subject to the
2 planning, zoning, sanitary and building laws, ordinances
3 and regulations applicable to the locality in which the
4 development is situated. No provisions with respect to the
5 acquisition, operation or disposition of property by public
6 bodies shall be applicable to an authority unless the
7 Legislature shall specifically so state. No authority shall
8 be required to offer its securities to the state sinking fund
9 commission at any time, nor shall any authority be
10 required to turn over any surplus or sinking funds to the
11 state sinking fund commission.

§16-15-10. Amount and nature of indebtedness; rights of creditors.

1 Subject to the restrictions set forth in this article, the
2 authority may incur any indebtedness and issue any
3 obligations and give any security therefor which it may
4 deem necessary or advisable in connection with any
5 development undertaken by it. No statutory limitation
6 with respect to the nature or amount of indebtedness
7 which may be incurred by municipalities or other public
8 bodies shall apply to indebtedness of an authority, unless
9 the Legislature shall specifically so provide. No indebted-
10 ness of any nature of an authority shall constitute a debt
11 or obligation of a municipality or the state or any other
12 subdivision or authority or instrumentality thereof, or a
13 charge against any property of such municipality, the
14 state, or other subdivision, agency or instrumentality
15 thereof. No obligation incurred by the authority shall give
16 any right against any commissioner of such authority, but
17 a commissioner shall be liable only for his own malfea-
18 sance. The rights of creditors of an authority shall be
19 solely against such authority as a corporate body and shall
20 be satisfied only out of property held by it in its corporate
21 capacity, and the enforcement of such rights shall be

22 subject to all the provisions of this article.

§16-15-11. Agreement with federal government providing for supervision and control of authority or development.

1 An authority may, in connection with the borrowing of
2 funds, or otherwise, enter into any agreement with the
3 federal government or any agency or subdivision thereof,
4 providing for supervision and control of the authority or
5 of any development, and containing such other covenants,
6 terms and conditions as the authority may deem advisable.

§16-15-12. Report to mayor or county governing body.

1 At least once a year, an authority shall file with the
2 mayor, or the county commission, as appropriate, a report
3 of its activities for the preceding year, and shall make
4 recommendations with reference to any legislation or
5 other action as it deems necessary in order to carry out the
6 purposes of this article.

§16-15-13. Community and economic development fund.

1 (a) The governing body of a housing authority may, by
2 resolution, create a fund which may be available through
3 gifts, contributions, grants, bequests, loans, loan proceeds
4 or other sources. The fund shall be governed by and
5 administered by the authority as a general purpose
6 account separate and distinct from any other moneys,
7 funds or accounts owned or managed by the housing
8 authority in conjunction or cooperation with any local,
9 state or federal governmental agency.

10 (b) The fund may be utilized to provide a source from
11 which the authority may issue grants or loans to enhance
12 community and economic development in the authority's
13 area of operation. The grants and/or loans may include,
14 but are not limited to, housing rehabilitation, redevelop-
15 ment reconstruction, community improvement, home
16 ownership, training and counseling for persons of eligible
17 income, elimination of public health or safety hazards,

18 repayment of the authority's bonds or loans and other like
19 things which fulfill the purposes of this article.

20 (c) The authority shall have an audit of the fund pre-
21 formed at the end of each fiscal year conducted in accor-
22 dance with generally accepted accounting principles as
23 part of the authority's annual audit established by the
24 governing board.

§16-15-14. Tax and licensing exemptions.

1 (a) The authority shall be exempt from the payment of
2 any taxes or fees to the state or any subdivision thereof, or
3 to any officer or employee of the state or any subdivision
4 thereof. The property of an authority shall be exempt
5 from all local and municipal taxes. Bonds, notes, debent-
6 tures and other evidences of indebtedness of an authority
7 are declared to be issued for a public purpose and to be
8 public instrumentalities and, together with interest
9 thereon, shall be exempt from taxes.

10 (b) All representatives of a housing authority, acting
11 within the scope of carrying out the business and conduct-
12 ing the affairs of a housing authority, shall be exempt
13 from all licensing requirements imposed by any law with
14 respect to the sale, rental or management of real property
15 or the improvement or development thereof, including
16 requirements imposing any fee or charge.

§16-15-17. Policy of state as to rentals.

