

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 579**

4 (By Senators Unger, Cookman, Edgell, Laird, Miller, Palumbo,  
5 Snyder, Stollings and Kessler (Mr. President))

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7 [Originating in the Committee on the Judiciary;  
8 reported February 20, 2014.]  
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12 A BILL to amend the Code of West Virginia, 1931, as amended, by  
13 adding thereto a new article, designated §31-18E-1, §31-18E-2,  
14 §31-18E-3, §31-18E-4, §31-18E-5, §31-18E-6, §31-18E-7,  
15 §31-18E-8, §31-18E-9, §31-18E-10, §31-18E-11, §31-18E-12,  
16 §31-18E-13, §31-18E-14, §31-18E-15, §31-18E-16, §31-18E-17 and  
17 §31-18E-18, all relating to improving housing development and  
18 land use; authorizing creation of a land trust by West  
19 Virginia municipalities, counties or a combination thereof;  
20 stating legislative findings; defining terms; providing  
21 requirements for the permissive creation and operation of land  
22 trust entities; detailing certain requirements for a land  
23 trust board and staff; requiring certain terms of the land  
24 trust be set forth; providing certain immunity to land trust  
25 jurisdictions; setting forth powers and limitations of land  
26 trust entities; explicitly stating that land trust entities do

1 not have the power of eminent domain; detailing criteria for  
2 acquisition and disposition of property by land trust  
3 entities; authorizing certain land trust-related property as  
4 exempt from property tax; stating land trust funding sources;  
5 stating requirements and constraints on disposition of  
6 property; detailing potential financing of land trust  
7 operations; permitting special allocation of certain property  
8 taxes in certain situations; authorizing the issuance of  
9 certain bonds; requiring land trust entities to follow open  
10 meetings and freedom of information requirements; providing a  
11 process for dissolution of land trusts; requiring the Ethics  
12 Act to apply to land trust employees and board members;  
13 providing for expedited quiet of title proceedings in circuit  
14 court; providing for liberal construction of the article; and  
15 requiring an annual audit and report of all land trusts.

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

17 That the Code of West Virginia, 1931, as amended, be amended  
18 by adding thereto a new article, designated §31-18E-1, §31-18E-2,  
19 §31-18E-3, §31-18E-4, §31-18E-5, §31-18E-6, §31-18E-7, §31-18E-8,  
20 §31-18E-9, §31-18E-10, §31-18E-11, §31-18E-12, §31-18E-13,  
21 §31-18E-14, §31-18E-15, §31-18E-16, §31-18E-17 and §31-18E-18, all  
22 to read as follows:

23 **ARTICLE 18E. WEST VIRGINIA LAND TRUST AUTHORIZATION.**

24 **§31-18E-1. Short Title.**

25 This article may be known and cited as the West Virginia Land  
26 Trust Authorization Act.

1 **§31-18E-2. Legislative findings.**

2 The Legislature finds and declares that:

3 (1) Strong communities are important to the social and  
4 economic vitality of this state. Whether urban, suburban or rural,  
5 many communities are struggling to cope with vacant, abandoned and  
6 tax-delinquent properties.

7 (2) Citizens of this state are affected adversely by vacant,  
8 abandoned and tax-delinquent properties, including properties which  
9 have been vacated or abandoned due to mortgage foreclosure.

10 (3) Vacant, abandoned and tax-delinquent properties impose  
11 significant costs on neighborhoods, communities, municipalities and  
12 counties by lowering property values, increasing fire and police  
13 protection costs, decreasing tax revenues and undermining community  
14 cohesion.

15 (4) Vacant, abandoned and tax-delinquent properties contribute  
16 to blight, invite crime and pests and provide unsafe play spaces.

17 (5) There is an overriding public need to confront the  
18 problems caused by vacant, abandoned and tax-delinquent properties  
19 through the creation of new tools to enable municipalities and  
20 counties to turn vacant, abandoned and tax-delinquent spaces into  
21 vibrant places.

22 (6) Land trusts are one of the tools that municipalities and  
23 counties may use to facilitate the return of vacant, abandoned and  
24 tax-delinquent properties to productive use.

