WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

ENROLLED

House Bill No. 4468

(By Delegates Manuel, Doyle and Tabb)

Passed March 12, 2004

In Effect Ninety Days from Passage
AN ACT to amend and reenact §16-15-7 and §16-15-18 of the code of West Virginia, 1931, as amended, all relating to allowing housing development authorities to pay for persons of eligible income the costs of preparation of any title instrument, deed of trust, note or security instrument, the costs of recording any title instrument, deed of trust, note or security instrument and the amount of impact fees imposed.

Be it enacted by the Legislature of West Virginia:

That §16-15-7 and §16-15-18 of the code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 15. STATE HOUSING LAW.

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

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

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

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

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

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

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

(6) To act as agent for the federal government in connection with the acquisition, construction, operation or management of a development or any part of a development;

(7) To arrange with the city or with a government for the furnishing, planning, replanning, opening or closing of streets, roads, roadways, alleys or other places or facilities, or for the acquisition by the city, county, state or federal government or any agency, instrumentality or subdivision thereof, of property, options or property rights or for the furnishing of property or services in connection with a development;
(8) To sell, lease or rent any of the housing or other accommodations of any of the lands, buildings, structures or facilities embraced in any development, and to establish and revise the rents or charges therefor;

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

(10) To acquire any property real or personal or any interest therein from any person, firm, corporation, or the city, county, state or federal government or any agency, instrumentality or subdivision thereof, by gift, grant, bequest or devise; to own, hold, clear and improve property; in its discretion, to insure or provide for the insurance of the property or operations of the authority against risks as the authority considers advisable;

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

(12) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to their control;

(13) To sue and be sued;

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

(15) To have perpetual succession;
(16) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority;

(17) To form and operate nonprofit corporations and other affiliates of every kind and description, which may be wholly or partially owned or controlled, for carrying out the purposes of this article and in connection with the exercise of any of the powers of a housing authority;

(18) To participate in cooperative arrangements with persons and for-profit entities whose purpose is solely that of pecuniary gain, as well as with nonprofit entities and persons who seek no pecuniary gain. The participation of a housing authority in any arrangement with other persons or entities, including for-profit persons and entities, may not cause any activity engaged in by the authority to be characterized as proprietary nor deprive the authority of any privilege or immunity otherwise existing under law;

(19) To participate as a general or limited partner, coventurer, shareholder, or otherwise as a principal, an investor, a lender, a guarantor, a contracting party, or in any other manner, all upon terms and conditions, and with rights and obligations, as the governing board of the housing authority shall, from time to time, in its discretion determine to be appropriate;

(20) To make and, from time to time, amend and repeal bylaws and rules not inconsistent with this article to carry into effect the powers and purposes of the authority;

(21) To conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information;
(22) To issue subpoenas requiring the attendance of witnesses or the production of documents and things, for the examination of witnesses who are out of the state or unable to attend before the authority, or excused from attendance;

(23) To pay, in whole or in part, for any person of eligible income the costs of preparation of any title instrument, deed of trust, note or security instrument, the costs of recording any title instrument, deed of trust, note or security instrument, and any impact fee levied pursuant to article twenty, chapter seven of this code, with the condition that in the event the person receiving a payment under this subdivision sells the property attributable to the payment within five years from receiving the payment, the person will repay the full amount of the payment to the authority; and

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

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


(a) In the operation or management of housing developments an authority shall at all times observe the following duties with respect to rentals, tenant selection and home ownership:
(1) It may rent or lease dwellings in the developments only to persons of eligible income and at rentals within the financial reach of the persons;

(2) It may rent or lease to a tenant housing consisting of the number of rooms, but no greater number, which it considers necessary to provide safe and sanitary accommodations to the proposed occupants, without overcrowding;