1 (a) It is hereby declared to be the policy of this state that
2 each housing authority shall manage and operate its
3 housing developments in an efficient manner so as to
4 enable it to fix the rentals, leases or purchase prices for
5 dwellings at the lowest possible rates consistent with its
6 providing decent, safe and sanitary dwellings, and that no
7 housing authority shall construct or operate any develop-
8 ment for profit, or as a source of revenue to the city or
9 county.

10 (b) It is the goal of this state to provide access to decent,
11 safe, sanitary and affordable housing to its residents. The
12 benefits of this article are not a matter of right, but of
13 privilege. Persons accepting assistance under this article
14 shall, by such acceptance thereof, recognize their responsi-
15 bilities to the housing authorities providing such assis-
16 tance and to other persons living in their vicinity. Persons
17 accepting benefits are responsible for their own conduct
18 and for the actions of other members of their households
19 and of their guests. Housing authorities may impose and
20 enforce occupancy standards and requirements to prohibit
21 any criminal or other activity which threatens the health,
22 safety or right to peaceful enjoyment of the premises or
23 development by other residents. If eviction or lease
24 termination are possible outcomes of the housing author-
25 ity's enforcement of its occupancy standards, unless
26 federal law or regulation provides otherwise, in any
27 eviction or lease termination proceeding, there must be a
28 finding of either: (1) The tenant's participation in; or (2)
29 the tenant's knowledge of the participation of a member
30 of the tenant's household or a tenant's guest in, criminal
31 activities or other activities which threaten the health,
32 safety or right to peaceful enjoyment of the premises or
33 development by other residents. Unless, otherwise
34 provided by federal law or regulation, any act done by a
35 guest or member of a tenant's household is presumed to be
36 known to the tenant. This presumption may be rebutted
37 by clear and convincing evidence that the tenant could not
38 reasonably have known that the act would occur or that
39 the tenant took reasonable measures to prevent the act
40 from occurring. In all cases of eviction or lease termina-
41 tion, the housing authority shall consider all circum-
42 stances surrounding the individual eviction, including the
43 seriousness of the offense, extent of participation by
44 household members, and effect of eviction on household
45 members not involved. In appropriate cases, housing
46 authorities may allow the tenant and the members of his
47 or her household to remain. Even if there is no finding of

48 knowledge, the tenant may be required to: (1) Prohibit any
49 guest from visiting; and (2) remove any member of the
50 household from the unit, if that individual participated in
51 criminal activities or other activities which threaten the
52 health, safety or right to peaceful enjoyment of the
53 premises or development by other residents.

54 (c) An authority shall provide housing, rental, and other
55 assistance to persons of low and moderate income, and
56 assistance to properties and entities, in accordance with
57 the provisions of this article, and, subject to standards and
58 procedures adopted by the housing authority, to authorize
59 the provision by housing authorities of supportive services
60 and program of every kind and description to advance the
61 social, educational, and economic well-being and the
62 economic and social self-sufficiency of persons receiving
63 housing assistance under this article, so as to create
64 wholesome living environments, eliminate long-term
65 poverty, encourage gainful employment, develop social
66 and economic self-sufficiency (including living independ-
67 ently of housing assistance), and enhance personal respon-
68 sibility on the part of such persons;

69 (d) Housing authorities shall encourage the use of
70 entrepreneurial methods and approaches and to stimulate
71 and increase private sector initiatives and joint public-
72 private sector initiatives by housing authorities in carry-
73 ing out the purposes and provisions of this article.

74 (e) Housing authorities shall endeavor to increase the
75 availability, from both public and private sector sources,
76 of financing for the purchase of dwellings, and the financ-
77 ing for home improvements, and repairs for persons of low
78 or moderate income; and to further endeavor to increase
79 the availability of sources of equity and other financing
80 for the development and operation by housing authorities
81 and private sector entities of decent, safe, and sanitary
82 rental housing that is affordable to persons of low and
83 moderate income.

§16-15-18. Duties of authority and limitation of powers.