25 **§31-18E-3. Definitions.**

26 As used in this article:

1 (1) "Board" means the board of directors of a land trust;

2 (2) "Deconstruct" means to attempt to remove salvageable  
3 pieces of a housing unit prior to or as part of demolition or  
4 renovation;

5 (3) "Financial institution" means a bank, savings association,  
6 operating subsidiary of a bank or savings association, credit  
7 union, association licensed to originate mortgage loans or an  
8 assignee of a mortgage or note originated by such an institution;

9 (4) "Land trust" means a public body established under this  
10 article;

11 (5) "Land trust jurisdiction" means: (A) A county or  
12 municipality in this state; or (B) two or more municipalities or  
13 counties that enter into an intergovernmental cooperation agreement  
14 to establish and maintain a land trust;

15 (6) "Municipality" means a municipality as defined in section  
16 two, article one, chapter eight of this code; and

17 (7) "Real property" means all lands, including improvements  
18 and fixtures on them and property of any nature appurtenant to them  
19 or used in connection with them and every estate, interest and  
20 right, legal or equitable, in them, including terms of years and  
21 liens by way of judgment, mortgage or otherwise, and indebtedness  
22 secured by the liens.

23 **§31-18E-4. Creation and existence.**

24 (a) *Authority.* -- A land trust jurisdiction may elect to  
25 create a land trust by the adoption of an ordinance to create a  
26 binding legal obligation. The ordinance must specify the type of

1 entity created and the following:

2 (1) The name of the land trust;

3 (2) The number of members of the board;

4 (3) The names of individuals to serve as initial members of  
5 the board;

6 (4) The qualifications, manner of selection or appointment and  
7 terms of office of members of the board;

8 (5) The manner by which residents will be provided an  
9 opportunity to have input into the land trust decision-making  
10 process; and

11 (6) Additional terms and conditions the land trust  
12 jurisdiction deems reasonable and necessary for operation of the  
13 land trust that are not inconsistent with this article.

14 (b) *Filing.* -- The governing body of the land trust  
15 jurisdiction which creates a land trust shall file a copy of the  
16 ordinance with the West Virginia Housing Development Fund and with  
17 the Secretary of State. After receipt of the ordinance, the  
18 Secretary of State shall issue the appropriate documentation  
19 indicating the formation of the entity.

20 (c) *Combinations.*--(1) The authority under subsection (a) of  
21 this section may be exercised in combination pursuant to an  
22 intergovernmental cooperation agreement by:

23 (A) More than one land trust jurisdiction; or

24 (B) A land trust jurisdiction and one or more municipalities  
25 or counties.

26 (2) If a land trust is established under subdivision (1) of

1 this subsection, the intergovernmental cooperation agreement must  
2 specify matters identified in subsection (a) of this section.

3 (d) *Limitation.* -- Except as set forth in subsection (c) of  
4 this section, if a county establishes a land trust, the land trust  
5 may acquire real property only in those portions of the county  
6 located outside of the geographical boundaries of any other land  
7 trust established by another land trust jurisdiction located  
8 partially or entirely within the county.

9 (e) *Legal status of land trust.* -- A land trust:

10 (1) Is a public body corporate and politic, exercising public  
11 and essential governmental functions, and having all the powers  
12 necessary or convenient to carry out and effectuate the purposes  
13 and provisions of this article; and

14 (2) Exists until terminated and dissolved under section  
15 fourteen of this article.

16 (f) *Collaboration.* -- A land trust, a political subdivision  
17 and another municipal entity may enter into an intergovernmental  
18 cooperation agreement relative to the operations of a land trust.

19 **§31-18E-5. Board of directors of a land trust.**

20 (a) *Membership.* -- A board shall consist of an odd number of  
21 members and be not less than five members nor more than eleven  
22 members. Unless restricted by the actions or agreements specified  
23 in section four of this article and subject to the limits stated in  
24 this section, the size of the board may be adjusted in accordance  
25 with bylaws of the land trust.

