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.]
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,
3 [Enr. Com. Sub. for S. B. No. 376]

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

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

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

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

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

(7) To collect reasonable fees and charges in connection
with making and servicing loans, notes, bonds, obligations,
commitments and other evidences of indebtedness, and in
connection with providing technical, consultative and
project assistance services;
(8) To invest any funds not required for immediate disbursement in any of the following securities:

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

(ii) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for cooperatives; federal intermediate credit banks; federal home loan bank system; export-import bank of the United States; federal land banks; Tennessee valley authority; United States postal service; inter-American development bank; international bank for reconstruction and development; small business administration; Washington metropolitan area transit authority; general services administration; federal financing bank; federal home loan mortgage corporation; student loan marketing association; farmer's home administration; the federal national mortgage association or the government national mortgage association; or any bond, debenture, note, participation certificate or other similar obligation to the extent such obligations are guaranteed by the government national mortgage association or federal national mortgage association or are issued by any other federal agency and backed by the full faith and credit of the United States of America;

(iii) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes, preliminary loan notes, or project notes issued by public agencies or municipalities, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;
(iv) Certificates of deposit, time deposits, investment agreements, repurchase agreements or similar banking arrangements with a member bank or banks of the federal reserve system or a bank the deposits of which are insured by the federal deposit insurance corporation, or its successor, or a savings and loan association or savings bank the deposits of which are insured by the federal savings and loan insurance corporation, or its successor, or government bond dealers reporting to, trading with and recognized as primary dealers by a federal reserve bank: Provided, That such investments shall only be made to the extent insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation or to the extent that the principal amount thereof shall be fully collateralized by obligations which are authorized investments for the housing development fund pursuant to this section;

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

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

(vii) Any bond, note, debenture or annuity issued by any corporation organized and operating within the United States: Provided, That such corporation shall have a minimum net worth of fifteen million dollars and its securities or its parent corporation's securities are listed on one or more of the national stock exchanges: Provided, however, That: (1) Such corporation has earned a profit in eight of the preceding ten fiscal years as reflected in its statements; and (2) such corporation has not defaulted in the payment of principal or interest on any of its outstanding indebtedness during its preceding ten fiscal years; and (3) the bonds, notes or debentures of such
corporation to be purchased are rated “AA” or the equivalent thereof or better than “AA” or the equivalent thereof by at least two or more nationally recognized rating services such as Standard and Poor’s, Dunn & Bradstreet, Best’s or Moody’s;

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

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

(x) To the extent not inconsistent with the express provisions of this section, obligations of the West Virginia state board of investments or any other obligation authorized as an investment for the West Virginia state board of investments under article six, chapter twelve of this code or for a public housing authority under article fifteen, chapter sixteen of this code;

(9) To sue and be sued;

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

(11) To make, and from time to time, amend and repeal bylaws and rules and regulations not inconsistent with the provisions of this article;
(12) To appoint such officers, employees and consultants as it deems advisable and to fix their compensation and prescribe their duties;

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

(14) To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization;

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

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

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

(18) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other terms, of mortgage loan, mortgage loan commitment, construction loan, rehabilitation loan, improvement loan, temporary loan, contract or agreement of any kind to which the housing development fund is a party;
(19) To make and publish rules and regulations respecting its federally insured mortgage lending, uninsured mortgage lending, construction lending, rehabilitation lending, improvement lending and lending to defray development costs and any such other rules and regulations as are necessary to effectuate its corporate purpose;

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

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

(22) To apply the proceeds from the sale of renewal notes or refunding bonds to the purchase, redemption or payment of the notes or bonds to be refunded;

(23) To make grants and provide technical services to assist in the purchase or other acquisition, planning, processing, design, construction, or rehabilitation, improvement or operation of residential housing, nonresidential projects or land development: Provided, That no such grant or other financial assistance shall be provided except upon a finding by the housing development fund that such assistance and the manner in which it will be provided will preserve and promote residential housing in
§59-1-10. Fees to be charged by clerk of county commission.

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

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

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

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

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

(3) Financing, continuation, termination or other statement or writing permitted to be filed under chapter 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.
(b) For administering any oath other than oaths by officers and employees of the state, political subdivisions of the state or a public or quasi-public entity of the state or a political subdivision of the state, taken in his or her official capacity, $5.

(c) For issuance of marriage license and other duties pertaining to the marriage license (including preparation of the application, administrating the oath, registering and recording the license, mailing acknowledgment of minister’s return to one of the licensees and notification to a licensee after sixty days of the nonreceipt of the minister’s return), $35.

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

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

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

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

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

(3) For annexing the seal of the commission or clerk to any paper, $1.
(4) For a certified copy of a birth certificate, death certificate or marriage license, $5.

(e) For copies of any record in electronic form or a medium other than paper, a reasonable fee set by the clerk of the county commission not to exceed the costs associated 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 approved this the Day of , 2010.

Governor