1 (a) In the operation or management of housing develop-
2 ments an authority shall at all times observe the following
3 duties with respect to rentals, tenant selection and home
4 ownership:

5 (1) It may rent or lease dwellings therein only to persons
6 of eligible income and at rentals within the financial reach
7 of such persons;

8 (2) It may rent or lease to a tenant housing consisting of
9 the number of rooms, but no greater number, which it
10 deems necessary to provide safe and sanitary accommoda-
11 tions to the proposed occupants thereof, without over-
12 crowding;

13 (3) Subject only to the limitations contained in this
14 article or imposed by the federal government, an authority
15 may lease or rent any dwellings, facilities or other real or
16 personal property owned, controlled, or possessed by the
17 authority, or with respect to which the authority has
18 contractual rights permitting such lease or rental, for such
19 terms, upon such conditions and lease terms and in
20 exchange for such rentals as the authority may from time
21 to time in its discretion determine; further, and without
22 limiting the foregoing, to establish rents in such manner
23 and in such amounts as the authority may deem appropri-
24 ate, including, but not limited to, rents based upon family
25 income (determined with such adjustments and exclusions
26 as the authority deems appropriate), minimum rents, flat
27 rents, graduated rents, rent ranges, and maximum rents
28 (any of which may vary among the authority's develop-
29 ments), and to establish any other standards and condi-
30 tions relating to rentals that the authority may deem
31 appropriate to carry out the purposes of this article;

32 (4) At and subsequent to an acquisition of occupied
33 property, a housing authority may permit existing tenants
34 therein to remain in occupancy upon such terms and

35 conditions and for such periods as the authority shall
36 deem appropriate, notwithstanding that such tenants do
37 not qualify as persons of eligible income;

38 (5) A housing authority may operate programs to
39 increase home ownership by residents of its developments
40 and by other persons of eligible income; and in such
41 regard, the housing authority may acquire, rehabilitate,
42 construct, reconstruct, sell, convey, lease, option, and take
43 all other actions deemed appropriate to achieve home
44 ownership of dwellings and associated property by
45 persons of eligible income. In connection with any
46 program to encourage such ownership, a housing author-
47 ity may dispose of dwellings and other associated property
48 in exchange or for fair market purchase prices, and upon
49 such terms and conditions, as the authority deems appro-
50 priate;

51 (6) To develop, acquire, own, lease, and operate proper-
52 ties and facilities that are non-residential in character,
53 which are used for office, administrative, management,
54 maintenance, commercial, or educational purposes, or
55 providing services, or carrying out any other purpose
56 authorized under this article; to acquire, own, lease, and
57 operate properties and facilities that are both residential
58 and non-residential in character;

59 (7) To develop, acquire, own, or lease community
60 facilities, and to provide such facilities to any public
61 agency or to any person, agency, institution, or organiza-
62 tion, public or private, for recreational, educational,
63 health or welfare purposes for the benefit and use of the
64 housing authority or occupants of its developments, or
65 persons of eligible income, elderly or handicapped per-
66 sons, or any combination of the foregoing; to operate or
67 manage community facilities, itself, or as agent or any
68 public agency, or any person, institution, or organization,
69 public or private; and to receive compensation therefor, if
70 any, as the parties may agree; community facilities may be

71 utilized by private persons or organizations with or
72 without charge, upon a determination by the authority
73 that the utilization would be advisable to promote the
74 public purposes of this article; and

75 (8) To carry out plans, programs, contracts and agree-
76 ments of every kind and description and to provide grants,
77 loans, guarantees and other financial assistance to public
78 or private persons or entities, whether nonprofit or for-
79 profit, in order to rehabilitate, maintain, procure, and
80 preserve existing affordable housing stocks in safe, decent
81 and sanitary condition and to ensure that they remain
82 affordable to persons of eligible income.

83 (b) A housing authority shall conduct its affairs in
84 accordance with sound financial and business practices,
85 taking into account the nature of its activities and in-
86 tended purpose. Therefore, a housing authority shall
87 establish and charge rents no higher than it shall deter-
88 mine to be necessary to produce revenue which, together
89 with all other available money, revenue, income and
90 receipts of the authority from whatever source derived,
91 will be sufficient:

92 (1) To pay when due all indebtedness of the authority;

93 (2) To pay all administrative and other costs of operat-
94 ing the authority's developments and programs of assis-
95 tance;

96 (3) To pay the administrative and other costs of the
97 maintenance, rehabilitation, renovation, repair, and
98 replacement of the authority's developments and other
99 property;

100 (4) To otherwise carry out its purposes under this article,
101 including acquiring or creating additional housing
102 developments and acquiring or improving property for
103 other purposes authorized under this article, including
104 community facilities, commercial facilities, and all other
105 facilities and developments authorized under this article;