1 (b) *Eligibility to serve on board.* --

2 (1) Notwithstanding any law to the contrary, a public officer  
3 is eligible to serve as a board member, and the acceptance of the  
4 appointment neither terminates nor impairs that public office;

5 (2) A municipal employee is eligible to serve as a board  
6 member;

7 (3) An established land trust board shall include at least one  
8 voting member who:

9 (A) Is a resident of the land trust jurisdiction;

10 (B) Is not a public official or municipal employee; and

11 (C) Maintains membership with a recognized civic organization  
12 within the land trust jurisdiction;

13 (4) A member removed under subdivision (3), subsection (d) of  
14 this section is ineligible for reappointment to the board unless  
15 the reappointment is confirmed unanimously by the board;

16 (5) As used in this subsection, the term "public officer"  
17 means an individual who is elected to office.

18 (c) *Officers.* -- The members of the board shall select  
19 annually from among their members a chair, vice chair, secretary,  
20 treasurer and other officers as the board determines.

21 (d) *Rules.* -- The board shall establish rules on all of the  
22 following:

23 (1) Duties of officers;

24 (2) Attendance and participation of members in its regular and  
25 special meetings;

26 (3) A procedure to remove a member by a majority vote of the

1 other members for failure to comply with a rule; and

2 (4) Other matters necessary to govern the conduct of a land  
3 trust.

4 (e) *Vacancies*. -- A vacancy on the board shall be filled in  
5 the same manner as the original appointment. Upon removal under  
6 subdivision (3), subsection (d) of this section, the position  
7 becomes vacant.

8 (f) *Compensation*. -- Board members serve without compensation.  
9 The board may reimburse a member for expenses actually incurred in  
10 the performance of duties on behalf of the land trust.

11 (g) *Meetings*. -- (1) The board shall meet as follows:

12 (A) In regular session according to a schedule adopted by the  
13 board;

14 (B) In special session:

15 (i) As convened by the chair; or

16 (ii) Upon written notice signed by a majority of the members;

17 (2) A majority of the board, excluding vacancies, is a quorum.

18 Physical presence is required under this paragraph.

19 (h) *Voting*.--(1) Except as set forth in subdivision (2) or (3)  
20 of this subsection or elsewhere in this article, action of the  
21 board must be approved by the affirmative vote of a majority of the  
22 board present and voting.

23 (2) Action of the board on the following matters must be  
24 approved by a majority of the entire board membership:

25 (A) Adoption of bylaws;

26 (B) Adoption of rules under subsection (d) of this section;



1 (C) Hiring or firing of an employee or contractor of the land  
2 trust. This function may, by majority vote of the entire board  
3 membership, be delegated by the board to a specified officer or  
4 committee of the land trust;

5 (D) Incurring of debt;

6 (E) Adoption or amendment of the annual budget; or

7 (F) Sale, lease, encumbrance or alienation of real property or  
8 personal property with a value of more than \$50,000.

9 (3) A resolution under section fourteen of this article,  
10 relating to dissolution of a land trust, must be approved by two  
11 thirds of the entire board membership.

12 (4) A member of the board may not vote by proxy.

13 (5) A member may request a recorded vote on any resolution or  
14 action of the land trust.

15 (i) *Immunity.* -- A land trust jurisdiction which establishes  
16 a land trust and a municipality or county which are parties to an  
17 intergovernmental cooperation agreement establishing a land trust  
18 shall not be liable personally on the bonds or other obligations of  
19 the land trust. Rights of creditors of a land trust are solely  
20 against the land trust.

21 **§31-18E-6. Staff of the land trust.**

22 (a) *Employees.* -- A land trust may employ or enter into a  
23 contract for an executive director, counsel and legal staff,  
24 technical experts and other individuals and may determine the  
25 qualifications and fix the compensation and benefits of those  
26 employees.

1 (b) *Contracts.* -- A land trust may enter into a contract with  
2 a municipality or county for:

3 (1) The municipality or county to provide staffing services to  
4 the land trust; or

5 (2) The land trust to provide staffing services to the  
6 municipality or county.

