

Senate Bill No. 397

(By Senators Cole (Mr. President) and Kessler,

By Request of the Executive)

[Introduced February 3, 2015; referred to the Committee on Government Organization; and then
to the Committee on Finance.]

A BILL to repeal §31-18D-1, §31-18D-2, §31-18D-3, §31-18D-4, §31-18D-5, §31-18D-6, §31-18D-7, §31-18D-8, §31-18D-9, §31-18D-10, §31-18D-11, §31-18D-12, §31-18D-13 and §31-18D-14 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-4c of said code; to amend and reenact §11-22-2 of said code; to amend and reenact §31-18-3, §31-18-6 and §31-18-22 of said code; and to amend said code by adding thereto a new section, designated §31-18-20d, all relating to the transfer of certain powers and programs of the West Virginia Affordable Housing Trust Fund to the West Virginia Housing Development Fund; eliminating the West Virginia Affordable Housing Trust Fund and the West Virginia Affordable Housing Trust Fund Board of Directors; creating Affordable Housing Fund of the West Virginia Housing Development Fund and providing for uses therefor; providing for assessment of fee on all sales by licensed dealers of factory-built homes to be deposited in Affordable Housing Fund of the West Virginia Housing Development Fund; providing for assessment of fee upon the privilege of transferring real

1 estate for consideration to be deposited in the Affordable Housing Fund of the West Virginia
 2 Housing Development Fund; defining “Affordable Housing Fund”; authorizing West
 3 Virginia Housing Development Fund to provide funding to increase the capacity of nonprofit
 4 community housing organizations; providing for uses of funds in Affordable Housing Fund;
 5 and providing for disposition of Affordable Housing Fund in the event of termination or
 6 dissolution of West Virginia Housing Development Fund.

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

8 That §31-18D-1, §31-18D-2, §31-18D-3, §31-18D-4, §31-18D-5, §31-18D-6, §31-18D-7,
 9 §31-18D-8, §31-18D-9, §31-18D-10, §31-18D-11, §31-18D-12, §31-18D-13 and §31-18D-14 of the
 10 Code of West Virginia, 1931, as amended, be repealed; that §11-15-4c of said code be amended and
 11 reenacted; that §11-22-2 of said code be amended and reenacted; that §31-18-3, §31-18-6 and §31-
 12 18-22 of said code be amended and reenacted; and that said code be amended by adding thereto a
 13 new section, designated §31-18-20d, all to read as follows:

14 **CHAPTER 11. TAXATION.**

15 **ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

16 **§11-15-4c. Collection of fee in addition to the consumers sales tax for sales of mobile factory-
 17 built homes; deposit of additional fee in Affordable Housing Fund.**

18 (a) There is imposed, in addition to the sales tax imposed by the provisions of this article and
 19 article fifteen-a of this chapter, a fee of \$20 on all sales by licensed dealers of factory-built homes
 20 as that term is defined in section two, article fifteen, chapter thirty-seven of this code to be collected
 21 as provided in article fifteen-b of this chapter and remitted to the Tax Commissioner to be deposited
 22 by the commissioner in the ~~West Virginia Affordable Housing Trust Fund~~ Affordable Housing Fund,

1 as provided in article ~~eighteen-d~~ eighteen, chapter thirty-one of this code.

2 (b) The moneys collected from this additional fee shall be segregated from other funds ~~in the~~
 3 ~~West Virginia Affordable Housing Trust Fund~~ of the West Virginia Housing Development Fund and
 4 shall be accounted for separately. Not more than ten percent of these additional moneys may be
 5 expended by the ~~West Virginia Affordable Housing Trust Fund~~ West Virginia Housing Development
 6 Fund to defray administrative and operating costs and expenses actually incurred by the ~~West~~
 7 ~~Virginia Affordable Housing Trust Fund~~ West Virginia Housing Development Fund.

