

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 261

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Passed March 10, 2018; in effect 90 days from passage]

1 AN ACT to repeal §31-18D-1, §31-18D-2, §31-18D-3, §31-18D-4, §31-18D-5, §31-18D-6, §31-
2 18D-7, §31-18D-8, §31-18D-9, §31-18D-10, §31-18D-11, §31-18D-12, §31-18D-13, §31-
3 18D-14, and §31-18D-15 of the Code of West Virginia, 1931, as amended; to amend and
4 reenact §11-15-4c of said code; to amend and reenact §11-22-2 of said code; to amend
5 and reenact §31-18-3, §31-18-6, §31-18-22, and §31-18-24 of said code; and to amend
6 said code by adding thereto two new sections, designated §31-18-20d and §31-18-29, all
7 relating generally to the elimination of the West Virginia Affordable Housing Trust Fund;
8 transferring current responsibilities and duties of West Virginia Housing Trust Fund to the
9 West Virginia Housing Development Fund; eliminating the West Virginia Affordable
10 Housing Trust Fund and the West Virginia Affordable Housing Trust Fund Board of
11 Directors; creating Affordable Housing Fund of the West Virginia Housing Development
12 Fund and providing for uses therefor; providing for assessment of fees on all sales by
13 licensed dealers of factory-built homes to be deposited in the Affordable Housing Fund of
14 the West Virginia Housing Development Fund; providing for assessment of fees upon the
15 privilege of transferring real estate for consideration to be deposited in the Affordable
16 Housing Fund of the West Virginia Housing Development Fund; prohibiting use of funds
17 in Affordable Housing Fund from being used to defray administrative and operating costs
18 and expenses of Housing Development Fund; defining “Affordable Housing Fund”;
19 authorizing the West Virginia Housing Development Fund to provide funding to increase
20 the capacity of nonprofit community housing organizations; providing for uses of funds in
21 the Affordable Housing Fund; providing for disposition of the Affordable Housing Fund in
22 the event of termination or dissolution of West Virginia Housing Development Fund;
23 providing for windup of West Virginia Affordable Housing Trust Fund; repealing code
24 related to West Virginia Affordable Housing Trust Fund; eliminating obsolete language;
25 and making technical corrections.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

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

1 (a) There is imposed, in addition to the sales tax imposed by the provisions of this article
2 and §11-15A-1 *et seq.* of this code, a fee of \$20 on all sales by licensed dealers of factory-built
3 homes as that term is defined in §37-15-2 of this code to be collected as provided in §11-15B -1
4 *et seq.* of this code and remitted to the Tax Commissioner to be deposited by the commissioner
5 in the Affordable Housing Fund, as provided in §31-18-20d of this code.

6 (b) The moneys collected from this additional fee shall be segregated from other funds of
7 the West Virginia Housing Development Fund and shall be accounted for separately. None of
8 these moneys may be expended by the West Virginia Housing Development Fund to defray
9 administrative and operating costs and expenses actually incurred by the West Virginia Housing
10 Development Fund.

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

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

1 (a) Every person who delivers, accepts, or presents for recording any document, or in
2 whose behalf any document is delivered, accepted, or presented for recording, is subject to pay
3 for, and in respect to the transaction or any part thereof, a state excise tax upon the privilege of
4 transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as
5 represented by the document as defined in §11-22-1 of this code. The state tax is payable at the
6 time of delivery, acceptance, or presenting for recording of the document. In addition to the state
7 excise tax described in this subsection, there is assessed a fee of \$20 upon the privilege of
8 transferring real estate for consideration. The clerk of the county commission shall collect the

9 additional \$20 fee before recording a transfer of title to real estate and shall deposit the moneys
10 from the additional fees into the Affordable Housing Fund as provided in §31-18-20d of this code.
11 The moneys collected from this additional fee shall be segregated from other funds of the West
12 Virginia Housing Development Fund and shall be accounted for separately. None of these
13 moneys may be expended by the West Virginia Housing Development Fund to defray
14 administrative and operating costs and expenses actually incurred by the West Virginia Housing
15 Development Fund. The West Virginia Housing Development Fund shall publish monthly on the
16 Internet site an accounting of all revenue deposited into the fund during the month and a full
17 disclosure of all expenditures from the fund including the group receiving funds, their location and
18 any contractor awarded the construction contract.

