

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
*Regular Session, 2005*

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**ENROLLED**

*Committee Substitute for Committee Substitute for*  
**SENATE BILL NO.** 194

(By Senator McCabe, et al )

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**PASSED** April 9, 2005

In Effect 90 days from **Passage**

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COMMITTEE SUBSTITUTE

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FOR

**Senate Bill No. 194**

(SENATORS MCCABE, YODER, FOSTER, SHARPE,  
JENKINS AND BARNES, *original sponsors*)

[Passed April 9, 2005; in effect ninety days from passage.]

AN ACT to amend and reenact §31-18D-5, §31-18D-6, §31-18D-7 and §31-18D-9 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Affordable Housing Trust Fund generally; changing the composition of the Board of Directors of the West Virginia Affordable Housing Trust Fund by reducing the number of members appointed representing nonprofit organizations; adding additional members representing real estate, manufactured housing and home-building entities; reducing the number of votes necessary for Board action; providing that the West Virginia Housing Development Fund shall establish best practices for recipients of trust fund moneys; permitting trust fund moneys to

be used for initial operational expenses of local governmental programs to reduce substandard housing or inappropriate land use patterns; and eliminating certain restrictions on application procedures for trust fund moneys.

*Be it enacted by the Legislature of West Virginia:*

That §31-18D-5, §31-18D-6, §31-18D-7 and §31-18D-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

## **CHAPTER 31. CORPORATIONS.**

### **ARTICLE 18D. WEST VIRGINIA AFFORDABLE HOUSING TRUST FUND.**

#### **§31-18D-5. Housing Trust Fund Board of Directors.**

1 (a) The Affordable Housing Trust Fund has a Board of  
2 Directors, which consists of eleven voting members. The  
3 members of the Board are responsible for administering  
4 the Trust Fund.

5 (b) The Trust Fund Board of Directors consists of:

6 (1) The Secretary of the Department of Health and  
7 Human Resources, ex officio, or his or her designee;

8 (2) The Executive Director of the West Virginia Develop-  
9 ment Office, ex officio, or his or her designee;

10 (3) The Executive Director of the West Virginia Housing  
11 Development Fund, ex officio, or his or her designee;

12 (4) One member representative of the manufactured  
13 housing sales industry, with special consideration of three  
14 nominees submitted by the West Virginia Manufactured  
15 Housing Association;

16 (5) One member representative of the real estate devel-  
17 opment or real estate sales industry, with special consider-  
18 ation of three nominees submitted by the West Virginia  
19 Association of Realtors;

20 (6) One member who is an executive director or an  
21 officer of a local, community-based not-for-profit organi-  
22 zation currently licensed to do business in West Virginia  
23 and which is exempt from federal income tax under  
24 Section 501(c)(3) of the Internal Revenue Code, as  
25 amended, codified in 26 U. S. C. §501 (c)(3), and are  
26 organized and operated exclusively for charitable purposes  
27 within the meaning of that section, and in accordance with  
28 those purposes, provide housing assistance to low or  
29 moderate income citizens of this state;

30 (7) One member representative of the banking industry;

31 (8) One member who is an officer or member of a  
32 municipality or county commission, or his or her designee;

33 (9) One member who is an executive director of a public  
34 housing authority operating in a county or municipality in  
35 this state;

36 (10) One member who is an executive director or officer  
37 of a statewide not-for-profit organization which has as  
38 one of its primary missions the provision of housing  
39 assistance to low and moderate income citizens of this  
40 state, currently licensed to do business in West Virginia  
41 and is exempt from federal income tax under Section  
42 501(c)(3) of the Internal Revenue Code, as amended,  
43 codified in 26 U. S. C. §501 (c)(3), and is organized and  
44 operated exclusively for charitable purposes within the  
45 meaning of that section; and

46 (11) One member representative of the homebuilding  
47 industry, with special consideration of three nominees  
48 submitted by the Homebuilders Association of West  
49 Virginia.

50 (c) Not more than four of the members, excluding the ex  
51 officio members, may belong to the same political party.  
52 Except for midterm special appointments made to fill  
53 irregular vacancies on the Board, members shall be  
54 appointed for terms of three years each. Members are

55 eligible for reappointment. However, no member may  
56 serve for more than two consecutive full terms. Except for  
57 midterm special appointments made to fill irregular  
58 vacancies on the Board, appointment terms shall begin on  
59 the first day of July of the beginning year. All appoint-  
60 ment terms, special and regular, end on the thirtieth day  
61 of June of the final year of the term.

