

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 579

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

[Originating in the Committee on the Judiciary;
reported February 20, 2014.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31-18E-1, §31-18E-2, §31-18E-3, §31-18E-4, §31-18E-5, §31-18E-6, §31-18E-7, §31-18E-8, §31-18E-9, §31-18E-10, §31-18E-11, §31-18E-12, §31-18E-13, §31-18E-14, §31-18E-15, §31-18E-16, §31-18E-17 and §31-18E-18, all relating to improving housing development and land use; authorizing creation of a land trust by West Virginia municipalities, counties or a combination thereof; stating legislative findings; defining terms; providing requirements for the permissive creation and operation of land

trust entities; detailing certain requirements for a land trust board and staff; requiring certain terms of the land trust be set forth; providing certain immunity to land trust jurisdictions; setting forth powers and limitations of land trust entities; explicitly stating that land trust entities do not have the power of eminent domain; detailing criteria for acquisition and disposition of property by land trust entities; authorizing certain land trust-related property as exempt from property tax; stating land trust funding sources; stating requirements and constraints on disposition of property; detailing potential financing of land trust operations; permitting special allocation of certain property taxes in certain situations; authorizing the issuance of certain bonds; requiring land trust entities to follow open meetings and freedom of information requirements; providing a process for dissolution of land trusts; requiring the Ethics Act to apply to land trust employees and board members; providing for expedited quiet of title proceedings in circuit court; providing for liberal construction of the article; and requiring an annual audit and report of all land trusts.

Be it enacted by the Legislature of West Virginia:

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

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

§31-18E-1. Short Title.

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

§31-18E-2. Legislative findings.

1 The Legislature finds and declares that:

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

6 (2) Citizens of this state are affected adversely by vacant,
7 abandoned and tax-delinquent properties, including

8 properties which have been vacated or abandoned due to
9 mortgage foreclosure.

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

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

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

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

§31-18E-3. Definitions.

1 As used in this article:

2 (1) “Board” means the board of directors of a land trust;

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

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

11 (4) “Land trust” means a public body established under
12 this article;

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

17 (6) “Municipality” means a municipality as defined in
18 section two, article one, chapter eight of this code; and

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

§31-18E-4. Creation and existence.

1 (a) *Authority.* – A land trust jurisdiction may elect to
2 create a land trust by the adoption of an ordinance to create
3 a binding legal obligation. The ordinance must specify the
4 type of entity created and the following:

5 (1) The name of the land trust;

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

7 (3) The names of individuals to serve as initial members
8 of the board;

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

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

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

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

24 (c) *Combinations.*–(1) The authority under subsection (a)
25 of this section may be exercised in combination pursuant to
26 an intergovernmental cooperation agreement by:

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

28 (B) A land trust jurisdiction and one or more
29 municipalities or counties.

30 (2) If a land trust is established under subdivision (1) of
31 this subsection, the intergovernmental cooperation agreement
32 must specify matters identified in subsection (a) of this
33 section.

34 (d) *Limitation.* – Except as set forth in subsection (c) of
35 this section, if a county establishes a land trust, the land trust
36 may acquire real property only in those portions of the
37 county located outside of the geographical boundaries of any
38 other land trust established by another land trust jurisdiction
39 located partially or entirely within the county.

40 (e) *Legal status of land trust.* – A land trust:

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

45 (2) Exists until terminated and dissolved under section
46 fourteen of this article.

47 (f) *Collaboration.* – A land trust, a political subdivision
48 and another municipal entity may enter into an

49 intergovernmental cooperation agreement relative to the
50 operations of a land trust.

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

1 (a) *Membership.* – A board shall consist of an odd
2 number of members and be not less than five members nor
3 more than eleven members. Unless restricted by the actions
4 or agreements specified in section four of this article and
5 subject to the limits stated in this section, the size of the
6 board may be adjusted in accordance with bylaws of the land
7 trust.

8 (b) *Eligibility to serve on board.* –

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

13 (2) A municipal employee is eligible to serve as a board
14 member;

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

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

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

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

21 (4) A member removed under subdivision (3),
22 subsection (d) of this section is ineligible for reappointment
23 to the board unless the reappointment is confirmed
24 unanimously by the board;

25 (5) As used in this subsection, the term “public officer”
26 means an individual who is elected to office.