106 (5) To pay the costs of insurance, including the costs of
107 claims, liabilities, losses and other expenses incurred in
108 connection with any self-insurance program;

109 (6) To provide funds for all required payments in lieu of
110 taxes;

111 (7) To make all payments required under and otherwise
112 fully perform the authority's obligations under any
113 contract, agreement, or arrangement entered into by the
114 authority, including without limitation those required in
115 connection with any partnership or joint venture entered
116 into by the authority;

117 (8) To perform the terms of any commitment or guaran-
118 tee issued or given by the authority;

119 (9) To provide a reasonable return on the value of the
120 property so as to enable the housing authority to continue
121 to fulfill its duties, including, but not limited to, the
122 acquisition of additional housing developments, land
123 acquisition, acquisition or construction of buildings,
124 equipment, facilities or other real or personal property for
125 public purposes, including parks or other recreational,
126 educational, welfare or community facilities within its
127 area of operation;

128 (10) To accommodate economic factors which affect the
129 financial stability and solvency of the authority's develop-
130 ments and programs;

131 (11) To pay the cost of actions occasioned by natural
132 disasters and other emergencies; and

133 (12) To create and maintain operating and capital
134 reserves that are reasonable and adequate to ensure the
135 authority's ability to make all payments referred to herein
136 and any other matter with respect to which the authority,
137 in its discretion reasonably exercised, determines that the
138 creation and maintenance of a reserve is appropriate.

139 Nothing herein shall be construed to limit the amount

140 which a housing authority may charge for non-dwelling
141 facilities or for dwelling facilities that are not rented to
142 persons of eligible income: *Provided*, That the authority's
143 actions do not conflict with the purposes of this article:
144 *Provided, however*, That a housing authority may allow
145 police officers and maintenance and management employ-
146 ees, not otherwise eligible for residence, to reside in its
147 developments.

§16-15-19. Power to issue bonds; how bonds secured.

1 An authority shall have power to issue bonds from time
2 to time, in its discretion, for any of its corporate purposes.
3 An authority shall also have power to issue or exchange
4 refunding bonds for the purpose of paying, retiring,
5 extending or renewing bonds previously issued by it. An
6 authority may issue such types of bonds as it may deter-
7 mine, including without limiting the generality of the
8 foregoing, bonds on which the principal and interest are
9 payable from income and revenues of the authority and
10 from grants or contributions from the federal government
11 or other source. Such income and revenues securing the
12 bonds may be: Exclusively the income and revenues of the
13 housing developments financed, in whole or in part, with
14 the proceeds of such bonds; exclusively the income and
15 revenues of certain designated housing developments,
16 whether or not they are financed, in whole or in part, with
17 the proceeds of such bonds; or the income and revenues of
18 the authority generally. Any such bonds may be addition-
19 ally secured by a pledge of any income or revenues of the
20 authority, or a mortgage of any housing development,
21 developments or other property of the authority.

**§16-15-20. Bonds authorized by resolution; interest rate and
life; forms; denominations; redemption; how
payable; sale; signatures of commissioners or
officers ceasing to be such before delivery;
presumptions in suit, etc., involving validity.**

1 (a) Bonds of an authority shall be authorized by its

2 resolution and may be issued in one or more series and
3 shall bear such date or dates, mature at such time or
4 times, bear interest at such rate or rates, be in such
5 denomination or denominations, be in such form, either
6 coupon or registered, carry such conversion or registration
7 privileges, have such rank or priority, be executed in such
8 manner, be payable in such medium of payment, at such
9 place or places, and be subject to such terms of redemp-
10 tion (with or without premium) as such resolution, its
11 trust indenture or mortgage may provide. Bonds of a
12 housing authority may be issued in zero coupon form or
13 subject to federal taxation of interest thereon if the
14 resolution authorizing issuance so provides.

15 (b) The bonds may be sold at public sale held after
16 notice prior to such sale promulgated in the manner as the
17 authority deems appropriate or, if the resolution authoriz-
18 ing issuance of the bonds so provides, they may be sold on
19 a negotiated basis or at private sale without any public
20 advertisement. At the discretion of the housing authority,
21 the bonds may be sold at par, or at any discount or
22 premium, as the resolution authorizing them provides. A
23 housing authority issuing bonds may enter into agree-
24 ments and arrangements with third parties for the mar-
25 keting of its bonds as it shall deem appropriate.