19 (b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise
20 tax for the privilege of transferring title to real estate at the rate of 55 cents for each \$500 value
21 or fraction thereof as represented by such document as defined in §11-22-1 of this code, which
22 county tax shall be payable at the time of delivery, acceptance, or presenting for recording of such
23 document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an
24 amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county
25 tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county
26 may increase the excise tax to an amount not to exceed \$1.65 for each \$500 value, or fraction
27 thereof, as represented by a document as defined in §11-22-1 of this code: *Provided further*, That
28 only one such state tax and one such county tax shall be paid on any one document and shall be
29 collected in the county where the document is first admitted to record and the tax shall be paid by
30 the grantor therein unless the grantee accepts the document without such tax having been paid,
31 in which event such tax shall be paid by the grantee: *And provided further*, That on any transfer
32 of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax
33 shall be paid by the grantee. The county excise tax imposed under this section may not be
34 increased in any county unless the increase is approved by a majority vote of the members of the

35 county commission of such county. Any county commission intending to increase the excise tax
36 imposed in its county shall publish a notice of its intention to increase such tax not less than 30
37 days nor more than 60 days prior to the meeting at which such increase will be considered, such
38 notice to be published as a Class I legal advertisement in compliance with the provisions of §59-
39 3-1 *et seq.* of this code and the publication area shall be the county in which such county
40 commission is located.

CHAPTER 31. CORPORATIONS.

ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

§31-18-3. Definitions.

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

2 (1) "Affordable Housing Fund" means the affordable housing fund created and established
3 by the Housing Development Fund in accordance with §31-18-20d of this code.

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

8 (3) "Development costs" means the costs approved by the Housing Development Fund as
9 appropriate expenditures by the Housing Development Fund or by sponsors, for land
10 development, residential housing, or nonresidential projects within this state, including, but not
11 limited to:

12 (a) Payments for options to purchase proposed sites, necessary easements, and other
13 related property rights, deposits on contracts of purchase, or, with prior approval of the Housing
14 Development Fund, payments for the purchase of such properties;

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

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

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

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

22 (4) "Eligible persons and families" means:

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

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

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

35 (d) Persons who because of age or physical disability are found and determined by the
36 Housing Development Fund, by resolution, to require residential housing of a special location or
37 design in order to provide them with sanitary, decent, and safe residential housing; or

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

43 (5) "Federally insured construction loan" means a construction loan for land development,
44 residential housing, or nonresidential projects, which are either secured or guaranteed, in whole
45 or in part, by a federally insured mortgage or a federal mortgage, or which are insured or
46 guaranteed, in whole or in part, by the United States or an instrumentality thereof, or a
47 commitment by the United States or an instrumentality thereof to insure such loan.

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

51 (7) "Federal mortgage" means a mortgage loan for land development, residential housing,
52 or nonresidential projects made by the United States or an instrumentality thereof, or a
53 commitment by the United States or an instrumentality thereof to make such a mortgage loan.

54 (8) "Housing Development Fund" means the West Virginia Housing Development Fund
55 heretofore created and established by §31-18-4 of this code.

56 (9) "Land development" means the process of acquiring land for residential housing
57 construction or nonresidential projects or of making, installing, or constructing improvements,
58 including waterlines and water supply installations, sewer lines and sewage disposal installations,
59 steam, gas, telephone, and telecommunications and electric lines and installations, roads, railroad
60 spurs, docking and shipping facilities, streets, curbs, gutters, sidewalks, drainage, and flood
61 control facilities, whether on or off the site, which the Housing Development Fund deems
62 necessary or desirable to prepare such land for construction within this state.

63 (10) "Land Development Fund" means the land development fund which may be created
64 and established by the Housing Development Fund in accordance with §31-18-20a of this code.

