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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

House Bill No. 4468

(By Delegates Manuel, Doyle and Tabb)



Passed March 12, 2004

In Effect Ninety Days from Passage

FILED

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OFFICE WEST VIRGINIA
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H. B. 4468

(BY DELEGATES MANUEL, DOYLE AND TABB)

[Passed March 12, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §16-15-7 and §16-15-18 of the code of West Virginia, 1931, as amended, all relating to allowing housing development authorities to pay for persons of eligible income the costs of preparation of any title instrument, deed of trust, note or security instrument, the costs of recording any title instrument, deed of trust, note or security instrument and the amount of impact fees imposed.

Be it enacted by the Legislature of West Virginia:

That §16-15-7 and §16-15-18 of the code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 15. STATE HOUSING LAW.

§16-15-7. Authority a body corporate and politic; powers; investigations or examinations.

- 1 (a) An authority is a body both corporate and politic,
- 2 exercising public powers, and having all the powers necessary
- 3 or convenient to carry out and effectuate the purposes and

4 provisions of this article, including the following powers in
5 addition to others granted:

6 (1) To investigate living and housing conditions in the
7 authority's area of operation and the means and methods of
8 improving the conditions;

9 (2) To determine whether unsanitary or substandard
10 housing conditions exist;

11 (3) To study and make recommendations concerning the
12 city or county plan in relation to the problems of clearing,
13 replanning, redevelopment and reconstruction of areas in which
14 unsanitary or substandard conditions exist, and the providing of
15 housing accommodations for persons of low and moderate
16 income, and to cooperate with any city, county or regional
17 planning agency, to prepare, carry out and operate develop-
18 ments;

19 (4) To provide for the construction, reconstruction, redevel-
20 opment, improvement, alteration or repair of any development
21 or any part of a development;

22 (5) To take over by purchase, lease or otherwise any
23 development undertaken by any government;

24 (6) To act as agent for the federal government in connection
25 with the acquisition, construction, operation or management of
26 a development or any part of a development;

27 (7) To arrange with the city or with a government for the
28 furnishing, planning, replanning, opening or closing of streets,
29 roads, roadways, alleys or other places or facilities, or for the
30 acquisition by the city, county, state or federal government or
31 any agency, instrumentality or subdivision thereof, of property,
32 options or property rights or for the furnishing of property or
33 services in connection with a development;

34 (8) To sell, lease or rent any of the housing or other
35 accommodations of any of the lands, buildings, structures or
36 facilities embraced in any development, and to establish and
37 revise the rents or charges therefor;

38 (9) To enter upon any building or property in order to
39 conduct investigations or to make surveys or soundings; to
40 purchase, lease, obtain options upon, acquire by eminent
41 domain or otherwise, sell, exchange, transfer, assign or mort-
42 gage any property real or personal or any interest therein;

43 (10) To acquire any property real or personal or any interest
44 therein from any person, firm, corporation, or the city, county,
45 state or federal government or any agency, instrumentality or
46 subdivision thereof, by gift, grant, bequest or devise; to own,
47 hold, clear and improve property; in its discretion, to insure or
48 provide for the insurance of the property or operations of the
49 authority against risks as the authority considers advisable;

50 (11) To borrow money upon its bonds, notes, debentures or
51 other evidences of indebtedness, and to secure them by mort-
52 gages upon property held or to be held by it or by pledge of its
53 revenues, or in any other manner;

54 (12) To invest any funds held in reserves or sinking funds,
55 or any funds not required for immediate disbursement in
56 property or securities in which savings banks may legally invest
57 funds subject to their control;

58 (13) To sue and be sued;

59 (14) To have a seal, and to alter it;

60 (15) To have perpetual succession;

61 (16) To make and execute contracts and other instruments
62 necessary or convenient to the exercise of the powers of the
63 authority;

64 (17) To form and operate nonprofit corporations and other
65 affiliates of every kind and description, which may be wholly
66 or partially owned or controlled, for carrying out the purposes
67 of this article and in connection with the exercise of any of the
68 powers of a housing authority;

69 (18) To participate in cooperative arrangements with
70 persons and for-profit entities whose purpose is solely that of
71 pecuniary gain, as well as with nonprofit entities and persons
72 who seek no pecuniary gain. The participation of a housing
73 authority in any arrangement with other persons or entities,
74 including for-profit persons and entities, may not cause any
75 activity engaged in by the authority to be characterized as
76 proprietary nor deprive the authority of any privilege or
77 immunity otherwise existing under law;

78 (19) To participate as a general or limited partner,
79 coventurer, shareholder, or otherwise as a principal, an investor,
80 a lender, a guarantor, a contracting party, or in any other
81 manner, all upon terms and conditions, and with rights and
82 obligations, as the governing board of the housing authority
83 shall, from time to time, in its discretion determine to be
84 appropriate;