26 (c) In case any of the commissioners or officers of the
27 authority whose signatures appear on any bonds or
28 coupons shall cease to be such commissioners or officers
29 before the delivery of such bonds, such signatures shall,
30 nevertheless, be valid and sufficient for all purposes, the
31 same as if they had remained in office until such delivery.
32 Any provisions of any law to the contrary notwithstand-
33 ing, any bonds issued pursuant to this article shall be
34 negotiable.

35 (d) In any suit, action or proceedings involving the
36 validity or enforceability of any bond of an authority or
37 the security therefor, any such bond reciting in substance

38 that it has been issued by the authority to aid in financing
39 a housing development to provide housing for persons of
40 eligible income shall be conclusively deemed to have been
41 issued for a housing development of such character, and
42 the development shall be conclusively deemed to have
43 been planned, located and constructed in accordance with
44 the purposes and provisions of this article.

**§16-15-21. Powers of authority in connection with the issuance
of bonds, incurring obligations under leases and
securing payment of bonds.**

1 In connection with the issuance of bonds or the incur-
2 ring of obligations under leases and in order to secure the
3 payment of bonds or obligations, any authority, in addi-
4 tion to its other powers shall have power:

5 (1) To pledge all or any part of its gross or net rents, fees
6 or revenues to which its right then exists or may thereafter
7 come into existence;

8 (2) To mortgage all or any part of its real or personal
9 property, then owned or thereafter acquired;

10 (3) To covenant against pledging all or any part of its
11 rents, fees and revenues, or against mortgaging all or any
12 part of its real or personal property, to which its right or
13 title then exists or may thereafter come into existence or
14 against permitting or suffering any lien on revenues or
15 property; to covenant with respect to limitations on its
16 right to sell, lease or otherwise dispose of any housing
17 development or any part thereof; and to covenant as to
18 what other, or additional debts or obligations may be
19 incurred by it;

20 (4) To covenant as to the bonds to be issued and as to the
21 issuance of bonds or otherwise, and as to the issuance of
22 bonds in escrow or otherwise and as to the use and
23 disposition of the proceeds thereof; to provide for the
24 replacement of lost, destroyed or mutilated bonds; to
25 covenant against extending the time for the payment of its

26 bonds or interest thereon; and to redeem the bonds, and to
27 covenant for their redemption and to provide the terms
28 and conditions thereof

29 (5) To covenant, subject to the limitations contained in
30 this article, as to the rents, purchase prices, and fees to be
31 charged in the operation of a housing development or
32 developments, the amount to be raised each year or other
33 period of time by rents, fees, and other revenues, and as to
34 the use and disposition to be made thereof; to create or to
35 authorize the creation of special funds for moneys held for
36 construction or operating costs, debt service, reserves, or
37 other purposes, and to covenant as to the use and disposi-
38 tion of the moneys held in such funds;

39 (6) To prescribe the procedure, if any, by which the
40 terms of any contract with bondholders may be amended
41 or abrogated, the amount of bonds the holders of which
42 must consent thereto and the manner in which such
43 consent may be given;

44 (7) To covenant as to use of any or all of its real or
45 personal property; and to covenant as to the maintenance
46 of its real and personal property, the replacement thereof,
47 the insurance to be carried thereon and the use and
48 disposition of insurance moneys;

49 (8) To covenant as to the rights, liabilities, powers and
50 duties arising upon the breach by it of any covenant,
51 condition, or obligation; and to covenant and prescribe as
52 to events of default and terms and conditions upon which
53 any or all of its bonds or obligations shall become or may
54 be declared due before maturity, and as to the terms and
55 conditions upon which the declaration and its conse-
56 quences may be waived;

57 (9) To vest in a trustee or trustees or the holders of
58 bonds or any proportion of them the right to enforce the
59 payment of the bonds or any covenants securing or
60 relating to the bonds; to vest in a trustee or trustees the

61 right, in the event of a default by said authority, to take
62 possession and, as long as the authority is in default, to
63 retain possession and to use, operate and manage any
64 housing development or part thereof, and to collect the
65 rents and revenues arising therefrom and to dispose of
66 such moneys in accordance with the agreement of the
67 authority with said trustees; to provide for the powers and
68 duties of a trustee or trustees and to limit the liabilities
69 thereof; and to provide the terms and conditions upon
70 which the trustee or trustees or the holders of bonds or
71 any proportion of them may enforce any covenant or
72 rights securing or relating to the bonds; and

73 (10) To exercise all or any part or combination of the
74 powers herein granted; to make covenants other than and
75 in addition to the covenants herein expressly authorized,
76 of like or different character; to make covenants and to do
77 any and all acts and things as may be necessary or conve-
78 nient or desirable in order to secure its bonds, or, in the
79 absolute discretion of said authority, as will tend to make
80 the bonds more marketable notwithstanding that the
81 covenants, acts or things may not be enumerated herein.

