

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 3370

BY DELEGATES HOWELL AND STORCH

[Passed March 11, 2023; in effect ninety days from passage.]

1 AN ACT to amend and reenact §20-5A-1 of the code of West Virginia, 1931, as amended; to
2 amend said code by adding thereto a new section, designated §20-5A-3; and to amend
3 said code by adding thereto a new section, designated §31-15-8b, all relating to
4 establishing the State Parks Enhancement Loan Insurance Program; authorizing the
5 board of trustees of the West Virginia State Parks and Recreation Endowment Fund to
6 use the fund to facilitate or provide collateral for the program; providing that the program
7 will provide for the guarantee of a loan made to an eligible private entity to be used
8 exclusively for new or existing projects, developments, or attractions on properties of West
9 Virginia State Parks and resorts that are constructed on U.S. Army Corps of Engineers
10 property, wherein such properties and developments have no collateral for loans, and on
11 any other property under the jurisdiction of the Division of Natural Resources, or on a
12 hybrid tourism destination, to encourage economic development and tourism and
13 increasing recreational opportunities; providing legislative findings and purpose; defining
14 terms; establishing the State Parks Enhancement Loan Insurance Program; providing for
15 the establishment of requirements and procedures for the issuance of loan insurance;
16 limiting the amount of loan insurance through the program to \$10 million in the aggregate
17 of the assets existing in the fund; providing that no more than \$5 million may be authorized
18 for any project; providing that no amount of the fund's income from investments may be
19 used to provide loan insurance; providing for application and additional procedures or
20 guidelines for the program; requiring approval in writing from secretary of the Department
21 of Commerce, the secretary of the Department of Economic Development, and the
22 secretary of the Department of Tourism to apply for loan insurance; requiring the board of
23 trustees to cooperate with the West Virginia Economic Development Authority and
24 authorizing the board of trustees to utilize the staff and resources of the authority for
25 guidance and assistance in administering the program; providing additional powers and
26 duties to the board of trustees; requiring reporting; and requiring that the West Virginia
27 Economic Development Authority to facilitate the administration of the program and that

28 its executive director make the authority's staff available to provide guidance and
29 assistance for the administration of the program.

Be it enacted by the Legislature of West Virginia:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 5A. STATE PARKS AND RECREATION ENDOWMENT FUND.

§20-5A-1. Establishment of fund; deposits; expenditures; investments; use of fund for the State Parks Enhancement Loan Insurance Program.

1 (a) There is created in the office of the State Treasurer a special revenue account fund to
2 be known as the West Virginia State Parks and Recreation Endowment Fund.

3 (b) The following shall be deposited into the fund:

4 (1) The royalties received from the leasing of state-owned gas, oil, and other mineral rights
5 beneath the Ohio River and its tributaries; and

6 (2) The proceeds of any gifts, grants, contributions, or other moneys accruing to the state
7 which are specifically designated for inclusion in the fund.

8 (c) Expenditures from the fund shall be for the purposes set forth in this section and are
9 to be made in accordance with appropriation of the Legislature under the provisions of §12-3-1 *et*
10 *seq.* of this code, and in compliance with the provisions of §11B-2-1 *et seq.* of this code: *Provided,*
11 That income accruing from investments of the fund pursuant to this article shall be distributed or
12 expended for either of the following purposes:

13 (1) Maintenance, repair, and improvement of any existing recreational facilities, including
14 any supporting or related infrastructure and associated recreational features, all to provide
15 uninterrupted enjoyment and public use of state parks, state forests, and state rail trails.

16 (2) Maintenance, repair, and procurement of any fixture, furnishing, and equipment
17 necessary to provide uninterrupted enjoyment and public use of state parks, state forests, and
18 state rail trails.

19 (d) The board of trustees established pursuant to this article shall invest the assets of the
20 fund consistent with the provisions of §12-6-1 of this code. The board may accumulate investment

21 income of the fund within the fund until the income, in the sole judgment of the board, can provide
22 a significant supplement to the budget of the Division of Natural Resources. After that time, the
23 board may direct expenditures from the income for the purposes set forth in this section.

24 (e) Notwithstanding any other provision of this article to the contrary, the assets of the fund
25 may be used by the board of trustees to facilitate or provide collateral for the State Parks
26 Enhancement Loan Insurance Program established in §20-5A-3 of this code: *Provided*, That no
27 amount of the fund's income from investments may be used to provide loan insurance.

§20-5A-3. State Parks Enhancement Loan Insurance Program.

1 (a) *Legislative findings and purpose.*

2 (1) The Legislature finds that certain areas of the state currently have existing
3 developments or attractions, including, but not limited to, developments in West Virginia State
4 Parks and resorts that are constructed on U.S. Army Corps of Engineers property, wherein such
5 attractions and developments are unable to serve as collateral for loans. Because of this, the
6 expansion of tourism and development projects in these areas is severely restricted or
7 significantly impeded.