7 **§31-18E-7. Powers of the land trust.**

8 A land trust is a public body, corporate and politic,  
9 exercising public and essential governmental functions, and having  
10 all the powers necessary or convenient to carry out and effectuate  
11 the purposes and provisions of this article, including but not  
12 limited to the following:

13 (1) To adopt, amend and repeal bylaws for the regulation of  
14 its affairs and the conduct of its business;

15 (2) To sue and be sued in its own name and be a party in a  
16 civil action. This paragraph includes an action to clear title to  
17 property of the land trust;

18 (3) To adopt a seal and to alter the same at pleasure;

19 (4) To borrow from federal government funds, from the state,  
20 from private lenders or from municipalities or counties, as  
21 necessary, for the operation and work of the land trust;

22 (5) To issue negotiable revenue bonds and notes according to  
23 the provisions of this article;

24 (6) To procure insurance or guarantees from the federal  
25 government or the state of the payment of debt incurred by the land  
26 trust and to pay premiums in connection with the insurance or

1 guarantee;

2       (7) To enter into contracts and other instruments necessary,  
3 incidental or convenient to the performance of its duties and the  
4 exercise of its powers. This paragraph includes intergovernmental  
5 cooperation agreements for the joint exercise of powers under this  
6 article;

7       (8) To enter into contracts and intergovernmental cooperation  
8 agreements with municipalities or counties for the performance of  
9 functions by municipalities or counties on behalf of the land trust  
10 or by the land trust on behalf of municipalities or counties;

11       (9) To make and execute contracts and other instruments  
12 necessary or convenient to the exercise of the powers of the land  
13 trust. Any contract or instrument signed shall be executed by and  
14 for the land trust if the contract or instrument is signed,  
15 including an authorized facsimile signature, by:

16       (A) The chair or vice chair of the land trust; and

17       (B) Either:

18       (i) The secretary or assistant secretary of the land trust; or

19       (ii) The treasurer or assistant treasurer of the land trust;

20       (10) To procure insurance against losses in connection with  
21 the real property, assets or activities of the land trust;

22       (11) To invest money of the land trust at the discretion of  
23 the board in instruments, obligations, securities or property  
24 determined proper by the board and to name and use depositories for  
25 its money;

26       (12) To enter into contracts for the management of, the

1 collection of rent from or the sale of real property of the land  
2 trust;

3 (13) To design, develop, construct, demolish, reconstruct,  
4 deconstruct, rehabilitate, renovate, relocate and otherwise improve  
5 real property or rights or interests in real property;

6 (14) To fix, charge and collect rents, fees and charges for  
7 the use of real property of the land trust and for services  
8 provided by the land trust;

9 (15) To grant or acquire licenses, easements, leases or  
10 options with respect to real property of the land trust;

11 (16) To enter into partnerships, joint ventures and other  
12 collaborative relationships with municipalities, counties and other  
13 public and private entities for the ownership, management,  
14 development and disposition of real property;

15 (17) To organize and reorganize the executive, administrative,  
16 clerical and other departments of the land trust and to fix the  
17 duties, powers and compensation of employees, agents and  
18 consultants of the land trust; and

19 (18) To do all other things necessary or convenient to achieve  
20 the objectives and purposes of the land trust or other law related  
21 to the purposes and responsibility of the land trust.

22 **§31-18E-8. Eminent domain.**

23 A land trust does not possess the power of eminent domain.  
24 Any property obtained by the power of eminent domain after the  
25 effective date of this article may not be acquired by a land trust  
26 by any means.

1 **§31-18E-9. Acquisition of property.**

2 (a) *Title to be held in its name.* -- A land trust shall hold  
3 in its own name all real property it acquires.

4 (b) *Tax exemption.* -- (1) Except as set forth in subdivision  
5 (2) of this subsection, the real property of a land trust and its  
6 income and operations are exempt from property tax.

7 (2) Subdivision (1) of this subsection does not apply to real  
8 property of a land trust after the fifth consecutive year in which  
9 the real property is continuously leased to a private third party.  
10 However, real property continues to be exempt from property taxes  
11 if it is leased to a nonprofit or governmental agency at  
12 substantially less than fair market value.

13 (c) *Methods of acquisition.* -- A land trust may acquire real  
14 property or interests in real property by any means on terms and  
15 conditions and in a manner the land trust considers proper.