8 **ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.**

9 **§11-22-2. Rate of tax; when and by whom payable; additional county tax.**

10 (a) Every person who delivers, accepts or presents for recording any document, or in whose
 11 behalf any document is delivered, accepted or presented for recording, is subject to pay for, and in
 12 respect to the transaction or any part thereof, a state excise tax upon the privilege of transferring title
 13 to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as represented by the
 14 document as defined in section one of this article. The state tax is payable at the time of delivery,
 15 acceptance or presenting for recording of the document. In addition to the state excise tax described
 16 in this subsection, there is assessed a fee of \$20 upon the privilege of transferring real estate for
 17 consideration. The clerk of the county commission shall collect the additional \$20 fee before
 18 recording a transfer of title to real estate and shall deposit the moneys from the additional fees into
 19 the ~~West Virginia Affordable Housing Trust Fund~~ Affordable Housing Fund as provided in article
 20 ~~eighteen-d~~ eighteen, chapter thirty-one of this code. The moneys collected from this additional fee
 21 shall be segregated from other funds ~~in the West Virginia Affordable Housing Trust Fund~~ of the
 22 West Virginia Housing Development Fund and shall be accounted for separately. Not more than ten

1 percent of these additional moneys may be expended by the ~~West Virginia Affordable Housing Trust~~
2 ~~Fund~~ West Virginia Housing Development Fund to defray administrative and operating costs and
3 expenses actually incurred by the ~~West Virginia Affordable Housing Trust Fund~~ West Virginia
4 Housing Development Fund. The West Virginia Housing Development Fund as fiscal agent of the
5 ~~West Virginia Affordable Housing Trust Fund~~, shall publish monthly on the Internet site an
6 accounting of all revenue deposited into the fund during the month and a full disclosure of all
7 expenditures from the fund including the group receiving funds, their location and any contractor
8 awarded the construction contract. ~~Additionally, the West Virginia Affordable Housing Trust Fund~~
9 ~~is to provide an annual report to the Joint Committee on Government and Finance before December~~
10 ~~1, 2007, and each year thereafter.~~

11 (b) ~~Effective January 1, 1968, and thereafter,~~ There is imposed an additional county excise
12 tax for the privilege of transferring title to real estate at the rate of 55¢ for each \$500 value or
13 fraction thereof as represented by such document as defined in section one of this article, which
14 county tax shall be payable at the time of delivery, acceptance or presenting for recording of such
15 document: *Provided*, ~~That after July 1, 1989,~~ the county may increase said excise tax to an amount
16 equal to the state excise tax. The additional tax hereby imposed is declared to be a county tax and
17 to be used for county purposes: *Provided, however*, That only one such state tax and one such
18 county tax shall be paid on any one document and shall be collected in the county where the
19 document is first admitted to record and the tax shall be paid by the grantor therein unless the grantee
20 accepts the document without such tax having been paid, in which event such tax shall be paid by
21 the grantee: *Provided further*, That on any transfer of real property from a trustee or a county clerk
22 transferring real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax

1 imposed under this section may not be increased in any county unless the increase is approved by
 2 a majority vote of the members of the county commission of such county. Any county commission
 3 intending to increase the excise tax imposed in its county shall publish a notice of its intention to
 4 increase such tax not less than thirty days nor more than sixty days prior to the meeting at which such
 5 increase will be considered, such notice to be published as a Class I legal advertisement in
 6 compliance with the provisions of article three, chapter fifty-nine of this code and the publication
 7 area shall be the county in which such county commission is located.

8 **CHAPTER 31. CORPORATIONS.**

9 **ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.**

10 **§31-18-3. Definitions.**

11 As used in this article, unless the context otherwise requires:

12 (1) "Affordable housing fund" means the affordable housing fund created and established by
 13 the Housing Development Fund in accordance with section twenty-d of this article.

14 ~~(1)~~ (2) "Annual sinking fund payment" means the amount of money specified in the
 15 resolution or resolutions authorizing term bonds as payable into a sinking fund during a particular
 16 calendar year for the retirement of term bonds at maturity after such calendar year, but shall not
 17 include any amount payable by reason only of the maturity of a bond.

18 ~~(2)~~ (3) "Development costs" means the costs approved by the Housing Development Fund
 19 as appropriate expenditures by the Housing Development Fund or by sponsors, for land
 20 development, residential housing, or nonresidential projects within this state, including, but not
 21 limited to:

22 (a) Payments for options to purchase proposed sites, necessary easements and other related

1 property rights, deposits on contracts of purchase, or, with prior approval of the Housing
2 Development Fund, payments for the purchase of such properties;

3 (b) Legal and organizational expenses, including payments of attorneys' fees, utility and
4 governmental application and filing fees and expenses, project manager and clerical staff salaries,
5 office rent and other incidental expenses;

6 (c) Payment of fees and expenses for preliminary feasibility studies and costs estimates and
7 advances for planning, engineering and architectural work;

8 (d) Expenses for tenant surveys and market analyses; and

9 (e) Necessary application, approval and other fees.