**§16-15-22. Actions by obligee of authority to enforce perfor-
mance of contracts and to enjoin unlawful acts.**

1 An obligee of an authority shall have the right in
2 addition to all other rights which may be conferred on the
3 obligee, subject only to any contractual restrictions
4 binding upon the obligee:

5 (1) By mandamus, suit, action or proceeding at law or in
6 equity to compel said authority and the commissioners,
7 officers, agents or employees thereof to perform each and
8 every term, provision and covenant contained in any
9 contract of said authority with or for the benefit of the
10 obligee, and to require the carrying out of any or all
11 covenants and agreements of the authority and the
12 fulfillment of all duties imposed upon said authority by
13 this article; and

14 (2) By suit, action or proceeding in equity, to enjoin any
15 acts or things which may be unlawful, or the violation of
16 any of the rights of an obligee of the authority.

**§16-15-23. Surrender of possession of development to obligee
upon default by authority; appointment of
receiver; accounting.**

1 An authority shall have power by its resolution, trust
2 indenture, mortgage, lease or other contract to confer
3 upon any obligee holding or representing a specified
4 amount in bonds, or holding a lease, the right, in addition
5 to all rights that may otherwise be conferred, upon the
6 happening of an event of default as defined in such
7 resolution or instrument, by suit, action or proceeding in
8 any court of competent jurisdiction:

9 (1) To cause possession of any housing development or
10 any part thereof to be surrendered to the obligee; posses-
11 sion may be retained by the bondholder or trustee so long
12 as the authority shall continue in default;

13 (2) To obtain the appointment of a receiver of any
14 housing development of the authority or any part thereof
15 and of the rents and profits therefrom. If a receiver is
16 appointed, he or she may enter and take possession of the
17 housing development or any part thereof and, so long as
18 the authority shall continue in default, operate and
19 maintain same, and collect and receive all fees, rents,
20 revenues, or other charges thereafter arising therefrom,
21 and shall keep such moneys in a separate account or
22 accounts and apply the same in accordance with the
23 obligations of the authority as the court shall direct; and

24 (3) To require the authority and the commissioners
25 thereof to account as if it and they were the trustees of an
26 express trust.

**§16-15-24. Housing authorities empowered to provide housing
for farmers of low and moderate income.**

1 Housing authorities created for counties and other
2 authorities whose jurisdiction includes rural areas are
3 specifically empowered and authorized to borrow money,
4 accept grants and exercise their other powers to provide
5 housing for farmers of low and moderate income. In
6 connection with such developments, housing authorities
7 may enter into leases or purchase agreements, accept such
8 conveyances and rent or sell dwellings forming part of
9 developments to or for farmers of low and moderate
10 income, as the housing authority deems necessary in order
11 to assure the achievement of the objectives of this article.
12 Leases, agreements or conveyances may include such
13 covenants as the housing authority deems appropriate
14 regarding dwellings and the tracts of land described in
15 any such instrument, which covenants shall be deemed to
16 run with the land where the housing authority deems it
17 necessary and the parties to such instrument so stipulate.
18 Nothing contained in this section shall be construed as
19 limiting any other powers of any housing authority.

§16-15-25. Application for low-cost housing for farmers.

1 The owner of any farm operated, or worked upon, by
2 farmers of low and moderate income in need of safe and
3 sanitary housing may file an application with a housing
4 authority requesting that it provide for a safe and sanitary
5 dwelling or dwellings for occupancy by farmers of low and
6 moderate income. The applications shall be received and
7 examined by housing authorities in connection with the
8 formulation of developments or programs to provide
9 housing for farmers of low and moderate income.

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

Randy Schomover
.....
Chairman Senate Committee

Neil Fontana
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carroll Estlin
.....
Clerk of the Senate

Gregory W. King
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *approved* this the *5th*
day of *March*, 1998.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/6/98

Time 3:11 pm