16 (d) *Acquisitions from municipalities or counties.* -- (1) A  
17 land trust may acquire real property by purchase contracts, lease  
18 purchase agreements, installment sales contracts and land contracts  
19 and may accept transfers from municipalities or counties upon terms  
20 and conditions as agreed to by the land trust and the municipality  
21 or county.

22 (2) A municipality or county may transfer to a land trust real  
23 property and interests in real property of the municipality or  
24 county on terms and conditions and according to procedures  
25 determined by the municipality or county as long as the real

1 property is located within the jurisdiction of the land trust.

2 (3) An urban renewal authority, as defined in section four,  
3 article eighteen, chapter sixteen of this code, located within a  
4 land trust jurisdiction established under this article may, with  
5 the consent of the local governing body and without a redevelopment  
6 contract, convey property to the land trust. A conveyance under  
7 this subdivision shall be with fee simple title, free of all liens  
8 and encumbrances.

9 (e) *Maintenance.* -- A land trust shall maintain all of its  
10 real property in accordance with the statutes and ordinances of the  
11 jurisdiction in which the real property is located.

12 (f) *Prohibition.* -- (1) Subject to the provisions of  
13 subdivision (2) of this subsection, a land trust may not own or  
14 hold real property located outside the jurisdictional boundaries of  
15 the entities which created the land trust under subsection (c) of  
16 section four of this article.

17 (2) A land trust may be granted authority pursuant to an  
18 intergovernmental cooperation agreement with a municipality or  
19 county to manage and maintain real property located within the  
20 jurisdiction of the municipality or county.

21 (g) *Acquisition of tax delinquent properties.* --  
22 Notwithstanding any other provision of this code to the contrary,  
23 if authorized by the land trust jurisdiction which created a land  
24 trust or otherwise by intergovernmental cooperation agreement, a  
25 land trust may acquire an interest in tax delinquent property  
26 through the provisions of chapter eleven-a of this code.

1 Notwithstanding the provisions of section eight, article three,  
2 chapter eleven-a of this code, if no person present at the tax sale  
3 bids the amount of the taxes, interest and charges due on any  
4 unredeemed tract or lot or undivided interest in real estate  
5 offered for sale, the sheriff shall, prior to certifying the real  
6 estate to the auditor for disposition pursuant to section forty-  
7 four, article three, chapter eleven-a of this code, provide a list  
8 of all of said real estate within a land trust jurisdiction to the  
9 land trust and the land trust shall be given an opportunity to  
10 purchase the tax lien and pay the taxes, interest and charges due  
11 for any unredeemed tract or lot or undivided interest therein as if  
12 the land trust were an individual who purchased the tax lien at the  
13 tax sale.

14 **§31-18E-10. Disposition of property.**

15 (a) *Public access to inventory.* -- A land trust shall maintain  
16 and make available for public review and inspection an inventory of  
17 real property held by the land trust.

18 (b) *Power.* -- A land trust may convey, exchange, sell,  
19 transfer, lease, grant or mortgage interests in real property of  
20 the land trust in the form and by the method determined to be in  
21 the best interests of the land trust.

22 (c) *Consideration.* -- (1) A land trust shall determine the  
23 amount and form of consideration necessary to convey, exchange,  
24 sell, transfer, lease as lessor, grant or mortgage interests in  
25 real property.

26 (2) Consideration may take the form of monetary payments and

1 secured financial obligations, covenants and conditions related to  
2 the present and future use of the property, contractual commitments  
3 of the transferee and other forms of consideration as determined by  
4 the board to be in the best interest of the land trust.

5 (d) *Policies and procedures.* -- (1) A board shall determine  
6 and state in the land trust policies and procedures the general  
7 terms and conditions for consideration to be received by the land  
8 trust for the transfer of real property and interests in real  
9 property, including but not limited to, a process for distribution  
10 of any proceeds to any claimants, taxing entities and the land  
11 trust.

12 (2) Requirements which may be applicable to the disposition of  
13 real property and interests in real property by municipalities or  
14 counties shall not be applicable to the disposition of real  
15 property and interests in real property by a land trust.