65 (11) "Minimum bond insurance requirement" means, as of any particular date of
66 computation, an amount of money equal to the greatest of the respective amounts, for the then
67 current or any future calendar year, of annual debt service of the Housing Development Fund on
68 all outstanding mortgage finance bonds, such annual debt service for any calendar year being

69 the amount of money equal to the aggregate of: (a) All interest payable during such calendar year
70 on such mortgage finance bonds on said date of computation; plus (b) the principal amount of
71 such mortgage finance bonds outstanding which matures during such calendar year, other than
72 mortgage finance bonds for which annual sinking fund payments have been or are to be made in
73 accordance with the resolution authorizing such bonds; plus (c) the amount of all annual sinking
74 fund payments payable during such calendar year with respect to any such mortgage finance
75 bonds, all calculated on the assumption that bonds will after said date of computation cease to be
76 outstanding by reason, but only by reason, of the payment of bonds when due, and the payment
77 when due and application in accordance with the resolution authorizing such bonds of all such
78 sinking fund payments payable at or after said date of computation.

79 (12) "Mortgage finance bonds" means bonds issued or to be issued by the Housing
80 Development Fund and secured by a pledge of amounts payable from the mortgage finance bond
81 insurance fund in the manner and to the extent provided in §31-18-20b of this code.

82 (13) "Mortgage Finance Bond Insurance Fund" means the special trust fund created and
83 established in the State Treasury in accordance with §31-18-20b of this code.

84 (14) "Nonresidential project" means a project in the state, whether or not directly related
85 to the providing of residential housing, determined by the Housing Development Fund as likely to
86 foster and enhance economic growth and development in the area of the state in which such
87 project is developed, for retail, commercial, industrial, community improvement, or preservation
88 or other proper purpose, including tourism and recreational housing, land, air, or water
89 transportation facilities, facilities for vocational or other training or to provide medical care and
90 other special needs of persons residing in the state, sports complexes and cultural, artistic, and
91 other exhibition centers, industrial or commercial projects and facilities, mail order, wholesale,
92 and retail sales facilities, and other real or personal properties including facilities which are owned
93 or leased by this state, any county or municipality or other public body within the state, and
94 includes, without limitation, the process of acquiring, holding, operating, planning, financing,

95 demolition, construction, renovation, leasing, or otherwise disposing of such project or any part
96 thereof or interest therein. Any such project may include appurtenant machinery and equipment.

97 (15) "Operating Loan Fund" means the operating loan fund which may be created and
98 established by the Housing Development Fund in accordance with §31-18-19 of this code.

99 (16) "Persons and families of low and moderate income" means persons and families,
100 irrespective of race, creed, national origin, or sex, determined by the Housing Development Fund
101 to require such assistance as is made available by this article on account of personal or family
102 income not sufficient to afford sanitary, decent, and safe housing, and to be eligible or potentially
103 eligible to occupy residential housing constructed and financed, wholly or in part, with federally
104 insured construction loans, federally insured mortgages, federal mortgages, or with other public
105 or private assistance, or with uninsured construction loans, or uninsured mortgage loans, and in
106 making such determination the fund shall take into account the following: (a) The amount of the
107 total income of such persons and families available for housing needs; (b) the size of the family;
108 (c) the cost and condition of housing facilities available; (d) the eligibility of such persons and
109 families for federal housing assistance of any type predicated upon low or moderate income basis;
110 and (e) the ability of such persons and families to compete successfully in the normal housing
111 market and to pay the amounts at which private enterprise is providing sanitary, decent, and safe
112 housing: *Provided*, That to the extent found and determined by the Housing Development Fund,
113 by resolution, to be necessary or appropriate for the purposes of eliminating undesirable social
114 conditions and permanently eliminating slum conditions, the income limitation requirements of this
115 article may be waived as to any persons or families who are eligible to occupy residential housing
116 constructed in whole, or in part, with federally insured construction loans, federally insured
117 mortgages or federal mortgages under housing assistance or mortgage insurance programs of
118 the United States, or an instrumentality thereof, predicated upon any low- or moderate-income
119 basis.

120 (17) “Residential housing” means a specific work or improvement within this state
121 undertaken primarily to provide dwelling accommodations, including the acquisition, construction,
122 or rehabilitation of land, buildings, and improvements thereto, for residential housing for
123 occupancy by eligible persons and families, including, but not limited to, facilities for temporary
124 housing and emergency housing, nursing homes and intermediate care facilities, and such other
125 nonhousing facilities as may be incidental or appurtenant thereto.