10 ~~(3)~~ (4) "Eligible persons and families" means:

11 (a) Persons and families of low and moderate income; or

12 (b) Persons or families of higher income to the extent the Housing Development Fund shall
13 find and determine, by resolution, that construction of new or rehabilitated residential housing for
14 occupancy by them will cause to be vacated existing sanitary, decent and safe residential housing
15 available at prices or rentals which persons and families of low and moderate income can afford; or

16 (c) Persons or families of higher income to the extent the Housing Development Fund shall
17 find and determine, by resolution, that construction of new or rehabilitated multifamily rental
18 housing or new, rehabilitated or existing home ownership housing in the state for occupancy by them
19 will further economic growth, increase the housing stock in the state by eliminating substandard or
20 deteriorating housing conditions, or provide additional housing opportunities in the state; or

21 (d) Persons who because of age or physical disability are found and determined by the
22 Housing Development Fund, by resolution, to require residential housing of a special location or

1 design in order to provide them with sanitary, decent and safe residential housing; or

2 (e) Persons and families for whom, as found and determined by the Housing Development
3 Fund by resolution, construction of new or rehabilitated residential housing in some designated area
4 or areas of the state is necessary for the purpose of retaining in, or attracting to, such area or areas
5 qualified manpower resources essential to modern mining, industrial and commercial operations and
6 development in such area or areas.

7 ~~(4)~~ (5) "Federally insured construction loan" means a construction loan for land development,
8 residential housing or nonresidential projects, which are either secured or guaranteed, in whole or
9 in part, by a federally insured mortgage or a federal mortgage, or which are insured or guaranteed,
10 in whole or in part, by the United States or an instrumentality thereof, or a commitment by the
11 United States or an instrumentality thereof to insure such loan.

12 ~~(5)~~ (6) "Federally insured mortgage" means a mortgage loan for land development, residential
13 housing or nonresidential projects with a commitment by the United States or an instrumentality
14 thereof to insure or guarantee such a mortgage.

15 ~~(6)~~ (7) "Federal mortgage" means a mortgage loan for land development, residential housing
16 or nonresidential projects made by the United States or an instrumentality thereof, or a commitment
17 by the United States or an instrumentality thereof to make such a mortgage loan.

18 ~~(7)~~ (8) "Housing development fund" means the West Virginia Housing Development Fund
19 heretofore created and established by section four of this article.

20 ~~(8)~~ (9) "Land development" means the process of acquiring land for residential housing
21 construction or nonresidential projects or of making, installing or constructing improvements,
22 including waterlines and water supply installations, sewer lines and sewage disposal installations,

1 steam, gas, telephone and telecommunications and electric lines and installations, roads, railroad
2 spurs, docking and shipping facilities, streets, curbs, gutters, sidewalks, drainage and flood control
3 facilities, whether on or off the site, which the Housing Development Fund deems necessary or
4 desirable to prepare such land for construction within this state.

5 ~~(9)~~ (10) "Land development fund" means the land development fund which may be created
6 and established by the Housing Development Fund in accordance with section twenty-a of this
7 article.

8 ~~(10)~~ (11) "Minimum bond insurance requirement" means, as of any particular date of
9 computation, an amount of money equal to the greatest of the respective amounts, for the then
10 current or any future calendar year, of annual debt service of the Housing Development Fund on all
11 outstanding mortgage finance bonds, such annual debt service for any calendar year being the
12 amount of money equal to the aggregate of: (a) All interest payable during such calendar year on
13 such mortgage finance bonds on said date of computation; plus (b) the principal amount of such
14 mortgage finance bonds outstanding which matures during such calendar year, other than mortgage
15 finance bonds for which annual sinking fund payments have been or are to be made in accordance
16 with the resolution authorizing such bonds; plus (c) the amount of all annual sinking fund payments
17 payable during such calendar year with respect to any such mortgage finance bonds, all calculated
18 on the assumption that bonds will after said date of computation cease to be outstanding by reason,
19 but only by reason, of the payment of bonds when due, and the payment when due and application
20 in accordance with the resolution authorizing such bonds of all such sinking fund payments payable
21 at or after said date of computation.