16 (e) *Ranking of priorities.* -- (1) A land trust jurisdiction  
17 may establish a hierarchical ranking of priorities for the use of  
18 real property conveyed by a land trust, including use for:

- 19 (A) Purely public spaces and places;
- 20 (B) Affordable housing;
- 21 (C) Conservation areas; and
- 22 (D) Retail, commercial and industrial activities.

23 (2) The priorities established may be for the entire land  
24 trust jurisdiction or may be set according to the needs of  
25 different neighborhoods, municipalities or other locations within  
26 the land trust jurisdiction, or according to the nature of the real



1 property.

2 (f) *Land use plans.* -- A land trust shall consider all duly  
3 adopted land use plans and make reasonable efforts to coordinate  
4 the disposition of land trust real property with the land use  
5 plans.

6 (g) *Specific voting and approval requirements.* -- (1) A land  
7 trust jurisdiction may, in its ordinance creating a land trust or  
8 in the case of multiple land trust jurisdictions and municipalities  
9 or counties creating a single land trust in the applicable  
10 intergovernmental cooperation agreement, require that a particular  
11 form of disposition of real property or a disposition of real  
12 property located within specified jurisdictions be subject to  
13 specified voting and approval requirements of the board.

14 (2) Except as restricted or constrained under paragraph (1) of  
15 this subsection, the board may delegate to officers and employees  
16 the authority to enter into and execute agreements, instruments of  
17 conveyance and other related documents pertaining to the conveyance  
18 of real property by the land trust.

19 **§31-18E-11. Financing of land trust operations.**

20 (a) *General rule.* -- A land trust may receive funding through  
21 grants and loans from:

22 (1) The federal government;

23 (2) The state;

24 (3) A municipality or county;

25 (4) The land trust jurisdiction which created the land trust;

26 and

1 (5) Private or other public sources.

2 (b) *Funding*. -- A land trust may receive and retain payments  
3 for services rendered, for rents and leasehold payments received,  
4 for consideration for disposition of real and personal property,  
5 for proceeds of insurance coverage for losses incurred, for income  
6 from investments and for an asset and activity lawfully permitted  
7 to a land trust under this article.

8 (c) *Allocated real property taxes*. -- (1) A taxing  
9 jurisdiction may authorize the remittance or dedication of a  
10 portion of real property taxes collected pursuant to the laws of  
11 this state to a land trust on real property conveyed by a land  
12 trust.

13 (2) Allocation of property tax revenues in accordance with  
14 this subsection, if authorized by the taxing jurisdiction, begins  
15 with the first taxable year following the date of conveyance and  
16 continues for a period of up to five years and may not exceed a  
17 maximum of fifty percent of the aggregate property tax revenues  
18 generated by the property.

19 (3) Remittance or dedication of real property taxes include  
20 the real property taxes of a county board of education only if the  
21 county board of education enters into an agreement with the land  
22 trust for the remittance or dedication.

23 **§31-18E-12. Borrowing and issuance of bonds.**

24 (a) *Authority*. -- (1) A land trust may issue a bond for any of  
25 its corporate purposes.

26 (2) The principal and interest of a bond is payable from the

1 land trust's general revenue.

2 (3) The bond may be secured by any of the following:

3 (A) A pledge of revenue. This paragraph includes a grant or  
4 contribution from: (i) The federal government or a federal agency  
5 or instrumentality; or (ii) the state, a state agency or an  
6 instrumentality of the state; or

7 (B) A mortgage of property of the land trust.

8 (b) *Nature*. -- The bond is a negotiable instrument under the  
9 provisions of article eight, chapter forty-six of this code.

10 (c) *Tax exempt*. -- A bond and the income from the bond is  
11 exempt from taxation by: (1) The state; and (2) a political  
12 subdivision.

13 (d) *Procedure*. -- (1) A bond must be authorized by resolution  
14 of the board and shall be a limited obligation of the land trust.