126 (18) “Special bond insurance commitment fee” means a fee in the amount of one per
127 centum of the total principal amount of each loan which is to be temporarily or permanently
128 financed from the proceeds of mortgage finance bonds, other than a federally insured construction
129 loan, a federally insured mortgage or a federal mortgage, or an amount equal to an equivalent
130 discount on each loan purchased or invested in by the Housing Development Fund from the
131 proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally
132 insured mortgage or a federal mortgage, and which may be payable from the proceeds of such
133 bonds or any other source available to the Housing Development Fund for such use: *Provided,*
134 That if the period of time between the first disbursement of proceeds of such loan and the date
135 upon which it is specified that the first repayment of principal of such a loan shall be payable
136 exceeds 12 months, an additional amount computed on the basis of one twelfth of one per centum
137 per month on the total principal amount of such loan over the number of months of such period of
138 time in excess of 12 months shall be included in such fee.

139 (19) “Special bond insurance premium” means: (i) A fee at the rate of one half of one
140 percent per annum on the outstanding principal balance which the Housing Development Fund
141 shall charge the borrower of a mortgage loan, or of a loan secured by a mortgage, financed from
142 the proceeds of mortgage finance bonds, other than a federally insured construction loan, a
143 federally insured mortgage or a federal mortgage, which shall accrue from a date which is one
144 month prior to the date on which the first installment payment of principal of such a loan is payable

145 and which shall be payable thereafter in monthly installments on the same day of each successive
146 month that installment payments of principal of such a loan are payable; and (ii) with respect to
147 any loan, other than a federally insured construction loan, a federally insured mortgage or a
148 federal mortgage, purchased, or invested in with such proceeds, an equivalent amount which the
149 Housing Development Fund shall set aside from payments it receives on such loan or from any
150 other source available to the Housing Development Fund for such use.

151 (20) "State sinking fund commission" means the commission known as such and
152 continued in existence pursuant to §13-3-1 *et seq.* of this code and any body, board, person, or
153 commission which shall, by law, hereafter succeed to the powers and duties of such commission.

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

161 (22) "Uninsured construction loans" means a construction loan for land development,
162 residential housing or nonresidential projects which is not secured by either a federally insured
163 mortgage or a federal mortgage, and which is not insured by the United States or an
164 instrumentality thereof, and as to which there is no commitment by the United States or an
165 instrumentality thereof to provide insurance.

166 (23) "Uninsured mortgage" and "uninsured mortgage loan" means mortgage loans for land
167 development, residential housing or nonresidential projects which are not insured or guaranteed
168 by the United States or an instrumentality thereof, and as to which there is no commitment by the
169 United States or an instrumentality thereof to provide insurance.

§31-18-6. Corporate powers.

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

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

9 (2) To make temporary loans, with or without interest, but with such security for repayment
10 as the Housing Development Fund determines reasonably necessary and practicable, from the
11 operating loan fund, if created, established, organized, and operated in accordance with the
12 provisions of §31-18-19 of this code, to defray development costs to sponsors of land
13 development, residential housing, or nonresidential projects which are eligible or potentially
14 eligible for federally insured construction loans, federally insured mortgages, federal mortgages
15 or uninsured construction loans or uninsured mortgage loans;

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

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

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

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

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

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

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

37 (ii) Bonds, debentures, notes, or other evidences of indebtedness issued by any of the
38 following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home
39 Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Tennessee
40 Valley Authority; United States Postal Service; Inter-American Development Bank; International
41 Bank for Reconstruction and Development; Small Business Administration; Washington
42 Metropolitan Area Transit Authority; General Services Administration; Federal Financing Bank;
43 Federal Home Loan Mortgage Corporation; Student Loan Marketing Association; Farmer's Home
44 Administration; the Federal National Mortgage Association or the Government National Mortgage
45 Association; or any bond, debenture, note, participation certificate or other similar obligation to
46 the extent such obligations are guaranteed by the Government National Mortgage Association or
47 Federal National Mortgage Association or are issued by any other federal agency and backed by
48 the full faith and credit of the United States of America;

49 (iii) Public housing bonds issued by public agencies or municipalities and fully secured as
50 to the payment of both principal and interest by a pledge of annual contributions under an annual
51 contributions contract or contracts with the United States of America; or temporary notes,