85 (20) To make and, from time to time, amend and repeal
86 bylaws and rules not inconsistent with this article to carry into
87 effect the powers and purposes of the authority;

88 (21) To conduct examinations and investigations and to
89 hear testimony and take proof under oath at public or private
90 hearings on any matter material for its information;

91 (22) To issue subpoenas requiring the attendance of
92 witnesses or the production of documents and things, for the
93 examination of witnesses who are out of the state or unable to
94 attend before the authority, or excused from attendance;

95 (23) To pay, in whole or in part, for any person of eligible
96 income the costs of preparation of any title instrument, deed of
97 trust, note or security instrument, the costs of recording any title
98 instrument, deed of trust, note or security instrument, and any
99 impact fee levied pursuant to article twenty, chapter seven of
100 this code, with the condition that in the event the person
101 receiving a payment under this subdivision sells the property
102 attributable to the payment within five years from receiving the
103 payment, the person will repay the full amount of the payment
104 to the authority; and

105 (24) To do all things necessary or convenient to carry out
106 the powers given in this article.

107 (b) Any of the investigations or examinations provided for
108 in this article may be conducted by the authority or by a
109 committee appointed by it, consisting of one or more members
110 thereof, or by counsel, or by an officer or employee specifically
111 authorized by the authority to conduct it. Any member of the
112 authority, its counsel, or any person designated by it to conduct
113 an investigation or examination, shall have power to administer
114 oaths, take affidavits and issue subpoenas.

§16-15-18. Duties of authority and limitation of powers.

1 (a) In the operation or management of housing develop-
2 ments an authority shall at all times observe the following
3 duties with respect to rentals, tenant selection and home
4 ownership:

5 (1) It may rent or lease dwellings in the developments only
6 to persons of eligible income and at rentals within the financial
7 reach of the persons;

8 (2) It may rent or lease to a tenant housing consisting of the
9 number of rooms, but no greater number, which it considers
10 necessary to provide safe and sanitary accommodations to the
11 proposed occupants, without overcrowding;

12 (3) Subject only to the limitations contained in this article
13 or imposed by the federal government, an authority may lease
14 or rent any dwellings, facilities or other real or personal
15 property owned, controlled, or possessed by the authority, or
16 with respect to which the authority has contractual rights
17 permitting the lease or rental, for terms, upon conditions and
18 lease terms and in exchange for rentals as the authority may
19 from time to time in its discretion determine; further, and
20 without limiting the foregoing, to establish rents in a manner
21 and in amounts as the authority considers appropriate, includ-
22 ing, but not limited to, rents based upon family income,
23 (determined with adjustments and exclusions as the authority
24 considers appropriate,) minimum rents, flat rents, graduated
25 rents, rent ranges, and maximum rents, (any of which may vary
26 among the authority's developments,) and to establish any other
27 standards and conditions relating to rentals that the authority
28 considers appropriate to carry out the purposes of this article;

29 (4) At and subsequent to an acquisition of occupied
30 property, a housing authority may permit existing tenants in the
31 property to remain in occupancy upon terms and conditions and
32 for periods as the authority considers appropriate, notwithstand-
33 ing that the tenants do not qualify as persons of eligible income;

34 (5) A housing authority may operate programs to increase
35 home ownership by residents of its developments and by other
36 persons of eligible income; and may acquire, rehabilitate,

37 construct, reconstruct, sell, convey, lease, option, and take all
38 other actions considered appropriate to achieve home owner-
39 ship of dwellings and associated property by persons of eligible
40 income. In connection with any program to encourage owner-
41 ship, a housing authority may dispose of dwellings and other
42 associated property in exchange or for fair market purchase
43 prices, and upon terms and conditions, as the authority consid-
44 ers appropriate;

45 (6) To develop, acquire, own, lease and operate properties
46 and facilities that are nonresidential in character, which are
47 used for office, administrative, management, maintenance,
48 commercial, or educational purposes, or providing services, or
49 carrying out any other purpose authorized under this article; to
50 acquire, own, lease, and operate properties and facilities that are
51 both residential and nonresidential in character;

52 (7) To develop, acquire, own, or lease community facilities,
53 and to provide such facilities to any public agency or to any
54 person, agency, institution, or organization, public or private,
55 for recreational, educational, health or welfare purposes for the
56 benefit and use of the housing authority or occupants of its
57 developments, or persons of eligible income, elderly or handi-
58 capped persons, or any combination of the foregoing; to operate
59 or manage community facilities, itself, or as agent or any public
60 agency, or any person, institution, or organization, public or
61 private; and to receive compensation therefor, if any, as the
62 parties may agree; community facilities may be utilized by
63 private persons or organizations with or without charge, upon
64 a determination by the authority that the utilization would be
65 advisable to promote the public purposes of this article;

66 (8) To carry out plans, programs, contracts and agreements
67 of every kind and description and to provide grants, loans,
68 guarantees and other financial assistance to public or private
69 persons or entities, whether nonprofit or for-profit, in order to

70 rehabilitate, maintain, procure, and preserve existing affordable
71 housing stocks in safe, decent and sanitary condition and to
72 ensure that they remain affordable to persons of eligible
73 income; and

74 (9) To pay, in whole or in part, for any person of eligible
75 income the costs of preparation of any title instrument, deed of
76 trust, note or security instrument, the costs of recording any title
77 instrument, deed of trust, note or security instrument, and any
78 impact fee levied pursuant to article twenty, chapter seven of
79 this code, with the condition that in the event the person
80 receiving a payment under this subdivision sells the property
81 attributable to the payment within five years from receiving the
82 payment, the person will repay the full amount of the payment
83 to the housing authority.