62 (d) All members of the Board except those who serve ex  
63 officio shall be appointed by the Governor, with the advice  
64 and consent of the Senate.

65 (e) The Governor may remove any appointed member in  
66 case of incompetency, neglect of duty, moral turpitude or  
67 malfeasance in office, and the Governor may declare the  
68 office vacant and fill the vacancy as provided in other  
69 cases of vacancy.

70 (f) The Board shall annually select its chairperson.

71 (g) The Board shall meet not less than four times during  
72 the fiscal year, and additional meetings may be held upon  
73 a call of the chairperson or of a majority of the members.  
74 Board members shall be reimbursed for sums necessary to  
75 carry out responsibilities of the Board and for reasonable  
76 travel expenses to attend Board meetings. The ex officio  
77 members may not be reimbursed by the Fund for travel  
78 expenses to attend Board meetings.

79 (h) Six members of the Board is a quorum. No vacancy  
80 in the membership of the Board impairs the right of a  
81 quorum to exercise all the rights and perform all the duties  
82 of the Board. Action may be taken by the affirmative vote  
83 of a majority of members present at a properly noticed and  
84 legally convened meeting of the Board.

**§31-18D-6. Powers and responsibilities of the Board.**

1 (a) The Board shall manage and control the Affordable  
2 Housing Trust Fund. In order to carry out the day-to-day  
3 management and control of the Trust Fund and effectuate

4 the purposes of this article, the Board may appoint an  
5 Executive Director and other staff. The Board shall fix the  
6 Executive Director's duties and compensation as well as  
7 that of other staff. The Executive Director and other staff  
8 serve at the will and pleasure of the Board. The Board  
9 may provide for staff payroll and employee benefits in the  
10 same manner as the West Virginia Housing Development  
11 Fund provides for its employees.

12 (b) The members of the Board and its officers are not  
13 liable personally, either jointly or severally, for any debt  
14 or obligation created by the Board.

15 (c) Members of the Board and its officers and employees  
16 shall be provided insurance coverage by the state's Risk  
17 and Insurance Management Board to the same extent and  
18 in the same manner the coverage is applicable to state  
19 government agencies and appointed state officials and  
20 employees. The Board may elect to obtain other forms of  
21 insurance coverage it considers reasonable for its opera-  
22 tions.

23 (d) The acts of the Board are solely acts of its corpora-  
24 tion and are not those of an agent of the state, nor is any  
25 debt or obligation of the Board a debt or obligation of the  
26 state.

27 (e) The Board shall:

28 (1) Develop and implement comprehensive policies and  
29 programs for the use of the Trust Fund that ensures the  
30 equitable distribution of moneys from the Trust Fund  
31 throughout the various geographic areas of this state and  
32 between urban and rural areas of this state;

33 (2) Develop and implement an application and selection  
34 system to identify housing sponsors or providers of  
35 affordable housing developments or programs that qualify  
36 to receive assistance from the Trust Fund for eligible  
37 activities;

38 (3) Provide funds for technical assistance to prospective  
39 applicants;

40 (4) Monitor services, developments, projects or programs  
41 receiving assistance from the Trust Fund to ensure that the  
42 developments are operated in a manner consistent with  
43 this article and in accordance with the representations  
44 made to the Trust Fund Board by the sponsors of the  
45 services, developments, projects or programs;

46 (5) Recommend legislation to further its mission of  
47 providing housing for low to moderate income citizens of  
48 this state;

49 (6) Provide funding to increase the capacity of nonprofit  
50 community housing organizations to serve their communi-  
51 ties;

52 (7) Research and study housing needs and potential  
53 solutions to the substandard quality or lack of affordable  
54 housing;

55 (8) Coordinate programs with other entities when doing  
56 so fulfills its mission to provide housing to low to moder-  
57 ate income citizens of this state;

58 (9) Convene public meetings to gather information or  
59 receive public comments regarding housing policy or  
60 issues;

61 (10) Distribute available funds pursuant to policies  
62 established by it which may permit the establishment of a  
63 permanent endowment; and

64 (11) Serve as a clearinghouse for information regarding  
65 housing services and providers within this state.