52 preliminary loan notes, or project notes issued by public agencies or municipalities, in each case,
53 fully secured as to the payment of both principal and interest by a requisition or payment
54 agreement with the United States of America;

55 (iv) Certificates of deposit, time deposits, investment agreements, repurchase
56 agreements, or similar banking arrangements with a member bank or banks of the federal reserve
57 system or a bank the deposits of which are insured by the federal deposit insurance corporation,
58 or its successor, or a savings and loan association or savings bank the deposits of which are
59 insured by the federal savings and loan insurance corporation, or its successor, or government
60 bond dealers reporting to, trading with and recognized as primary dealers by a federal reserve
61 bank: *Provided*, That such investments shall only be made to the extent insured by the Federal
62 Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or to the
63 extent that the principal amount thereof shall be fully collateralized by obligations which are
64 authorized investments for the Housing Development Fund pursuant to this section;

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

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

70 (vii) Any bond, note, debenture, or annuity issued by any corporation organized and
71 operating within the United States: *Provided*, That such corporation shall have a minimum net
72 worth of \$15 million and its securities or its parent corporation's securities are listed on one or
73 more of the national stock exchanges: *Provided, however*, That: (1) Such corporation has earned
74 a profit in eight of the preceding 10 fiscal years as reflected in its statements; and (2) such
75 corporation has not defaulted in the payment of principal or interest on any of its outstanding
76 funded indebtedness during its preceding 10 fiscal years; and (3) the bonds, notes, or debentures
77 of such corporation to be purchased are rated "AA" or the equivalent thereof or better than "AA"

78 or the equivalent thereof by at least two or more nationally recognized rating services such as
79 Standard and Poor's, Dunn & Bradstreet, Best's, or Moody's;

80 (viii) If entered into solely for the purpose of reducing investment, interest rate, liquidity, or
81 other market risks in relation to obligations issued or to be issued or owned or to be owned by the
82 Housing Development Fund, options, futures contracts (including index futures but exclusive of
83 commodities futures, options, or other contracts), standby purchase agreements or similar
84 hedging arrangements listed by a nationally recognized securities exchange or a corporation
85 described in §31-18-6(8)(vii) of this code;

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

91 (x) To the extent not inconsistent with the express provisions of this section, obligations of
92 the West Virginia State Board of Investments or any other obligation authorized as an investment
93 for the West Virginia State Board of Investments under §12-6-1 *et seq.* of this code or for a public
94 housing authority under §16-15-1 *et seq.* of this code;

95 (9) To sue and be sued;

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

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

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

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

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

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

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

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

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

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

123 (20) To borrow money to carry out and effectuate its corporate purpose and to issue its
124 bonds or notes as evidence of any such borrowing in such principal amounts and upon such terms
125 as shall be necessary to provide sufficient funds for achieving its corporate purpose, except that
126 no notes shall be issued to mature more than 10 years from date of issuance and no bonds shall
127 be issued to mature more than 50 years from date of issuance;

128 (21) To issue renewal notes, to issue bonds to pay notes and, whenever it deems
129 refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be

130 refunded have or have not matured except that no such renewal notes shall be issued to mature
131 more than 10 years from date of issuance of the notes renewed and no such refunding bonds
132 shall be issued to mature more than 50 years from the date of issuance;

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

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

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

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

152 (26) With the proceeds from the issuance of notes or bonds of the Housing Development
153 Fund, including, but not limited to, mortgage finance bonds, or with other funds available to the
154 Housing Development Fund for such purpose, to participate in the making of or to make loans to
155 mortgagees approved by the Housing Development Fund and take such collateral security

156 therefor as is approved by the Housing Development Fund and to invest in, purchase, acquire,
157 sell, or participate in the sale of, or take assignments of, notes and mortgages, evidencing loans
158 for the construction, rehabilitation, improvement, purchase, or refinancing of land development,
159 residential housing, or nonresidential projects in this state: *Provided*, That the Housing
160 Development Fund shall obtain such written assurances as shall be satisfactory to it that the
161 proceeds of such loans, investments, or purchases will be used, as nearly as practicable, for the
162 making of or investment in long-term federally insured mortgage loans or federally insured
163 construction loans, uninsured mortgage loans, or uninsured construction loans, for land
164 development, residential housing, or nonresidential projects or that other moneys in an amount
165 approximately equal to such proceeds shall be committed and used for such purpose;