27 (c) *Officers.* – The members of the board shall select
28 annually from among their members a chair, vice chair,
29 secretary, treasurer and other officers as the board
30 determines.

31 (d) *Rules.* – The board shall establish rules on all of the
32 following:

33 (1) Duties of officers;

34 (2) Attendance and participation of members in its
35 regular and special meetings;

36 (3) A procedure to remove a member by a majority vote
37 of the other members for failure to comply with a rule; and

38 (4) Other matters necessary to govern the conduct of a
39 land trust.

40 (e) *Vacancies.* – A vacancy on the board shall be filled in
41 the same manner as the original appointment. Upon removal
42 under subdivision (3), subsection (d) of this section, the
43 position becomes vacant.

44 (f) *Compensation.* – Board members serve without
45 compensation. The board may reimburse a member for expenses
46 actually incurred in the performance of duties on behalf of the
47 land trust.

48 (g) *Meetings.* – (1) The board shall meet as follows:

49 (A) In regular session according to a schedule adopted by
50 the board;

51 (B) In special session:

52 (i) As convened by the chair; or

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

55 (2) A majority of the board, excluding vacancies, is a
56 quorum. Physical presence is required under this paragraph.

57 (h) *Voting*.— (1) Except as set forth in subdivision (2) or
58 (3) of this subsection or elsewhere in this article, action of the
59 board must be approved by the affirmative vote of a majority
60 of the board present and voting.

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

63 (A) Adoption of bylaws;

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

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

69 (D) Incurring of debt;

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

71 (F) Sale, lease, encumbrance or alienation of real
72 property or personal property with a value of more than
73 \$50,000.

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

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

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

80 (i) *Immunity.* – A land trust jurisdiction which establishes
81 a land trust and a municipality or county which are parties to
82 an intergovernmental cooperation agreement establishing a
83 land trust shall not be liable personally on the bonds or other
84 obligations of the land trust. Rights of creditors of a land trust
85 are solely against the land trust.

§31-18E-6. Staff of the land trust.

1 (a) *Employees.* – A land trust may employ or enter into a
2 contract for an executive director, counsel and legal staff,
3 technical experts and other individuals and may determine
4 the qualifications and fix the compensation and benefits of
5 those employees.

6 (b) *Contracts.* – A land trust may enter into a contract
7 with a municipality or county for:

8 (1) The municipality or county to provide staffing
9 services to the land trust; or

10 (2) The land trust to provide staffing services to the
11 municipality or county.

§31-18E-7. Powers of the land trust.

1 A land trust is a public body, corporate and politic,
2 exercising public and essential governmental functions, and
3 having all the powers necessary or convenient to carry out
4 and effectuate the purposes and provisions of this article,
5 including but not limited to the following:

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

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

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

12 (4) To borrow from federal government funds, from the

13 state, from private lenders or from municipalities or
14 counties, as necessary, for the operation and work of the
15 land trust;

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

18 (6) To procure insurance or guarantees from the federal
19 government or the state of the payment of debt incurred by
20 the land trust and to pay premiums in connection with the
21 insurance or guarantee;

22 (7) To enter into contracts and other instruments
23 necessary, incidental or convenient to the performance of its
24 duties and the exercise of its powers. This paragraph includes
25 intergovernmental cooperation agreements for the joint
26 exercise of powers under this article;

27 (8) To enter into contracts and intergovernmental
28 cooperation agreements with municipalities or counties for
29 the performance of functions by municipalities or counties on
30 behalf of the land trust or by the land trust on behalf of
31 municipalities or counties;

32 (9) To make and execute contracts and other instruments
33 necessary or convenient to the exercise of the powers of the
34 land trust. Any contract or instrument signed shall be
35 executed by and for the land trust if the contract or
36 instrument is signed, including an authorized facsimile
37 signature, by:

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

39 (B) Either:

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

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

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

44 (11) To invest money of the land trust at the discretion of
45 the board in instruments, obligations, securities or property
46 determined proper by the board and to name and use
47 depositories for its money;

48 (12) To enter into contracts for the management of, the
49 collection of rent from or the sale of real property of the land
50 trust;

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

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

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

59 (16) To enter into partnerships, joint ventures and other
60 collaborative relationships with municipalities, counties and
61 other public and private entities for the ownership,
62 management, development and disposition of real property;

63 (17) To organize and reorganize the executive,
64 administrative, clerical and other departments of the land
65 trust and to fix the duties, powers and compensation of
66 employees, agents and consultants of the land trust; and

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

§31-18E-8. Eminent domain.

1 A land trust does not possess the power of eminent
2 domain. Any property obtained by the power of eminent
3 domain after the effective date of this article may not be
4 acquired by a land trust by any means.

§31-18E-9. Acquisition of property.

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

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

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

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

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

23 (2) A municipality or county may transfer to a land trust
24 real property and interests in real property of the municipality
25 or county on terms and conditions and according to
26 procedures determined by the municipality or county as long
27 as the real property is located within the jurisdiction of the
28 land trust.

29 (3) An urban renewal authority, as defined in section
30 four, article eighteen, chapter sixteen of this code, located
31 within a land trust jurisdiction established under this article
32 may, with the consent of the local governing body and

33 without a redevelopment contract, convey property to the
34 land trust. A conveyance under this subdivision shall be with
35 fee simple title, free of all liens and encumbrances.

36 (e) *Maintenance.* – A land trust shall maintain all of its
37 real property in accordance with the statutes and ordinances
38 of the jurisdiction in which the real property is located.

39 (f) *Prohibition.* – (1) Subject to the provisions of
40 subdivision (2) of this subsection, a land trust may not own
41 or hold real property located outside the jurisdictional
42 boundaries of the entities which created the land trust under
43 subsection (c) of section four of this article.

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

48 (g) *Acquisition of tax delinquent properties.* –
49 Notwithstanding any other provision of this code to the
50 contrary, if authorized by the land trust jurisdiction which
51 created a land trust or otherwise by intergovernmental

52 cooperation agreement, a land trust may acquire an interest in
53 tax delinquent property through the provisions of chapter
54 eleven-a of this code. Notwithstanding the provisions of section
55 eight, article three, chapter eleven-a of this code, if no person
56 present at the tax sale bids the amount of the taxes, interest and
57 charges due on any unredeemed tract or lot or undivided interest
58 in real estate offered for sale, the sheriff shall, prior to certifying
59 the real estate to the auditor for disposition pursuant to section
60 forty-four, article three, chapter eleven-a of this code, provide a
61 list of all of said real estate within a land trust jurisdiction to the
62 land trust and the land trust shall be given an opportunity to
63 purchase the tax lien and pay the taxes, interest and charges due
64 for any unredeemed tract or lot or undivided interest therein as
65 if the land trust were an individual who purchased the tax lien at
66 the tax sale.

§31-18E-10. Disposition of property.

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

4 (b) *Power.* – A land trust may convey, exchange, sell,
5 transfer, lease, grant or mortgage interests in real property of
6 the land trust in the form and by the method determined to be
7 in the best interests of the land trust.

8 (c) *Consideration.* – (1) A land trust shall determine the
9 amount and form of consideration necessary to convey,
10 exchange, sell, transfer, lease as lessor, grant or mortgage
11 interests in real property.

12 (2) Consideration may take the form of monetary
13 payments and secured financial obligations, covenants and
14 conditions related to the present and future use of the
15 property, contractual commitments of the transferee and other
16 forms of consideration as determined by the board to be in
17 the best interest of the land trust.

18 (d) *Policies and procedures.* – (1) A board shall
19 determine and state in the land trust policies and procedures
20 the general terms and conditions for consideration to be
21 received by the land trust for the transfer of real property and
22 interests in real property, including but not limited to, a

23 process for distribution of any proceeds to any claimants,
24 taxing entities and the land trust.

25 (2) Requirements which may be applicable to the
26 disposition of real property and interests in real property by
27 municipalities or counties shall not be applicable to the
28 disposition of real property and interests in real property by
29 a land trust.