22 ~~(11)~~ (12) "Mortgage finance bonds" means bonds issued or to be issued by the Housing

1 Development Fund and secured by a pledge of amounts payable from the mortgage finance bond
2 insurance fund in the manner and to the extent provided in section twenty-b of this article.

3 ~~(12)~~ (13) "Mortgage finance bond insurance fund" means the special trust fund created and
4 established in the State Treasury in accordance with section twenty-b of this article.

5 ~~(13)~~ (14) "Nonresidential project" means a project in the state, whether or not directly related
6 to the providing of residential housing, determined by the Housing Development Fund as likely to
7 foster and enhance economic growth and development in the area of the state in which such project
8 is developed, for retail, commercial, industrial, community improvement or preservation or other
9 proper purpose, including tourism and recreational housing, land, air or water transportation
10 facilities, facilities for vocational or other training or to provide medical care and other special needs
11 of persons residing in the state, sports complexes and cultural, artistic and other exhibition centers,
12 industrial or commercial projects and facilities, mail order, wholesale and retail sales facilities and
13 other real or personal properties including facilities which are owned or leased by this state, any
14 county or municipality or other public body within the state, and includes, without limitation, the
15 process of acquiring, holding, operating, planning, financing, demolition, construction, renovation,
16 leasing or otherwise disposing of such project or any part thereof or interest therein. Any such
17 project may include appurtenant machinery and equipment.

18 ~~(14)~~ (15) "Operating loan fund" means the operating loan fund which may be created and
19 established by the Housing Development Fund in accordance with section nineteen of this article.

20 ~~(15)~~ (16) "Persons and families of low and moderate income" means persons and families,
21 irrespective of race, creed, national origin or sex, determined by the Housing Development Fund to
22 require such assistance as is made available by this article on account of personal or family income

1 not sufficient to afford sanitary, decent and safe housing, and to be eligible or potentially eligible to
2 occupy residential housing constructed and financed, wholly or in part, with federally insured
3 construction loans, federally insured mortgages, federal mortgages or with other public or private
4 assistance, or with uninsured construction loans, or uninsured mortgage loans, and in making such
5 determination the fund shall take into account the following: (a) The amount of the total income of
6 such persons and families available for housing needs, (b) the size of the family, (c) the cost and
7 condition of housing facilities available, (d) the eligibility of such persons and families for federal
8 housing assistance of any type predicated upon low or moderate income basis, and (e) the ability of
9 such persons and families to compete successfully in the normal housing market and to pay the
10 amounts at which private enterprise is providing sanitary, decent and safe housing: *Provided*, That
11 to the extent found and determined by the Housing Development Fund, by resolution, to be necessary
12 or appropriate for the purposes of eliminating undesirable social conditions and permanently
13 eliminating slum conditions, the income limitation requirements of this article may be waived as to
14 any persons or families who are eligible to occupy residential housing constructed in whole, or in
15 part, with federally insured construction loans, federally insured mortgages or federal mortgages
16 under housing assistance or mortgage insurance programs of the United States, or an instrumentality
17 thereof, predicated upon any low or moderate income basis.

18 ~~(16)~~ (17) "Residential housing" means a specific work or improvement within this state
19 undertaken primarily to provide dwelling accommodations, including the acquisition, construction
20 or rehabilitation of land, buildings and improvements thereto, for residential housing for occupancy
21 by eligible persons and families, including, but not limited to, facilities for temporary housing and
22 emergency housing, nursing homes and intermediate care facilities, and such other nonhousing

1 facilities as may be incidental or appurtenant thereto.