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

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

174 (29) To obtain options to acquire real property, or any interest therein, in its own name, by
175 purchase, or lease or otherwise, which is found by the Housing Development Fund to be suitable,
176 or potentially suitable, as a site, or as part of a site, for land development or the construction of
177 residential housing or nonresidential projects; to hold such real property or to acquire by purchase
178 or otherwise and to transfer by sale or otherwise any ownership or equity interests in any other
179 legal entity which holds such real property; to finance the performance of land development,
180 residential housing, or nonresidential projects on or in connection with any such real property or
181 to perform land development, residential housing, or nonresidential projects on or in connection

182 with any such real property; to own, operate, and sponsor or participate in the sponsorship of land
183 development, residential housing, or nonresidential projects; or to sell, transfer and convey, lease,
184 or otherwise dispose of such real property, or lots, tracts, or parcels of such real property, for such
185 prices, upon such terms, conditions, and limitations, and at such time or times as the Housing
186 Development Fund shall determine;

187 (30) To make loans, with or without interest, but with such security for repayment as the
188 Housing Development Fund determines reasonably necessary and practicable from the land
189 development fund, if created, established, organized, and operated in accordance with the
190 provisions of §31-18-20a of this code, to sponsors of land development, to defray development
191 costs and other costs of land development;

192 (31) To exercise all of the rights, powers, and authorities of a public housing authority as
193 set forth and provided in §16-15-1 *et seq.* of this code, in any area or areas of the state which the
194 Housing Development Fund shall determine by resolution to be necessary or appropriate;

195 (32) To provide assistance to urban renewal projects in accordance with the provisions of
196 §16-18-28 of this code and in so doing to exercise all of the rights, powers, and authorities granted
197 in this article or in said article, in and for any communities of the state which the Housing
198 Development Fund shall determine by resolution to be necessary or appropriate;

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

207 (34) Whenever the Housing Development Fund deems it necessary in order to exercise
208 any of its powers set forth in §31-18-6(29) of this code, and upon being unable to agree with the
209 owner or owners of real property or interest therein sought to be acquired by the fund upon a price
210 for acquisition of private property not being used or operated by the owner in the production of
211 agricultural products, to exercise the powers of eminent domain in the acquisition of such real
212 property or interest therein in the manner provided under §54-1-1 *et seq.* of this code, and the
213 purposes set forth in said subdivision are hereby declared to be public purposes for which private
214 property may be taken. For the purposes of this section, the determination of “use or operation
215 by the owner in the production of agricultural products” means that the principal use of such real
216 estate is for the production of food and fiber by agricultural production other than forestry, and the
217 fund shall not initiate or exercise any powers of eminent domain without first receiving an opinion
218 in writing from both the Governor and the Commissioner of Agriculture of this state that at the
219 time the fund had first attempted to acquire such real estate or interest therein, such real estate
220 or interest therein was not in fact being used or operated by the owner in the production of
221 agricultural products;

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

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

233 (37) To receive and compile data into an electronic database and make available the raw
234 mortgage foreclosure data that is required to be reported to county clerks by trustees pursuant to
235 the provisions of §38-1-8a of this code, including all data that has been received by the banking
236 commissioner pursuant to §31A-2-4c(a) of this code, as of the effective date of the amendments
237 made to said section during the regular session of the 2010 Legislature. This information shall be
238 periodically forwarded by county clerks to the Housing Development Fund, in accordance with
239 the provisions of §44-13-4a of this code; and

240 (38) Provide funding to increase the capacity of nonprofit community housing
241 organizations to serve their communities.

§31-18-20d. Affordable Housing Fund.

1 (a) There is hereby created and established a special fund to be designated as the
2 Affordable Housing Fund into which the Housing Development Fund shall deposit the funds
3 received pursuant to §11-15-4c and §11-22-2 of this code. Such funds shall be governed,
4 administered, and accounted for by the Housing Development Fund as a special purpose account
5 separate and distinct from any other moneys, fund or funds owned or managed by the Housing
6 Development Fund. Additionally, the Housing Development Fund shall deposit an additional
7 amount at least equal to the funds received pursuant to §31-18-29 of this code. The moneys
8 deposited in such fund may be invested and reinvested by the Housing Development Fund as
9 authorized under §31-18-6(8) of this code.