84 (b) A housing authority shall conduct its affairs in accor-
85 dance with sound financial and business practices, taking into
86 account the nature of its activities and intended purpose.
87 Therefore, a housing authority shall establish and charge rents
88 no higher than it determines to be necessary to produce revenue
89 which, together with all other available money, revenue,
90 income and receipts of the authority from whatever source
91 derived, will be sufficient:

92 (1) To pay when due all indebtedness of the authority;

93 (2) To pay all administrative and other costs of operating
94 the authority's developments and programs of assistance;

95 (3) To pay the administrative and other costs of the
96 maintenance, rehabilitation, renovation, repair, and replacement
97 of the authority's developments and other property;

98 (4) To otherwise carry out its purposes under this article,
99 including acquiring or creating additional housing develop-
100 ments and acquiring or improving property for other purposes

101 authorized under this article, including community facilities,
102 commercial facilities, and all other facilities and developments
103 authorized under this article;

104 (5) To pay the costs of insurance, including the costs of
105 claims, liabilities, losses and other expenses incurred in
106 connection with any self-insurance program;

107 (6) To provide funds for all required payments in lieu of
108 taxes;

109 (7) To make all payments required under and otherwise
110 fully perform the authority's obligations under any contract,
111 agreement, or arrangement entered into by the authority,
112 including without limitation, those required in connection with
113 any partnership or joint venture entered into by the authority;

114 (8) To perform the terms of any commitment or guarantee
115 issued or given by the authority;

116 (9) To provide a reasonable return on the value of the
117 property so as to enable the housing authority to continue to
118 fulfill its duties, including, but not limited to, the acquisition of
119 additional housing developments, land acquisition, acquisition
120 or construction of buildings, equipment, facilities or other real
121 or personal property for public purposes, including parks or
122 other recreational, educational, welfare or community facilities
123 within its area of operation;

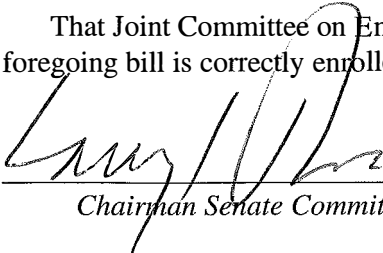
124 (10) To accommodate economic factors which affect the
125 financial stability and solvency of the authority's developments
126 and programs;

127 (11) To pay the cost of actions occasioned by natural
128 disasters and other emergencies; and

129 (12) To create and maintain operating and capital reserves
130 that are reasonable and adequate to ensure the authority's
131 ability to make all payments referred to herein and any other
132 matter with respect to which the authority, in its discretion
133 reasonably exercised, determines that the creation and mainte-
134 nance of a reserve is appropriate.

135 Nothing in this section limits the amount which a housing
136 authority may charge for nondwelling facilities or for dwelling
137 facilities that are not rented to persons of eligible income:
138 *Provided*, That the authority's actions do not conflict with the
139 purposes of this article: *Provided, however*, That a housing
140 authority may allow police officers and maintenance and
141 management employees, not otherwise eligible for residence, to
142 reside in its developments.

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



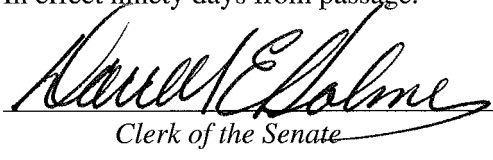
Chairman Senate Committee



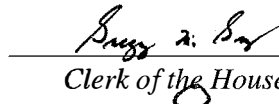
Chairman House Committee

Originating in the House.

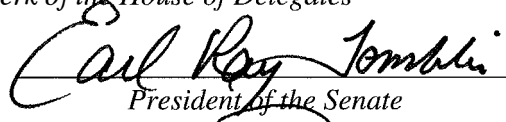
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

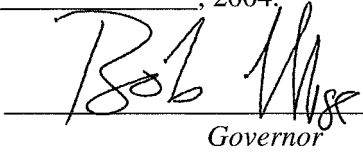


President of the Senate



Speaker of the House of Delegates

The within is approved this the 7th
day of April, 2004.



Governor

PRESENTED TO THE
GOVERNOR

Date 4/2/04

Time 2:15 p