30 (e) *Ranking of priorities.* – (1) A land trust jurisdiction
31 may establish a hierarchical ranking of priorities for the use
32 of real property conveyed by a land trust, including use for:

33 (A) Purely public spaces and places;

34 (B) Affordable housing;

35 (C) Conservation areas; and

36 (D) Retail, commercial and industrial activities.

37 (2) The priorities established may be for the entire land
38 trust jurisdiction or may be set according to the needs of
39 different neighborhoods, municipalities or other locations
40 within the land trust jurisdiction, or according to the nature
41 of the real property.

42 (f) *Land use plans.* – A land trust shall consider all duly
43 adopted land use plans and make reasonable efforts to
44 coordinate the disposition of land trust real property with the
45 land use plans.

46 (g) *Specific voting and approval requirements.* – (1) A
47 land trust jurisdiction may, in its ordinance creating a land
48 trust or in the case of multiple land trust jurisdictions and
49 municipalities or counties creating a single land trust in the
50 applicable intergovernmental cooperation agreement, require
51 that a particular form of disposition of real property or a
52 disposition of real property located within specified
53 jurisdictions be subject to specified voting and approval
54 requirements of the board.

55 (2) Except as restricted or constrained under paragraph
56 (1) of this subsection, the board may delegate to officers and
57 employees the authority to enter into and execute agreements,
58 instruments of conveyance and other related documents
59 pertaining to the conveyance of real property by the land
60 trust.

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

1 (a) *General rule.* – A land trust may receive funding
2 through grants and loans from:

3 (1) The federal government;

4 (2) The state;

5 (3) A municipality or county;

6 (4) The land trust jurisdiction which created the land
7 trust; and

8 (5) Private or other public sources.

9 (b) *Funding.* – A land trust may receive and retain
10 payments for services rendered, for rents and leasehold
11 payments received, for consideration for disposition of real
12 and personal property, for proceeds of insurance coverage for
13 losses incurred, for income from investments and for an asset
14 and activity lawfully permitted to a land trust under this
15 article.

16 (c) *Allocated real property taxes.* – (1) A taxing
17 jurisdiction may authorize the remittance or dedication of a
18 portion of real property taxes collected pursuant to the laws

19 of this state to a land trust on real property conveyed by a
20 land trust.

21 (2) Allocation of property tax revenues in accordance
22 with this subsection, if authorized by the taxing jurisdiction,
23 begins with the first taxable year following the date of
24 conveyance and continues for a period of up to five years and
25 may not exceed a maximum of fifty percent of the aggregate
26 property tax revenues generated by the property.

27 (3) Remittance or dedication of real property taxes
28 include the real property taxes of a county board of
29 education only if the county board of education enters into
30 an agreement with the land trust for the remittance or
31 dedication.

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

1 (a) *Authority.* – (1) A land trust may issue a bond for any
2 of its corporate purposes.

3 (2) The principal and interest of a bond is payable from
4 the land trust's general revenue.

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

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

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

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

13 (c) *Tax exempt.* – A bond and the income from the bond is
14 exempt from taxation by: (1) The state; and (2) a political
15 subdivision.

16 (d) *Procedure.* – (1) A bond must be authorized by
17 resolution of the board and shall be a limited obligation of the
18 land trust.

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

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

26 (A) Is payable from: (i) A source described in this article; or

27 (ii) the investment of the proceeds of the refunding bonds; and

28 (B) Is not an indebtedness or pledge of the general credit

29 of a political subdivision within the meaning of a

30 constitutional or statutory limitation of indebtedness and shall

31 contain a recital to that effect.

32 (4) A bond must comply with the authorizing resolution

33 as to:

34 (A) Form;

35 (B) Denomination;

36 (C) Interest rate;

37 (D) Maturity; and

38 (E) Execution.

39 (5) A bond may be subject to redemption at the option of

40 and in the manner determined by the board in the authorizing

41 resolution.