15 (2) The principal and interest, costs of issuance and other  
16 costs incidental to the bond are payable solely from the income and  
17 revenue derived from the sale, lease or other disposition of the  
18 assets of the land trust. The land trust may secure the bond by a  
19 mortgage or other security device covering all or part of the  
20 project from which the pledged revenues may be derived.

21 (3) A refunding bond issued under this section:

22 (A) Is payable from: (i) A source described in this article;  
23 or (ii) the investment of the proceeds of the refunding bonds; and

24 (B) Is not an indebtedness or pledge of the general credit of  
25 a political subdivision within the meaning of a constitutional or  
26 statutory limitation of indebtedness and shall contain a recital to

1 that effect.

2 (4) A bond must comply with the authorizing resolution as to:

3 (A) Form;

4 (B) Denomination;

5 (C) Interest rate;

6 (D) Maturity; and

7 (E) Execution.

8 (5) A bond may be subject to redemption at the option of and  
9 in the manner determined by the board in the authorizing  
10 resolution.

11 (e) *Powers of municipalities or counties.* -- A municipality or  
12 county may elect to guarantee, insure or otherwise become primarily  
13 or secondarily obligated on the indebtedness of a land trust,  
14 subject, however, to all other provisions of law of this state  
15 applicable to municipal or county indebtedness.

16 (f) *Sale.* -- (1) A bond shall be issued, sold and delivered in  
17 accordance with the terms and provisions of the authorizing  
18 resolution. The board, to effectuate its best interest, may  
19 determine the manner of sale, public or private, and the price of  
20 the bond.

21 (2) The resolution issuing a bond must be published in a  
22 newspaper of general circulation within the jurisdiction in which  
23 the land trust is located.

24 (g) *Liability.* -- (1) Neither the members of a land trust nor  
25 a person executing the bond shall be liable personally on the bonds  
26 by reason of the issuance of the bond.

1 (2) The bond or other obligation of a land trust related to a  
2 bond shall not be a debt of a municipality, county or of the state.  
3 A statement to this effect shall appear on the face of the bond or  
4 obligation.

5 (3) On the bond or other obligation of a land trust related to  
6 a bond, all of the following apply:

7 (A) The state has no liability. This paragraph applies to the  
8 revenue and property of the state; and

9 (B) A municipality or county has no liability. This paragraph  
10 applies to the revenue and property of a municipality or county.

11 **§31-18E-13. Public records and public access.**

12 (a) *Public records.* -- A board shall keep minutes and a record  
13 of its proceedings.

14 (b) *Public access.* -- A land trust is subject to article  
15 nine-a, chapter six of this code, relating to open meetings and  
16 chapter twenty-nine-b of this code, relating to public records.

17 **§31-18E-14. Dissolution of land trust.**

18 (a) *General rule.* -- A land trust may be dissolved as a public  
19 body corporate and politic upon compliance with all of the  
20 following:

21 (1) Sixty calendar days advance written notice of  
22 consideration of a resolution to request dissolution must be:

23 (A) Given to the land trust jurisdiction which created the  
24 land trust;

25 (B) Published in a local newspaper of general circulation; and

1 (C) Sent by certified mail to the trustees of outstanding  
2 bonds of the land trust;

3 (2) Satisfaction of all outstanding liabilities; and

4 (3) Approval of a resolution requesting dissolution, pursuant  
5 to subdivision (3), subsection (h), section five of this article.

6 (b) *Authority.* -- Upon receipt of a proper resolution  
7 described in subsection (a) of this section, the land trust  
8 jurisdiction which created the land trust may dissolve the land  
9 trust by adoption of an ordinance or order. If approved, the  
10 governing body of the land trust jurisdiction which created the  
11 land trust shall file a certified copy of the ordinance or order  
12 with the Secretary of State and notify the West Virginia Housing  
13 Development Fund of the dissolution of the land trust. The  
14 Secretary of State shall cause the termination of the existence of  
15 the land trust to be noted on the record of incorporation. Upon the  
16 filing, the land trust shall cease to function.

17 (c) *Transfer of assets.* -- Upon dissolution of the land trust,  
18 real property, personal property and other assets of the land trust  
19 become the assets of the municipality in which the property is  
20 located or the county in which the property is located, if it is  
21 not within a municipality. The following apply:

22 (1) Personal property, including financial assets, of the land  
23 trust shall be divided among participating land trust jurisdictions  
24 in proportion to the population of each jurisdiction.

