

SB 376 (veto)

FILED

2010 MAR 19 PM 2:32

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 376

(SENATORS MINARD, JENKINS,
McCABE AND PLYMALE, *original sponsors*)

[Passed March 13, 2010; to take effect July 1, 2010.]

2010 MAR 19 PM 2:32

WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 376

(SENATORS MINARD, JENKINS, MCCABE AND PLYMALE, *original sponsors*)

[Passed March 13, 2010; to take effect July 1, 2010.]

AN ACT to amend and reenact §31A-2-4c of the Code of West Virginia, 1931, as amended; to amend and reenact §38-1-8a of said code; to amend and reenact §44-13-4a of said code; and to amend and reenact §59-1-10 of said code, all relating to gathering, compilation and publication of residential mortgage foreclosure data; expanding the powers and duties of the West Virginia Housing Development Fund to include the receipt, compilation and publication of mortgage foreclosure data and reports contained in reports of sale filed by trustees with county clerks; providing the West Virginia Housing Development Fund with the authority to require additional information to be filed with the reports of sale; transferring the jurisdiction, powers and duties relative to the receiving, compiling into an electronic data base and making the data available from the Commissioner of Banking to the West Virginia Housing Development Fund; providing that mortgage financial data and reports received by the Commissioner on Banking under

the code provisions prior to the effective date be supplied to the West Virginia Housing Development Fund; providing that the portion of the fee paid for recording the trustee's report of sale that is paid by county clerks to the Division of Banking be paid to the West Virginia Housing Development Fund; and establishing an effective date of July 1, 2010.

Be it enacted by the Legislature of West Virginia:

That §31-18-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §31A-2-4C of said code be amended and reenacted; that §38-1-8a of said code be amended and reenacted; that §44-13-4a of said code be amended and reenacted; and that §59-1-10 of said code be amended and reenacted, all to read as follows:

CHAPTER 31. CORPORATIONS.

ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

§31-18-6. Corporate powers.

1 The housing development fund is hereby granted, has
2 and may exercise all powers necessary or appropriate to
3 carry out and effectuate its corporate purpose, including,
4 but not limited to, the following:

5 (1) To make or participate in the making of federally
6 insured construction loans to sponsors of land develop-
7 ment, residential housing or nonresidential projects. Such
8 loans shall be made only upon determination by the
9 housing development fund that construction loans are not
10 otherwise available, wholly or in part, from private
11 lenders upon reasonably equivalent terms and conditions;

12 (2) To make temporary loans, with or without interest,
13 but with such security for repayment as the housing
14 development fund determines reasonably necessary and
15 practicable, from the operating loan fund, if created,

16 established, organized and operated in accordance with
17 the provisions of section nineteen of this article, to defray
18 development costs to sponsors of land development,
19 residential housing or nonresidential projects which are
20 eligible or potentially eligible for federally insured
21 construction loans, federally insured mortgages, federal
22 mortgages or uninsured construction loans or uninsured
23 mortgage loans;

24 (3) To make or participate in the making of long-term
25 federally insured mortgage loans to sponsors of land
26 development, residential housing or nonresidential
27 projects. Such loans shall be made only upon determina-
28 tion by the housing development fund that long-term
29 mortgage loans are not otherwise available, wholly or in
30 part, from private lenders upon reasonably equivalent
31 terms and conditions;

32 (4) To establish residential housing and nonresidential
33 and land development projects for counties declared to be
34 in a disaster area by the Federal Emergency Management
35 Agency or other agency or instrumentality of the United
36 States or this state;

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

40 (6) To make and execute contracts, releases, compro-
41 mises, compositions and other instruments necessary or
42 convenient for the exercise of its powers, or to carry out its
43 corporate purpose;

44 (7) To collect reasonable fees and charges in connection
45 with making and servicing loans, notes, bonds, obligations,
46 commitments and other evidences of indebtedness, and in
47 connection with providing technical, consultative and
48 project assistance services;

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

51 (i) Direct obligations of or obligations guaranteed by the
52 United States of America or for the payment of the
53 principal and interest on which the full faith and credit of
54 the United States of America is pledged;

