

Senate Bill No. 631

(By Senators Unger and McCabe)

[Introduced March 25, 2013; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

A BILL to amend and reenact §31-18D-6 and §31-18D-8 of the Code of
West Virginia, 1931, as amended; and to amend said code by
adding thereto a new section, designated §31-18D-16, all
relating to providing bonding authority to the West Virginia
Affordable Housing Fund.

Be it enacted by the Legislature of West Virginia:

That §31-18D-6 and §31-18D-8 the Code of West Virginia, 1931,
as amended, be amended and reenacted; and that said code be amended
by adding thereto a new section, designated §31-18D-16, all to read
as follows:

ARTICLE 18D. WEST VIRGINIA AFFORDABLE HOUSING TRUST FUND.

§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

1 control of the Trust Fund and effectuate the purposes of this
2 article, the board may appoint an Executive Director and other
3 staff. The board shall fix the executive director's duties and
4 compensation as well as that of other staff. The executive
5 director and other staff serve at the will and pleasure of the
6 board. The board may provide for staff payroll and employee
7 benefits in the same manner as the West Virginia Housing
8 Development Fund provides for its employees.

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

12 (c) Members of the board and its officers and employees shall
13 be provided insurance coverage by the State's Risk and Insurance
14 Management Board to the same extent and in the same manner the
15 coverage is applicable to state government agencies and appointed
16 state officials and employees. The board may elect to obtain other
17 forms of insurance coverage it considers reasonable for its
18 operations.

19 (d) The acts of the board are solely acts of its corporation
20 and are not those of an agent of the state, nor is any debt or
21 obligation of the board a debt or obligation of the state.

22 (e) The board shall:

23 (1) Develop and implement comprehensive policies and programs
24 for the use of the Trust Fund that ensures the equitable

1 distribution of moneys from the Trust Fund throughout the various
2 geographic areas of this state and between urban and rural areas of
3 this state;

4 (2) Develop and implement an application and selection system
5 to identify housing sponsors or providers of affordable housing
6 developments or programs that qualify to receive assistance from
7 the Trust Fund for eligible activities;

8 (3) Provide funds for technical assistance to prospective
9 applicants;

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

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

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

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

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

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

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

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

8 (f) The West Virginia Housing Development Fund shall provide
9 office space and staff support services for the executive director
10 and the board, shall act as fiscal agent for the board and, as
11 such, shall provide accounting services for the board, invest all
12 funds as directed by the board, service all investment and loan
13 activities of the board as requested, assist with the issuance of
14 any notes or bonds as directed by the board, and shall make the
15 disbursements of all funds as directed by the board, and establish
16 best practices for recipient organizations, for which the West
17 Virginia Housing Development Fund shall be reasonably compensated,
18 as determined by the board.

19 **§31-18D-8. Corporate powers.**

20 The board has the power:

21 (1) To make loans or grants;

22 (2) To accept appropriations, gifts, grants, bequests and
23 devises and to utilize or dispose of the same to carry out its
24 corporate purposes. The board has the discretion to refuse any

1 gift it considers inappropriate;

2 (3) To make and execute contracts, releases, compromises,
3 agreements and other instruments necessary or convenient for the
4 exercise of its powers or to carry out its corporate purposes;

5 (4) To collect reasonable fees and charges in connection with
6 making and servicing loans, notes, bonds, obligations, commitments
7 and other evidences of indebtedness, and in connection with
8 providing technical, consultative and project assistance services;

9 (5) To sue and be sued;

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

11 (7) To hire its own employees and appoint officers and
12 consultants as it considers advisable, and to fix their
13 compensation and prescribe their duties;

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

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

19 (10) To acquire real property, or an interest in real
20 property, in its own name, by purchase, transfer, bequest, gift or
21 foreclosure, where appropriate or is necessary to protect any loan
22 in which the board has an interest and to sell, transfer and convey
23 any property to a buyer and, in the event that a sale, transfer or
24 conveyance cannot be effected with reasonable promptness or at a

1 reasonable price, to lease property to a tenant. Before any real
2 property is transferred to the trust, the seller or donor must have
3 clear title to the property. The board has the discretion to
4 require that the seller or donor agree, in the terms of the
5 transfer, that any liability for environmental defects on the
6 property is not waived by the transfer and that the seller or donor
7 indemnify the trust for any liability associated with activities
8 that occurred or conditions that exist on the property. The board
9 may require the transferor of the property to bear the costs of an
10 environmental assessment of the property, conducted in a manner
11 satisfactory to the board;

12 (11) To purchase or sell, at public or private sale, any
13 mortgage or other negotiable instrument or obligation securing a
14 loan;

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

18 (13) To consent, whenever it considers it necessary or
19 desirable in the fulfillment of its corporate purpose, to the
20 modification of the rate of interest, time of payment or any
21 installment of principal or interest or any other terms, of an
22 investment, loan, contract or agreement of any kind to which the
23 board is a party;

24 (14) To establish training and educational programs to further

1 the purposes of this article;

2 (15) To acquire, by purchase or otherwise, and to hold,
3 transfer, sell, assign, pool or syndicate or participate in the
4 syndication of, any loans, notes, mortgages, securities or debt
5 instruments or other instruments evidencing loans or equity
6 interests in or for the fostering, repairing, or providing
7 affordable housing to the citizens of this state;

8 (16) The board has the authority to make, and from time to
9 time, amend and repeal bylaws and rules not inconsistent with the
10 provisions of this article; and

11 (17) To have and exercise all other general powers of a
12 corporation in this state.

13 (18) On resolution by the board, to borrow money to carry out
14 and effectuate its corporate purpose and to issue its bonds or
15 notes as evidence of any such borrowing in such principal amounts
16 and upon such terms as shall be necessary to provide sufficient
17 funds for achieving its corporate purpose, except that no notes
18 shall be issued to mature more than ten years from date of issuance
19 and no bonds shall be issued to mature more than fifty years from
20 date of issuance. Principle and interest on any bonds or notes
21 issued pursuant to this section shall be payable solely from the
22 special revenue account established in section sixteen of this
23 article and shall not be an obligation of the state.

24 (19) To issue renewal notes, to issue bonds to pay notes and,

1 whenever it deems refunding expedient, to refund any bonds by the
2 issuance of new bonds, whether the bonds to be refunded have or
3 have not matured except that no such renewal notes shall be issued
4 to mature more than ten years from date of issuance of the notes
5 renewed and no such refunding bonds shall be issued to mature more
6 than fifty years from the date of issuance;

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

10 (21) The Affordable Housing Fund shall rely on the Housing
11 Development Fund to provide technical and project assistance
12 services for the issuance of any bonds or notes.

13 **§31-18D-16. Affordable Housing Bond Account.**

14 There is created in the State Treasury an interest bearing,
15 special revenue account, to be known as the "Affordable Housing
16 Bond Account", which shall consist of any interest earned on the
17 account; moneys as appropriated by the Legislature from funds
18 collected by the state as a result of a national mortgage
19 settlement agreement reached in 2012 by the United States
20 government, the State of West Virginia and other states, and Bank
21 of America, Citigroup, JP Morgan Chase, Wells Fargo and Ally
22 Financial; and other moneys as may be appropriated by the
23 Legislature. Any balance remaining in the fund at the end of any
24 fiscal year shall not revert to the General Revenue Fund.

NOTE: The purpose of this bill is to provide bonding authority to the West Virginia Affordable Housing Fund.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§31-18D-16 is new; therefore, strike-throughs and underscoring have been omitted.