2 ~~(17)~~ (18) "Special bond insurance commitment fee" means a fee in the amount of one per
3 centum of the total principal amount of each loan which is to be temporarily or permanently financed
4 from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a
5 federally insured mortgage or a federal mortgage, or an amount equal to an equivalent discount on
6 each loan purchased or invested in by the Housing Development Fund from the proceeds of
7 mortgage finance bonds, other than a federally insured construction loan, a federally insured
8 mortgage or a federal mortgage, and which may be payable from the proceeds of such bonds or any
9 other source available to the Housing Development Fund for such use: *Provided*, That if the period
10 of time between the first disbursement of proceeds of such loan and the date upon which it is
11 specified that the first repayment of principal of such a loan shall be payable exceeds twelve months,
12 an additional amount computed on the basis of one twelfth of one per centum per month on the total
13 principal amount of such loan over the number of months of such period of time in excess of twelve
14 months shall be included in such fee.

15 ~~(18)~~ (19) "Special bond insurance premium" means: (I) A fee at the rate of one half of one
16 percent per annum on the outstanding principal balance which the Housing Development Fund shall
17 charge the borrower of a mortgage loan, or of a loan secured by a mortgage, financed from the
18 proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally
19 insured mortgage or a federal mortgage, which shall accrue from a date which is one month prior to
20 the date on which the first installment payment of principal of such a loan is payable and which shall
21 be payable thereafter in monthly installments on the same day of each successive month that
22 installment payments of principal of such a loan are payable; and (ii) with respect to any loan, other

1 than a federally insured construction loan, a federally insured mortgage or a federal mortgage,
2 purchased, or invested in with such proceeds, an equivalent amount which the Housing Development
3 Fund shall set aside from payments it receives on such loan or from any other source available to the
4 Housing Development Fund for such use.

5 ~~(19)~~ (20) "State sinking fund commission" means the commission known as such and
6 continued in existence pursuant to article three, chapter thirteen of this code and any body, board,
7 person or commission which shall, by law, hereafter succeed to the powers and duties of such
8 commission.

9 ~~(20)~~ (21) "Temporary housing" means a specific work or improvement within this state
10 undertaken primarily to provide dwelling accommodations, including the acquisition, construction
11 or rehabilitation of land, buildings and improvements thereto, for temporary residential housing,
12 including, but not limited to, shelters for homeless people, housing for victims of floods and other
13 disasters, shelters for abused or battered persons and their children, housing for families with
14 hospitalized family members, housing for students and student families, and housing for the
15 handicapped and such other nonhousing facilities as may be incidental or appurtenant thereto.

16 ~~(21)~~ (22) "Uninsured construction loans" means a construction loan for land development,
17 residential housing or nonresidential projects which is not secured by either a federally insured
18 mortgage or a federal mortgage, and which is not insured by the United States or an instrumentality
19 thereof, and as to which there is no commitment by the United States or an instrumentality thereof
20 to provide insurance.

21 ~~(22)~~ (23) "Uninsured mortgage" and "uninsured mortgage loan" means mortgage loans for
22 land development, residential housing or nonresidential projects which are not insured or guaranteed

1 by the United States or an instrumentality thereof, and as to which there is no commitment by the
2 United States or an instrumentality thereof to provide insurance.

3 **§31-18-6. Corporate powers.**

4 The Housing Development Fund is hereby granted, has and may exercise all powers
5 necessary or appropriate to carry out and effectuate its corporate purpose, including, but not limited
6 to, the following:

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

11 (2) To make temporary loans, with or without interest, but with such security for repayment
12 as the Housing Development Fund determines reasonably necessary and practicable, from the
13 operating loan fund, if created, established, organized and operated in accordance with the provisions
14 of section nineteen of this article, to defray development costs to sponsors of land development,
15 residential housing or nonresidential projects which are eligible or potentially eligible for federally
16 insured construction loans, federally insured mortgages, federal mortgages or uninsured construction
17 loans or uninsured mortgage loans;

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

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

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

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

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

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

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

17 (ii) Bonds, debentures, notes or other evidences of indebtedness issued by any of the
18 following agencies: Banks for cooperatives; federal intermediate credit banks; federal home loan
19 bank system; export-import bank of the United States; federal land banks; Tennessee valley
20 authority; United States postal service; inter-American development bank; international bank for
21 reconstruction and development; small business administration; Washington metropolitan area
22 transit authority; general services administration; federal financing bank; federal home loan mortgage

1 corporation; student loan marketing association; farmer's home administration; the federal national
2 mortgage association or the government national mortgage association; or any bond, debenture, note,
3 participation certificate or other similar obligation to the extent such obligations are guaranteed by
4 the government national mortgage association or federal national mortgage association or are issued
5 by any other federal agency and backed by the full faith and credit of the United States of America;