55 (ii) Bonds, debentures, notes or other evidences of
56 indebtedness issued by any of the following agencies:
57 Banks for cooperatives; federal intermediate credit banks;
58 federal home loan bank system; export-import bank of the
59 United States; federal land banks; Tennessee valley
60 authority; United States postal service; inter-American
61 development bank; international bank for reconstruction
62 and development; small business administration; Washing-
63 ton metropolitan area transit authority; general services
64 administration; federal financing bank; federal home loan
65 mortgage corporation; student loan marketing association;
66 farmer's home administration; the federal national
67 mortgage association or the government national mort-
68 gage association; or any bond, debenture, note, participa-
69 tion certificate or other similar obligation to the extent
70 such obligations are guaranteed by the government
71 national mortgage association or federal national mort-
72 gage association or are issued by any other federal agency
73 and backed by the full faith and credit of the United
74 States of America;

75 (iii) Public housing bonds issued by public agencies or
76 municipalities and fully secured as to the payment of both
77 principal and interest by a pledge of annual contributions
78 under an annual contributions contract or contracts with
79 the United States of America; or temporary notes, prelimi-
80 nary loan notes, or project notes issued by public agencies
81 or municipalities, in each case, fully secured as to the
82 payment of both principal and interest by a requisition or
83 payment agreement with the United States of America;

84 (iv) Certificates of deposit, time deposits, investment
85 agreements, repurchase agreements or similar banking
86 arrangements with a member bank or banks of the federal
87 reserve system or a bank the deposits of which are insured
88 by the federal deposit insurance corporation, or its succes-
89 sor, or a savings and loan association or savings bank the
90 deposits of which are insured by the federal savings and
91 loan insurance corporation, or its successor, or government
92 bond dealers reporting to, trading with and recognized as
93 primary dealers by a federal reserve bank: *Provided*, That
94 such investments shall only be made to the extent insured
95 by the federal deposit insurance corporation or the federal
96 savings and loan insurance corporation or to the extent
97 that the principal amount thereof shall be fully collateral-
98 ized by obligations which are authorized investments for
99 the housing development fund pursuant to this section;

100 (v) Direct obligations of or obligations guaranteed by the
101 state of West Virginia;

102 (vi) Direct and general obligations of any other state,
103 municipality or other political subdivision within the
104 territorial United States: *Provided*, That at the time of
105 their purchase, such obligations are rated in either of the
106 two highest rating categories by a nationally recognized
107 bond-rating agency;

108 (vii) Any bond, note, debenture or annuity issued by any
109 corporation organized and operating within the United
110 States: *Provided*, That such corporation shall have a
111 minimum net worth of fifteen million dollars and its
112 securities or its parent corporation's securities are listed
113 on one or more of the national stock exchanges: *Provided*,
114 *however*, That: (1) Such corporation has earned a profit in
115 eight of the preceding ten fiscal years as reflected in its
116 statements; and (2) such corporation has not defaulted in
117 the payment of principal or interest on any of its outstand-
118 ing funded indebtedness during its preceding ten fiscal
119 years; and (3) the bonds, notes or debentures of such

120 corporation to be purchased are rated "AA" or the equiva-
121 lent thereof or better than "AA" or the equivalent thereof
122 by at least two or more nationally recognized rating
123 services such as Standard and Poor's, Dunn & Bradstreet,
124 Best's or Moody's;

125 (viii) If entered into solely for the purpose of reducing
126 investment, interest rate, liquidity or other market risks in
127 relation to obligations issued or to be issued or owned or
128 to be owned by the housing development fund, options,
129 futures contracts (including index futures but exclusive of
130 commodities futures, options or other contracts), standby
131 purchase agreements or similar hedging arrangements
132 listed by a nationally recognized securities exchange or a
133 corporation described in paragraph (vii) above;

134 (ix) Certificates, shares or other interests in mutual
135 funds, unit trusts or other entities registered under section
136 eight of the United States Investment Company Act of
137 1940, but only to the extent that the terms on which the
138 underlying investments are to be made prevent any more
139 than a minor portion of the pool which is being invested in
140 to consist of obligations other than investments permitted
141 pursuant to this section; and

142 (x) To the extent not inconsistent with the express
143 provisions of this section, obligations of the West Virginia
144 state board of investments or any other obligation autho-
145 rized as an investment for the West Virginia state board of
146 investments under article six, chapter twelve of this code
147 or for a public housing authority under article fifteen,
148 chapter sixteen of this code;

149 (9) To sue and be sued;

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

151 (11) To make, and from time to time, amend and repeal
152 bylaws and rules and regulations not inconsistent with the
153 provisions of this article;

154 (12) To appoint such officers, employees and consultants
155 as it deems advisable and to fix their compensation and
156 prescribe their duties;

