ENROLLED

Committee Substitute for Committee Substitute for

SENATE BILL NO. 194

(By Senator McCabe, et al.)

PASSED April 9, 2005

In Effect 90 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.

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

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

1. The Secretary of the Department of Health and Human Resources, ex officio, or his or her designee;

2. The Executive Director of the West Virginia Development Office, ex officio, or his or her designee;

3. The Executive Director of the West Virginia Housing Development Fund, ex officio, or his or her designee;

4. One member representative of the manufactured housing sales industry, with special consideration of three nominees submitted by the West Virginia Manufactured Housing Association;

5. One member representative of the real estate development or real estate sales industry, with special consideration of three nominees submitted by the West Virginia Association of Realtors;
(6) One member who is an executive director or an officer of a local, community-based not-for-profit organization currently licensed to do business in West Virginia and which is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as amended, codified in 26 U. S. C. §501 (c)(3), and are organized and operated exclusively for charitable purposes within the meaning of that section, and in accordance with those purposes, provide housing assistance to low or moderate income citizens of this state;

(7) One member representative of the banking industry;

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

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

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

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

(c) Not more than four of the members, excluding the ex officio members, may belong to the same political party. Except for midterm special appointments made to fill irregular vacancies on the Board, members shall be appointed for terms of three years each. Members are
eligible for reappointment. However, no member may serve for more than two consecutive full terms. Except for midterm special appointments made to fill irregular vacancies on the Board, appointment terms shall begin on the first day of July of the beginning year. All appointment terms, special and regular, end on the thirtieth day of June of the final year of the term.

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

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

(f) The Board shall annually select its chairperson.

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

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

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

(a) The Board shall manage and control the Affordable Housing Trust Fund. In order to carry out the day-to-day management and control of the Trust Fund and effectuate
the purposes of this article, the Board may appoint an
Executive Director and other staff. The Board shall fix the
Executive Director's duties and compensation as well as
that of other staff. The Executive Director and other staff
serve at the will and pleasure of the Board. The Board
may provide for staff payroll and employee benefits in the
same manner as the West Virginia Housing Development
Fund provides for its employees.

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

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

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

(e) The Board shall:

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

(2) Develop and implement an application and selection
system to identify housing sponsors or providers of
affordable housing developments or programs that qualify
to receive assistance from the Trust Fund for eligible
activities;
(3) Provide funds for technical assistance to prospective applicants;

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

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

(6) Provide funding to increase the capacity of nonprofit community housing organizations to serve their communities;

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

(8) Coordinate programs with other entities when doing so fulfills its mission to provide housing to low to moderate income citizens of this state;

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

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

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

(f) The West Virginia Housing Development Fund shall provide office space and staff support services for the Executive Director and the Board, shall act as fiscal agent for the Board and, as such, shall provide accounting services for the Board, invest all funds as directed by the
§31-18D-7. Eligible activities; eligible organizations.

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

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

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

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

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

(5) Providing funds for down payments, closing costs, foreclosure prevention, home ownership counseling and security bonds which facilitate the construction, rehabilitation, repair or acquisition of housing by low to moderate income citizens;

(6) Providing risk underwriting products not provided by private sector entities to facilitate broader accessibility of citizens to other federal or state housing funds or loan programs. The products shall be established using profes-
(7) Providing start-up funds for initial operational expenses of local government programs to reduce substandard housing or inappropriate land use patterns.

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


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

5 (b) The Board shall forward to the West Virginia Housing Development Fund for its review and information approved requests, applications and proposals for funding containing information as is necessary to permit the West Virginia Housing Development Fund to carry out its duties under this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 2nd day of May, 2005.

Governor