6 (iii) Public housing bonds issued by public agencies or municipalities and fully secured as
7 to the payment of both principal and interest by a pledge of annual contributions under an annual
8 contributions contract or contracts with the United States of America; or temporary notes,
9 preliminary loan notes, or project notes issued by public agencies or municipalities, in each case,
10 fully secured as to the payment of both principal and interest by a requisition or payment agreement
11 with the United States of America;

12 (iv) Certificates of deposit, time deposits, investment agreements, repurchase agreements or
13 similar banking arrangements with a member bank or banks of the federal reserve system or a bank
14 the deposits of which are insured by the federal deposit insurance corporation, or its successor, or
15 a savings and loan association or savings bank the deposits of which are insured by the federal
16 savings and loan insurance corporation, or its successor, or government bond dealers reporting to,
17 trading with and recognized as primary dealers by a federal reserve bank: *Provided*, That such
18 investments shall only be made to the extent insured by the federal deposit insurance corporation or
19 the federal savings and loan insurance corporation or to the extent that the principal amount thereof
20 shall be fully collateralized by obligations which are authorized investments for the Housing
21 Development Fund pursuant to this section;

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

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

5 (vii) Any bond, note, debenture or annuity issued by any corporation organized and operating
6 within the United States: *Provided*, That such corporation shall have a minimum net worth of \$15
7 million and its securities or its parent corporation's securities are listed on one or more of the national
8 stock exchanges: *Provided, however*, That: (1) Such corporation has earned a profit in eight of the
9 preceding ten fiscal years as reflected in its statements; and (2) such corporation has not defaulted
10 in the payment of principal or interest on any of its outstanding funded indebtedness during its
11 preceding ten fiscal years; and (3) the bonds, notes or debentures of such corporation to be purchased
12 are rated "AA" or the equivalent thereof or better than "AA" or the equivalent thereof by at least two
13 or more nationally recognized rating services such as Standard and Poor's, Dunn & Bradstreet, Best's
14 or Moody's;

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

21 (ix) Certificates, shares or other interests in mutual funds, unit trusts or other entities
22 registered under section eight of the United States Investment Company Act of 1940, but only to the

1 extent that the terms on which the underlying investments are to be made prevent any more than a
2 minor portion of the pool which is being invested in to consist of obligations other than investments
3 permitted pursuant to this section; and

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

8 (9) To sue and be sued;

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

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

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

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

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

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

22 (16) To purchase or sell, at public or private sale, any mortgage or other negotiable

1 instrument or obligation securing a construction, rehabilitation, improvement, land development,
2 mortgage or temporary loan;

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

5 (18) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate
6 purpose, to the modification of the rate of interest, time of payment or any installment of principal
7 or interest, or any other terms, of mortgage loan, mortgage loan commitment, construction loan,
8 rehabilitation loan, improvement loan, temporary loan, contract or agreement of any kind to which
9 the Housing Development Fund is a party;

10 (19) To make and publish rules and regulations respecting its federally insured mortgage
11 lending, uninsured mortgage lending, construction lending, rehabilitation lending, improvement
12 lending and lending to defray development costs and any such other rules and regulations as are
13 necessary to effectuate its corporate purpose;

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

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

1 more than fifty years from the date of issuance;

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

4 (23) To make grants and provide technical services to assist in the purchase or other
5 acquisition, planning, processing, design, construction, or rehabilitation, improvement or operation
6 of residential housing, nonresidential projects or land development: *Provided*, That no such grant
7 or other financial assistance shall be provided except upon a finding by the Housing Development
8 Fund that such assistance and the manner in which it will be provided will preserve and promote
9 residential housing in this state or the interests of this state in maintaining or increasing employment
10 or the tax base;

11 (24) To provide project assistance services for residential housing, nonresidential projects
12 and land development, including, but not limited to, management, training and social and other
13 services;

14 (25) To promote research and development in scientific methods of constructing low cost
15 land development, residential housing or nonresidential projects of high durability including grants,
16 loans or equity contributions for research and development purposes: *Provided*, That no such grant
17 or other financial assistance shall be provided except upon a finding by the Housing Development
18 Fund that such assistance and the manner in which it will be provided will preserve and promote
19 residential housing in this state or the interests of this state in maintaining and increasing
20 employment and the tax base;