66 (f) The West Virginia Housing Development Fund shall  
67 provide office space and staff support services for the  
68 Executive Director and the Board, shall act as fiscal agent  
69 for the Board and, as such, shall provide accounting  
70 services for the Board, invest all funds as directed by the

71 Board, service all investment and loan activities of the  
72 Board as requested, and shall make the disbursements of  
73 all funds as directed by the Board, and establish best  
74 practices for recipient organizations, for which the West  
75 Virginia Housing Development Fund shall be reasonably  
76 compensated, as determined by the Board.

**§31-18D-7. Eligible activities; eligible organizations.**

1 (a) The Board shall use the moneys from the Trust Fund  
2 to make, or participate in the making of, loans or grants  
3 for eligible activities that shall include, but not be limited  
4 to:

5 (1) Providing funds for new construction, rehabilitation,  
6 repair or acquisition of housing to assist low or moderate  
7 income citizens including land and land improvements;

8 (2) Providing matching funds for federal housing moneys  
9 requiring a local or state match;

10 (3) Providing funds for administrative costs for housing  
11 assistance programs or nonprofit organizations eligible for  
12 funding pursuant to subsection (b) of this section if the  
13 grants or loans provided will substantially increase the  
14 recipient's access to housing funds or increase its capacity  
15 to supply affordable housing;

16 (4) Providing loan guarantees and other financial  
17 mechanisms to facilitate the provision of housing products  
18 or services;

19 (5) Providing funds for down payments, closing costs,  
20 foreclosure prevention, home ownership counseling and  
21 security bonds which facilitate the construction, rehabili-  
22 tation, repair or acquisition of housing by low to moderate  
23 income citizens;

24 (6) Providing risk underwriting products not provided by  
25 private sector entities to facilitate broader accessibility of  
26 citizens to other federal or state housing funds or loan  
27 programs. The products shall be established using profes-



28 sional risk underwriting standards and separate corporate  
29 vehicles may be created and capitalized by the Trust Fund  
30 to provide the products; and

31 (7) Providing start-up funds for initial operational  
32 expenses of local government programs to reduce substan-  
33 dard housing or inappropriate land use patterns.


34 (b) Organizations eligible for funding from the Trust  
35 Fund include the following: (1) Local governments; (2)  
36 local government housing authorities; (3) nonprofit  
37 organizations recognized as exempt from federal income  
38 tax under Section 501(c)(3) of the Internal Revenue Code,  
39 as amended, codified in 26 U. S. C. §501 (c)(3), and which  
40 are organized and operated exclusively for charitable  
41 purposes within the meaning of that section, and in  
42 accordance with those purposes provide assistance to low  
43 or moderate income citizens of this state; and (4) regional  
44 or statewide housing assistance organizations that have  
45 been recognized as exempt under Section 501(c)(3) of the  
46 Internal Revenue Code, as amended, and which provide  
47 assistance to low and moderate income or low income  
48 citizens of this state.

**§31-18D-9. Applications and selection criteria.**

1 (a) No moneys may be expended from the Trust Fund for  
2 projects that discriminate against any buyer or renter  
3 because of race, religion, sex, familial status or national  
4 origin.

5 (b) The Board shall forward to the West Virginia Hous-  
6 ing Development Fund for its review and information  
7 approved requests, applications and proposals for funding  
8 containing information as is necessary to permit the West  
9 Virginia Housing Development Fund to carry out its duties  
10 under this article.

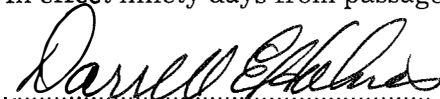
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

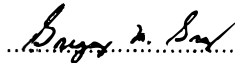
  
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Chairman Senate Committee

  
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Chairman House Committee

Originated in the Senate.




In effect ninety days from passage.

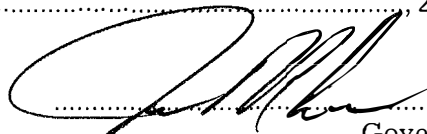
  
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Clerk of the Senate

  
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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

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Day of , 2005.

  
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Governor

PRESENTED TO THE  
GOVERNOR

APR 29 2005

Time 9:30am