25 (2) The municipality in which real property is located or the  
26 county in which the property is located, if it is not within a

1 municipality, shall approve the transfer of title to the  
2 municipality or county.

3 (d) *Multiple jurisdictions.* -- If multiple land trust  
4 jurisdictions create a land trust under section four of this  
5 article, the withdrawal of one or more land trust jurisdictions  
6 does not require dissolution of the land trust unless:

7 (1) The intergovernmental cooperation agreement provides for  
8 dissolution in this event; and

9 (2) There is no land trust jurisdiction which desires to  
10 continue the existence of the land trust.

11 **§31-18E-15. Conflicts of interest.**

12 (a) *Ethics Act.* -- The acts and decisions of members of a  
13 board and of employees of a land trust are subject to chapter six-b  
14 of this code.

15 (b) *Supplemental rules and guidelines.* -- The board may adopt:

16 (1) Supplemental rules addressing potential conflicts of  
17 interest; and

18 (2) Ethical guidelines for members of the board and land trust  
19 employees.

20 **§31-18E-16. Expedited quiet title proceedings.**

21 (a) *Authorization.* -- (1) A land trust may file an action in  
22 circuit court to quiet title to real property in which the land  
23 trust has an interest.

24 (2) A land trust may join in a single complaint to quiet title  
25 to one or more parcels of real property.

1           (3) For purposes of an action under this section, the land  
2 trust shall be deemed to be the holder of sufficient legal and  
3 equitable interests and possessory rights so as to qualify the land  
4 trust as an adequate complainant in the action.

5           (b) *Procedural requirements.*--(1) Prior to the filing of an  
6 action to quiet title, the land trust must conduct an examination  
7 of title to determine the identity of any person possessing a claim  
8 or interest in or to the real property.

9           (2) Service of the complaint to quiet title shall be provided  
10 in accordance with the requirements to serve a civil complaint  
11 generally, including that service to interested parties be made as  
12 follows:

13           (A) By first class mail to the identity and address reasonably  
14 ascertainable by an inspection of public records;

15           (B) In the case of occupied real property, by first class  
16 mail, addressed to "occupant";

17           (C) By posting a copy of the notice on the real property.

18           (D) By publication; and

19           (E) As ordered by the court.

20           (3) As part of the complaint to quiet title, the land trust  
21 must file an affidavit identifying:

22           (A) Persons discovered under subdivision (1) of this  
23 subsection; and

24           (B) The form of service under subdivision (2) of this  
25 subsection.

26           (c) *Hearing.*--(1) The court shall schedule a hearing on the



1 complaint within ninety days following filing of the complaint and  
2 as to all matters upon which an answer was not filed by an  
3 interested party.

4 (2) The court shall issue its final judgment within one  
5 hundred twenty days of the filing of the complaint.

6 **§31-18E-17. Construction, intent and scope.**

7 This article shall be construed liberally to effectuate the  
8 legislative intent and the purposes as complete and independent  
9 authorization for the implementation of this article, and all  
10 powers granted shall be broadly interpreted to effectuate the  
11 intent and purposes and not as a limitation of powers.

12 **§31-18E-18. Annual audit and report.**

13 (a) The land trust shall annually, within one hundred twenty  
14 days after the end of the fiscal year, submit an audit of income  
15 and expenditures, together with a report of its activities for the  
16 preceding year, to the West Virginia Housing Development Fund.

17 (b) A duplicate of the audit and the report shall be filed  
18 with the governing body of:

19 (1) The land trust jurisdiction which created the land trust;  
20 and

21 (2) Each political subdivision which opted to participate in  
22 the land trust pursuant to an intergovernmental agreement.

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(NOTE: The purpose of this bill is to improve housing

development and land use in West Virginia by providing an option to all municipalities, counties or combinations to create a land trust program in order to eliminate blight and address vacant, delinquent or foreclosed properties.

This article is new, therefore strike-throughs and underscoring have been omitted.)