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

159 (14) To enter into agreements or other transactions with
160 any federal or state agency, any person and any domestic
161 or foreign partnership, corporation, association or organi-
162 zation;

163 (15) To acquire real property, or an interest therein, in
164 its own name, by purchase or foreclosure, where such
165 acquisition is necessary or appropriate to protect any loan
166 in which the housing development fund has an interest
167 and to sell, transfer and convey any such property to a
168 buyer and, in the event of such sale, transfer or convey-
169 ance cannot be effected with reasonable promptness or at
170 a reasonable price, to lease such property to a tenant;

171 (16) To purchase or sell, at public or private sale, any
172 mortgage or other negotiable instrument or obligation
173 securing a construction, rehabilitation, improvement, land
174 development, mortgage or temporary loan;

175 (17) To procure insurance against any loss in connection
176 with its property in such amounts, and from such insurers,
177 as may be necessary or desirable;

178 (18) To consent, whenever it deems it necessary or
179 desirable in the fulfillment of its corporate purpose, to the
180 modification of the rate of interest, time of payment or any
181 installment of principal or interest, or any other terms, of
182 mortgage loan, mortgage loan commitment, construction
183 loan, rehabilitation loan, improvement loan, temporary
184 loan, contract or agreement of any kind to which the
185 housing development fund is a party;

186 (19) To make and publish rules and regulations respect-
187 ing its federally insured mortgage lending, uninsured
188 mortgage lending, construction lending, rehabilitation
189 lending, improvement lending and lending to defray
190 development costs and any such other rules and regula-
191 tions as are necessary to effectuate its corporate purpose;

192 (20) To borrow money to carry out and effectuate its
193 corporate purpose and to issue its bonds or notes as
194 evidence of any such borrowing in such principal amounts
195 and upon such terms as shall be necessary to provide
196 sufficient funds for achieving its corporate purpose, except
197 that no notes shall be issued to mature more than ten years
198 from date of issuance and no bonds shall be issued to
199 mature more than fifty years from date of issuance;

200 (21) To issue renewal notes, to issue bonds to pay notes
201 and, whenever it deems refunding expedient, to refund any
202 bonds by the issuance of new bonds, whether the bonds to
203 be refunded have or have not matured except that no such
204 renewal notes shall be issued to mature more than ten
205 years from date of issuance of the notes renewed and no
206 such refunding bonds shall be issued to mature more than
207 fifty years from the date of issuance;

208 (22) To apply the proceeds from the sale of renewal notes
209 or refunding bonds to the purchase, redemption or pay-
210 ment of the notes or bonds to be refunded;

211 (23) To make grants and provide technical services to
212 assist in the purchase or other acquisition, planning,
213 processing, design, construction, or rehabilitation, im-
214 provement or operation of residential housing, nonresiden-
215 tial projects or land development: *Provided*, That no such
216 grant or other financial assistance shall be provided
217 except upon a finding by the housing development fund
218 that such assistance and the manner in which it will be
219 provided will preserve and promote residential housing in

11 each year. The reports shall be filed in electronic format,
12 where possible.

**CHAPTER 59. FEES, ALLOWANCES AND COSTS;
NEWSPAPERS; LEGAL ADVERTISEMENTS.**

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-10. Fees to be charged by clerk of county commission.

1 For the purpose of this section, the word "page" is
2 defined as being a paper or electronic writing of not more
3 than legal size, 8 1/2" x 14".

4 The clerk of the county commission shall charge and
5 collect the following fees:

6 (a) When a writing is admitted to record, for receiving
7 proof of acknowledgment thereof, entering an order in
8 connection therewith, endorsing clerk's certificate of
9 recordation thereon and indexing in a proper index, where
10 the writing is a:

11 (1) Deed of conveyance (with or without a plat), trust
12 deed, fixture filing or security agreement concerning real
13 estate lease, \$15.

14 (2) Trustee's report of sale for any property for which
15 additional information and filing requirements are
16 required by section eight-a, article one, chapter thirty-
17 eight of this code, \$40: *Provided*, That \$20 of each record-
18 ing fee received pursuant to this subdivision shall be
19 deposited into the county's General Revenue Fund and \$20
20 of each of the aforesaid recording fees shall be paid
21 quarterly by the clerk of the county commission to the
22 West Virginia Housing Development Fund established in
23 article eighteen, chapter thirty-one of this code.