42 (e) *Powers of municipalities or counties.* – A

43 municipality or county may elect to guarantee, insure or

44 otherwise become primarily or secondarily obligated on the
45 indebtedness of a land trust, subject, however, to all other
46 provisions of law of this state applicable to municipal or
47 county indebtedness.

48 (f) *Sale.* – (1) A bond shall be issued, sold and delivered
49 in accordance with the terms and provisions of the
50 authorizing resolution. The board, to effectuate its best
51 interest, may determine the manner of sale, public or private,
52 and the price of the bond.

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

56 (g) *Liability.* – (1) Neither the members of a land trust nor
57 a person executing the bond shall be liable personally on the
58 bonds by reason of the issuance of the bond.

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

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

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

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

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

1 (a) *Public records.* – A board shall keep minutes and a
2 record of its proceedings.

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

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

1 (a) *General rule.* – A land trust may be dissolved as a
2 public body corporate and politic upon compliance with all
3 of the following:

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

6 (A) Given to the land trust jurisdiction which created the
7 land trust;

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

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

12 (2) Satisfaction of all outstanding liabilities; and

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

16 (b) *Authority.* – Upon receipt of a proper resolution
17 described in subsection (a) of this section, the land trust
18 jurisdiction which created the land trust may dissolve the
19 land trust by adoption of an ordinance or order. If approved,
20 the governing body of the land trust jurisdiction which
21 created the land trust shall file a certified copy of the
22 ordinance or order with the Secretary of State and notify the
23 West Virginia Housing Development Fund of the dissolution
24 of the land trust. The Secretary of State shall cause the

25 termination of the existence of the land trust to be noted on
26 the record of incorporation. Upon the filing, the land trust
27 shall cease to function.

28 (c) *Transfer of assets.* – Upon dissolution of the land trust,
29 real property, personal property and other assets of the land trust
30 become the assets of the municipality in which the property is
31 located or the county in which the property is located, if it is not
32 within a municipality. The following apply:

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

36 (2) The municipality in which real property is located or
37 the county in which the property is located, if it is not within
38 a municipality, shall approve the transfer of title to the
39 municipality or county.

40 (d) *Multiple jurisdictions.* – If multiple land trust
41 jurisdictions create a land trust under section four of this
42 article, the withdrawal of one or more land trust jurisdictions
43 does not require dissolution of the land trust unless:

44 (1) The intergovernmental cooperation agreement
45 provides for dissolution in this event; and

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

§31-18E-15. Conflicts of interest.

1 (a) *Ethics Act.* – The acts and decisions of members of a
2 board and of employees of a land trust are subject to chapter
3 six-b of this code.

4 (b) *Supplemental rules and guidelines.* – The board may
5 adopt:

6 (1) Supplemental rules addressing potential conflicts of
7 interest; and

8 (2) Ethical guidelines for members of the board and land
9 trust employees.

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

1 (a) *Authorization.* – (1) A land trust may file an action in
2 circuit court to quiet title to real property in which the land
3 trust has an interest.

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

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

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

15 (2) Service of the complaint to quiet title shall be
16 provided in accordance with the requirements to serve a civil
17 complaint generally, including that service to interested
18 parties be made as follows:

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

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

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

24 (D) By publication; and

25 (E) As ordered by the court.

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

28 (A) Persons discovered under subdivision (1) of this
29 subsection; and

30 (B) The form of service under subdivision (2) of this
31 subsection.

32 (c) *Hearing.*—(1) The court shall schedule a hearing on
33 the complaint within ninety days following filing of the
34 complaint and as to all matters upon which an answer was
35 not filed by an interested party.

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

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

1 This article shall be construed liberally to effectuate the
2 legislative intent and the purposes as complete and independent
3 authorization for the implementation of this article, and all

4 powers granted shall be broadly interpreted to effectuate the
5 intent and purposes and not as a limitation of powers.

§31-18E-18. Annual audit and report.

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

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

8 (1) The land trust jurisdiction which created the land
9 trust; and

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

(NOTE: The purpose of this bill is to improve housing development and land use in West Virginia by providing an option to all municipalities, counties or combinations to create a land trust program in order to eliminate blight and address vacant, delinquent or foreclosed properties.

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