21 (26) With the proceeds from the issuance of notes or bonds of the Housing Development
22 Fund, including, but not limited to, mortgage finance bonds, or with other funds available to the

1 Housing Development Fund for such purpose, to participate in the making of or to make loans to
2 mortgagees approved by the Housing Development Fund and take such collateral security therefor
3 as is approved by the Housing Development Fund and to invest in, purchase, acquire, sell or
4 participate in the sale of, or take assignments of, notes and mortgages, evidencing loans for the
5 construction, rehabilitation, improvement, purchase or refinancing of land development, residential
6 housing or nonresidential projects in this state: *Provided*, That the Housing Development Fund shall
7 obtain such written assurances as shall be satisfactory to it that the proceeds of such loans,
8 investments or purchases will be used, as nearly as practicable, for the making of or investment in
9 long-term federally insured mortgage loans or federally insured construction loans, uninsured
10 mortgage loans or uninsured construction loans, for land development, residential housing or
11 nonresidential projects or that other moneys in an amount approximately equal to such proceeds shall
12 be committed and used for such purpose;

13 (27) To make or participate in the making of uninsured construction loans for land
14 development, residential housing or nonresidential projects. Such loans shall be made only upon
15 determination by the Housing Development Fund that construction loans are not otherwise available,
16 wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

17 (28) To make or participate in the making of long-term uninsured mortgage loans for land
18 development, residential housing or nonresidential projects. Such loans shall be made only upon
19 determination by the Housing Development Fund that long-term mortgage loans are not otherwise
20 available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

21 (29) To obtain options to acquire real property, or any interest therein, in its own name, by
22 purchase, or lease or otherwise, which is found by the Housing Development Fund to be suitable,

1 or potentially suitable, as a site, or as part of a site, for land development or the construction of
2 residential housing or nonresidential projects; to hold such real property or to acquire by purchase
3 or otherwise and to transfer by sale or otherwise any ownership or equity interests in any other legal
4 entity which holds such real property; to finance the performance of land development, residential
5 housing or nonresidential projects on or in connection with any such real property or to perform land
6 development, residential housing or nonresidential projects on or in connection with any such real
7 property; to own, operate and sponsor or participate in the sponsorship of land development,
8 residential housing or nonresidential projects; or to sell, transfer and convey, lease or otherwise
9 dispose of such real property, or lots, tracts or parcels of such real property, for such prices, upon
10 such terms, conditions and limitations, and at such time or times as the Housing Development Fund
11 shall determine;

12 (30) To make loans, with or without interest, but with such security for repayment as the
13 Housing Development Fund determines reasonably necessary and practicable from the land
14 development fund, if created, established, organized and operated in accordance with the provisions
15 of section twenty-a of this article, to sponsors of land development, to defray development costs and
16 other costs of land development;

17 (31) To exercise all of the rights, powers and authorities of a public housing authority as set
18 forth and provided in article fifteen, chapter sixteen of this code, in any area or areas of the state
19 which the Housing Development Fund shall determine by resolution to be necessary or appropriate;

20 (32) To provide assistance to urban renewal projects in accordance with the provisions of
21 section twenty-eight, article eighteen, chapter sixteen of this code and in so doing to exercise all of
22 the rights, powers and authorities granted in this article or in said article, in and for any communities

1 of the state which the Housing Development Fund shall determine by resolution to be necessary or
2 appropriate;

3 (33) To make or participate in the making of loans for the purpose of rehabilitating or
4 improving existing residential and temporary housing or nonresidential projects, or to owners of
5 existing residential or temporary housing for occupancy by eligible persons and families for the
6 purpose of rehabilitating or improving such residential or temporary housing or nonresidential
7 projects and, in connection therewith, to refinance existing loans involving the same property. Such
8 loans shall be made only upon determination by the Housing Development Fund that rehabilitation
9 or improvement loans are not otherwise available, wholly or in part, from private lenders upon
10 reasonably equivalent terms and conditions;

