

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 3370**

By Delegates Howell and Storch

[Originating in the Committee on Finance; February

24, 2023]



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

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

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

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

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

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

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

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

44 requires. The premiums and fees need not be uniform among transactions and may vary in  
45 amount: (1) Among transactions; and (2) at different stages during the terms of transactions.

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

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

57 (h) The board of trustees may not authorize any amount of loan insurance through the  
58 program that exceeds the amount of the assets existing in the West Virginia State Parks and  
59 Recreation Endowment Fund: *Provided*, That no amount of the fund's income may be used to  
60 provide loan insurance. However, any amount of loan insurance issued by the board of trustees  
61 shall not require the encumbrance or otherwise segregation of funds within the West Virginia State  
62 Parks and Recreation Endowment Fund.

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

68           (j) The West Virginia Department of Commerce shall maintain a list of approved projects  
69 using this loan insurance program and shall submit this list to the Joint Committee on Government  
70 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-3  
4 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.