24 (3) Financing, continuation, termination or other
25 statement or writing permitted to be filed under chapter
26 forty-six of this code, \$10.

27 (4) Plat or map (with no deed of conveyance), \$10.

28 (5) Service discharge record, no charge.

29 (6) Any document or writing other than those referenced
30 in subdivisions (1), (2), (3), (4) and (5) of this subsection,
31 \$10.

32 (7) If any document or writing contains more than five
33 pages, for each additional page, \$1.

34 For any of the documents admitted to record pursuant to
35 this subsection, if the clerk of the county commission has
36 the technology available to receive these documents in
37 electronic form or other media, the clerk shall set a
38 reasonable fee to record these writings not to exceed the
39 cost for filing paper documents.

40 (8) Of the fees collected pursuant to subdivision (1),
41 subsection (a) of this section, \$10 shall be deposited in the
42 county general fund in accordance with section twenty-
43 eight of this article and \$1 shall be deposited in the county
44 general fund and dedicated to the operation of the county
45 clerk's office. Four dollars of the fees collected pursuant
46 to subdivision (1), subsection (a) of this section and \$5 of
47 the fees collected pursuant to subdivision (6), subsection
48 (a) of this section shall be paid by the county clerk into the
49 state Treasury and deposited in equal amounts for deposit
50 into the Farmland Protection Fund created in article
51 twelve, chapter eight-a of this code for the benefit of the
52 West Virginia Agricultural Land Protection Authority and
53 into the Outdoor Heritage Conservation Fund created in
54 article two-g, chapter five-b of this code: *Provided*, That
55 the funds deposited in the state Treasury pursuant to this
56 subdivision may only be used for costs, excluding person-
57 nel costs, associated with purpose of land conservation, as
58 defined in subsection (f), section seven, article two-g,
59 chapter five-b of this code.

60 (b) For administering any oath other than oaths by
61 officers and employees of the state, political subdivisions
62 of the state or a public or quasi-public entity of the state
63 or a political subdivision of the state, taken in his or her
64 official capacity, \$5.

65 (c) For issuance of marriage license and other duties
66 pertaining to the marriage license (including preparation
67 of the application, administering the oath, registering and
68 recording the license, mailing acknowledgment of minis-
69 ter's return to one of the licensees and notification to a
70 licensee after sixty days of the nonreceipt of the minister's
71 return), \$35.

72 (1) One dollar of the marriage license fee received
73 pursuant to this subsection shall be paid by the county
74 clerk into the state Treasury as a state registration fee in
75 the same manner that license taxes are paid into the
76 Treasury under article twelve, chapter eleven of this code;

77 (2) Fifteen dollars of the marriage license fee received
78 pursuant to this subsection shall be paid by the county
79 clerk into the state Treasury for the Family Protection
80 Shelter Support Act in the same manner that license taxes
81 are paid into the Treasury under article twelve, chapter
82 eleven of this code;

83 (3) Ten dollars of the marriage license fee received
84 pursuant to this subsection shall be deposited in the
85 Courthouse Facilities Improvement Fund created by
86 section six, article twenty-six, chapter twenty-nine of this
87 code.

88 (d) (1) For a copy of any writing or document, if it is not
89 otherwise provided for, \$1.50.

90 (2) If the copy of the writing or document contains more
91 than two pages, for each additional page, \$1.

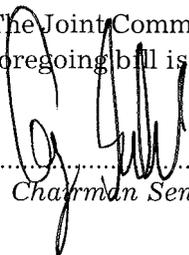
92 (3) For annexing the seal of the commission or clerk to
93 any paper, \$1.

Enr. Com. Sub. for S. B. No. 376] 20

94 (4) For a certified copy of a birth certificate, death
95 certificate or marriage license, \$5.

96 (e) For copies of any record in electronic form or a
97 medium other than paper, a reasonable fee set by the clerk
98 of the county commission not to exceed the costs associ-
99 ated with document search and duplication.

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

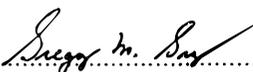

.....
Chairman Senate Committee

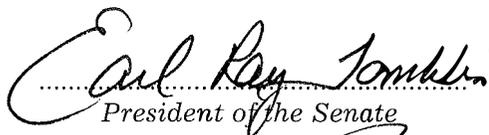

.....
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 2010.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within *is disapproved* this the *18th*
Day of *March*, 2010.

.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 18 2010

Time 9:15am