11 (34) Whenever the Housing Development Fund deems it necessary in order to exercise any
12 of its powers set forth in subdivision (29) of this section, and upon being unable to agree with the
13 owner or owners of real property or interest therein sought to be acquired by the fund upon a price
14 for acquisition of private property not being used or operated by the owner in the production of
15 agricultural products, to exercise the powers of eminent domain in the acquisition of such real
16 property or interest therein in the manner provided under chapter fifty-four of this code, and the
17 purposes set forth in said subdivision are hereby declared to be public purposes for which private
18 property may be taken. For the purposes of this section, the determination of "use or operation by
19 the owner in the production of agricultural products" means that the principal use of such real estate
20 is for the production of food and fiber by agricultural production other than forestry, and the fund
21 shall not initiate or exercise any powers of eminent domain without first receiving an opinion in
22 writing from both the Governor and the commissioner of agriculture of this state that at the time the

1 fund had first attempted to acquire such real estate or interest therein, such real estate or interest
2 therein was not in fact being used or operated by the owner in the production of agricultural
3 products;

4 (35) To acquire, by purchase or otherwise, and to hold, transfer, sell, assign, pool or
5 syndicate, or participate in the syndication of, any loans, notes, mortgages, securities or debt
6 instruments collateralized by mortgages or interests in mortgages or other instruments evidencing
7 loans or equity interests in or for the construction, rehabilitation, improvement, renovation, purchase
8 or refinancing of land development, residential housing and nonresidential projects in this state; ~~and~~

9 (36) To form one or more nonprofit corporations, whose board of directors shall be the same
10 as the board of directors of the Housing Development Fund, which shall be authorized and
11 empowered to carry out any or all of the corporate powers or purposes of the Housing Development
12 Fund, including, without limitation, acquiring limited or general partnership interests and other forms
13 of equity ownership; and

14 (37) Provide funding to increase the capacity of nonprofit community housing organizations
15 to serve their communities.

16 **§31-18-20d. Affordable Housing Fund.**

17 (a) There is hereby created and established a special fund to be designated as the "Affordable
18 Housing Fund" into which the Housing Development Fund shall deposit the funds received pursuant
19 to section four-c, article fifteen, chapter eleven and section two, article twenty-two, chapter eleven
20 of this code and any funds transferred pursuant to section fifteen, article eighteen-d of this chapter.
21 Such funds shall be governed, administered and accounted for by the Housing Development Fund
22 as a special purpose account separate and distinct from any other moneys, fund or funds owned or

1 managed by the Housing Development Fund. The moneys deposited in such fund may be invested
2 and reinvested by the Housing Development Fund as permitted under subdivision (8), section six
3 of this article.

4 (b) The Housing Development Fund shall use the moneys from the Affordable Housing Fund
5 to make, or participate in the making of, loans or grants for eligible activities that shall include, but
6 not be limited to:

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

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

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

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

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

19 (6) Providing risk underwriting products not provided by private sector entities to facilitate
20 broader accessibility of citizens to other federal or state housing funds or loan programs. The
21 products shall be established using professional risk underwriting standards and separate corporate
22 vehicles may be created and capitalized by the Trust Fund to provide the products; and

1 (7) Providing start-up funds for initial operational expenses of local government programs
2 to reduce substandard housing or inappropriate land use patterns.

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

12 **§31-18-22. Termination or dissolution.**

13 Upon the termination or dissolution, all rights and properties of the Housing Development
14 Fund, including the operating loan fund, the land development fund, ~~and~~ the mortgage finance bond
15 insurance fund, and the Affordable Housing Fund, shall pass to and be vested in the State of West
16 Virginia, subject to the rights of bondholders, lienholders and other creditors.

NOTE: This bill eliminates the West Virginia Affordable Housing Trust Fund and the West Virginia Affordable Housing Trust Fund Board of Directors, and authorizes the West Virginia Housing Development Fund to carry on the activities previously undertaken by the West Virginia Affordable Housing Trust Fund. Two fees previously deposited in the West Virginia Affordable Housing Trust Fund are now deposited in the West Virginia Housing Development Fund's Affordable Housing Fund, so that the West Virginia Housing Development Fund may continue providing funds to entities previously provided funds by the West Virginia Affordable Housing Trust Fund.

Strike-throughs indicate language that would be stricken from the present law, and

underscoring indicates new language that would be added.

§31-18-20d is new; therefore, strike-throughs and underscoring have been omitted.