(3) Subject only to the limitations contained in this article or imposed by the federal government, an authority may lease or rent any dwellings, facilities or other real or personal property owned, controlled, or possessed by the authority, or with respect to which the authority has contractual rights permitting the lease or rental, for terms, upon conditions and lease terms and in exchange for rentals as the authority may from time to time in its discretion determine; further, and without limiting the foregoing, to establish rents in a manner and in amounts as the authority considers appropriate, including, but not limited to, rents based upon family income, (determined with adjustments and exclusions as the authority considers appropriate,) minimum rents, flat rents, graduated rents, rent ranges, and maximum rents, (any of which may vary among the authority’s developments,) and to establish any other standards and conditions relating to rentals that the authority considers appropriate to carry out the purposes of this article;

(4) At and subsequent to an acquisition of occupied property, a housing authority may permit existing tenants in the property to remain in occupancy upon terms and conditions and for periods as the authority considers appropriate, notwithstanding that the tenants do not qualify as persons of eligible income;

(5) A housing authority may operate programs to increase home ownership by residents of its developments and by other persons of eligible income; and may acquire, rehabilitate,
construct, reconstruct, sell, convey, lease, option, and take all
other actions considered appropriate to achieve home owner-
ship of dwellings and associated property by persons of eligible
income. In connection with any program to encourage owner-
ship, a housing authority may dispose of dwellings and other
associated property in exchange or for fair market purchase
prices, and upon terms and conditions, as the authority consid-
ers appropriate;

(6) To develop, acquire, own, lease and operate properties
and facilities that are nonresidential in character, which are
used for office, administrative, management, maintenance,
commercial, or educational purposes, or providing services, or
carrying out any other purpose authorized under this article; to
acquire, own, lease, and operate properties and facilities that are
both residential and nonresidential in character;

(7) To develop, acquire, own, or lease community facilities,
and to provide such facilities to any public agency or to any
person, agency, institution, or organization, public or private,
for recreational, educational, health or welfare purposes for the
benefit and use of the housing authority or occupants of its
developments, or persons of eligible income, elderly or handi-
capped persons, or any combination of the foregoing; to operate
or manage community facilities, itself, or as agent or any public
agency, or any person, institution, or organization, public or
private; and to receive compensation therefor, if any, as the
parties may agree; community facilities may be utilized by
private persons or organizations with or without charge, upon
a determination by the authority that the utilization would be
advisable to promote the public purposes of this article;

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

(9) To pay, in whole or in part, for any person of eligible income the costs of preparation of any title instrument, deed of trust, note or security instrument, the costs of recording any title instrument, deed of trust, note or security instrument, and any impact fee levied pursuant to article twenty, chapter seven of this code, with the condition that in the event the person receiving a payment under this subdivision sells the property attributable to the payment within five years from receiving the payment, the person will repay the full amount of the payment to the housing authority.

(b) A housing authority shall conduct its affairs in accordance with sound financial and business practices, taking into account the nature of its activities and intended purpose. Therefore, a housing authority shall establish and charge rents no higher than it determines to be necessary to produce revenue which, together with all other available money, revenue, income and receipts of the authority from whatever source derived, will be sufficient:

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

(2) To pay all administrative and other costs of operating the authority’s developments and programs of assistance;

(3) To pay the administrative and other costs of the maintenance, rehabilitation, renovation, repair, and replacement of the authority’s developments and other property;

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

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

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

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

(8) To perform the terms of any commitment or guarantee issued or given by the authority;

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

(10) To accommodate economic factors which affect the financial stability and solvency of the authority’s developments and programs;

(11) To pay the cost of actions occasioned by natural disasters and other emergencies; and
(12) To create and maintain operating and capital reserves that are reasonable and adequate to ensure the authority’s ability to make all payments referred to herein and any other matter with respect to which the authority, in its discretion reasonably exercised, determines that the creation and maintenance of a reserve is appropriate.

Nothing in this section limits the amount which a housing authority may charge for nondwelling facilities or for dwelling facilities that are not rented to persons of eligible income: Provided, That the authority’s actions do not conflict with the purposes of this article: Provided, however, That a housing authority may allow police officers and maintenance and management employees, not otherwise eligible for residence, to reside in its developments.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within was approved this the day of ________________, 2004.

Governor
PRESENTED TO THE GOVERNOR

Date 4/24/04

Time 2:15 pm