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

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

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

16 (3) Providing funds for administrative costs for housing assistance programs or nonprofit
17 organizations eligible for funding pursuant to §31-18-20d(c) of this code if the grants or loans
18 provided will substantially increase the recipient's access to housing funds or increase its capacity
19 to supply affordable housing;

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

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

25 (6) Providing risk underwriting products not provided by private sector entities to facilitate
26 broader accessibility of citizens to other federal or state housing funds or loan programs. The
27 products shall be established using professional risk underwriting standards and separate
28 corporate vehicles may be created and capitalized by the Housing Development Fund to provide
29 the products; and

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

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

§31-18-22. Termination or dissolution.

1 Upon the termination or dissolution, all rights and properties of the Housing Development
2 Fund, including the Operating Loan Fund, the Land Development Fund, the Mortgage Finance
3 Bond Insurance Fund, and the Affordable Housing Fund, shall pass to and be vested in the State
4 of West Virginia, subject to the rights of bondholders, lienholders, and other creditors.

**§31-18-24. Annual audit; reports to Joint Committee on Government and Finance;
information to joint committee or legislative Auditor.**

1 The Housing Development Fund shall cause an annual audit to be made by an
2 independent certified public accountant of its books, accounts, and records, with respect to its
3 receipts, disbursements, contracts, mortgages, leases, assignments, loans, and all other matters
4 relating to its financial operations, including those of the Operating Loan Fund, the Land
5 Development Fund, and the Mortgage Finance Bond Insurance Fund. The person performing
6 such audit shall furnish copies of the audit report to the commissioner of finance and
7 administration, where they shall be placed on file and made available for inspection by the general
8 public. The person performing such audit shall also furnish copies of the audit report to the
9 Speaker of the House of Delegates, the President of the Senate, and the majority and minority
10 leaders of both houses.

11 In addition to the foregoing annual audit report, the Housing Development Fund shall also
12 render every six months to the Joint Committee on Government and Finance a report setting forth
13 in detail a complete analysis of the activities, indebtedness, receipts, and financial affairs of such
14 fund and the Operating Loan Fund, the Land Development Fund, Affordable Housing Fund, and
15 the Mortgage Finance Bond Insurance Fund. Upon demand, the Housing Development Fund shall
16 also submit to the Joint Committee on Government and Finance or the Legislative Auditor any
17 other information requested by such committee or the Legislative Auditor.

§31-18-29. Dissolution of West Virginia Affordable Housing Trust Fund.

1 Upon termination of the West Virginia Affordable Housing Trust Fund, the Housing
2 Development Fund shall provide for the payment of all debts, obligations, or expenses of the

3 Affordable Housing Trust Fund, and all assets remaining in the Affordable Housing Trust Fund
4 shall be transferred to the West Virginia Housing Development Fund.

ARTICLE 18D. WEST VIRGINIA AFFORDABLE HOUSING TRUST FUND.

§31-18D-1. Short title.

1 [Repealed.]

§31-18D-2. Legislative finding and purpose.

1 [Repealed.]

§31-18D-3. Definitions.

1 [Repealed.]

§31-18D-4. Affordable housing trust fund.

1 [Repealed.]

§31-18D-5. Housing Trust Fund Board of Directors.

1 [Repealed.]

§31-18D-6. Powers and responsibilities of the board.

1 [Repealed.]

§31-18D-7. Eligible activities; eligible organizations.

1 [Repealed.]

§31-18D-8. Corporate powers.

1 [Repealed.]

§31-18D-9. Applications and selection criteria.

1 [Repealed.]

**§31-18D-10. Documentary materials concerning financial or personal information;
confidentiality.**

1 [Repealed.]

§31-18D-11. Conflicts.

1 [Repealed.]

§31-18D-12. Tax exemption.

1 [Repealed.]

§31-18D-13. Annual report.

1 [Repealed.]

§31-18D-14. Exemption from certain requirements; audit.

1 [Repealed.]

§31-18D-15. Dissolution or liquidation of trust fund.

1 [Repealed.]

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

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2018.

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Governor