8 (2) The purpose of this section is to establish the State Parks Enhancement Loan
9 Insurance Program, which may provide for the guarantee of a loan made to an eligible entity to
10 be used exclusively for further development on these properties to encourage economic
11 development and tourism.

12 (b) *Terms defined.* – As used in this section, unless the context clearly indicates otherwise:

13 (1) Board of trustees means the board provided for in §20-5A-2 of this code.

14 (2) Development project means any new project, or any project at any existing
15 development or attraction, being pursued by a private entity, which has established a partnership
16 or agreement with the division to operate on U.S. Army Corps of Engineers property, State Parks
17 and resorts property, any other property under the jurisdiction of the division, or on a hybrid

18 tourism destination, for the purpose of increasing recreational opportunities, tourism, and
19 economic development.

20 (3) Director means the director of the Division of Natural Resources.

21 (4) Division means the Division of Natural Resources.

22 (5) Eligible entity means any corporation, limited liability company, partnership, limited
23 liability partnership, sole proprietorship, business trust, joint venture, or any other entity operating
24 or intending to operate a development project, whether owned or leased, that receives the
25 approval pursuant to this section to apply for an insurance agreement under the State Parks
26 Enhancement Loan Insurance Program.

27 (6) Program means the State Parks Enhancement Loan Insurance Program.

28 (c) The State Parks Enhancement Loan Insurance Program is established. The program
29 may insure the payment or repayment of all or any part of the principal of, prepayment premiums
30 or penalties on, and interest on any form of debt instrument entered into by an eligible entity with
31 a financial institution, including, but not limited to, banks, insurance companies and other
32 institutions in the business of lending money. Eligible entities shall submit applications for loan
33 insurance to the board of trustees. By a majority vote, the board of trustees may approve or deny
34 any application. If approved, the board of trustees shall enter into an insurance agreement with
35 the eligible entity and any necessary financial institution.

36 (d) In order to effectuate the purposes of this section, the board of trustees shall cooperate
37 with the West Virginia Economic Development Authority pursuant to §31-15-8b of this code. The
38 board of trustees may utilize the staff and resources of the authority for guidance and assistance
39 in administering the program.

40 (e) The board of trustees may, subject to a recommendation by the director, establish
41 additional requirements and procedures for the issuance of loan insurance; including, but not
42 limited to, setting the premiums and fees to be paid to it for providing financial assistance under
43 this section. The premiums and fees set by the board of trustees shall be payable in the amounts,

44 at the time, and in the manner that the board of trustees, in its sole and absolute discretion,
45 requires. The premiums and fees need not be uniform among transactions and may vary in
46 amount: (1) Among transactions; and (2) at different stages during the terms of transactions.

47 (f) The board of trustees may, in its sole and absolute discretion, require the security it
48 believes sufficient in connection with its insuring of the payment or repayment of any bonds, notes,
49 debt, or other instruments: *Provided*, That the board of trustees may not require a security interest
50 in the real property or permanent improvements which are part of the development project when
51 the eligible entity will not hold ownership on the real or personal property of the development
52 project.

53 (g) The obligations of the board of trustees under any insurance agreement entered into
54 pursuant to this article shall not constitute a debt or a pledge of the faith and credit or taxing
55 powers of this state, the division, or of any county, municipality, or any political subdivision of this
56 state for the payment of any amount due thereunder or pursuant thereto, but the obligations
57 evidenced by such insurance agreement shall be payable solely from the funds pledged for their
58 payment.

59 (h) The board of trustees may not authorize any amount of loan insurance through the
60 program that exceeds \$10 million in the aggregate of the assets existing in the West Virginia State
61 Parks and Recreation Endowment Fund: *Provided*, That no more than \$5 million may be
62 authorized for any project: *Provided, however*, That no amount of the fund's income from
63 investments may be used to provide loan insurance. However, any amount of loan insurance
64 issued by the board of trustees shall not require the encumbrance or otherwise segregation of
65 funds within the West Virginia State Parks and Recreation Endowment Fund.

66 (i) The board of trustees may establish an application and additional procedures or
67 guidelines for the program. Prior to submission of an application to the board of trustees, an
68 eligible entity must receive approval in writing from the Secretary of the Department of Commerce,

69 the Secretary of the Department of Economic Development, and the Secretary of the Department
70 of Tourism.

71 (j) The West Virginia Department of Commerce shall maintain a list of approved projects
72 using this loan insurance program and shall submit this list to the Joint Committee on Government
73 and Finance in the form of an annual report for legislative review.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-8b. Facilitation of the State Parks Enhancement Loan Insurance Program.

1 The authority shall cooperate with the Division of Natural Resources and the Board of
2 Trustees of the West Virginia State Parks and Recreation Endowment Fund to facilitate the
3 administration of the State Parks Enhancement Loan Insurance Program established by §20-5A-
4 3 of this code. The executive director shall make the authority's staff available to provide guidance
5 and assistance for the administration of the program. Any requirement or restriction on the
6 authority's loan insurance programs and other operations established by this article shall not be
7 applicable to the administration of the State Parks Enhancement Loan Insurance Program.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2023.

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Governor