

## ARTICLE 15. STATE HOUSING LAW

- § 1409(56). [ 1 ] Definitions.
- 1409(56a). [ 1a ] Meaning of other terms.
- 1409(57). [ 2 ] Legislative declaration of necessity for creation of housing authority corporations.
- 1409(58). [ 3 ] City and county housing authorities created; when to transact business or exercise powers; determination of need for housing authority; resolution of governing body proof of establishment; appointment of commissioners; term; removal.
- 1409(59). [ 4 ] Persons prohibited from acquiring interest in property; prior ownership to be disclosed.
- 1409(60). [ 5 ] Organization, officers and employees of the authority.
- 1409(61). [ 6 ] Commissioner to receive necessary expenditures made by him, but no compensation for services.
- 1409(62). [ 7 ] Authority a body corporate; powers; investigations or examinations.
- 1409(62a). [ 7a ] Power to include in contracts requirements as to wages and hours of labor, and compliance with conditions of federal government attached to financial aid.
- 1409(62b). [ 7b ] Joint undertakings by authorities.
- 1409(63). [ 8 ] Power to acquire lands, etc., by purchase or by right of eminent domain.
- 1409(64). [ 9 ] Ordinances, etc., of locality in which situated; restrictions on acquisition or disposal of property; not required to offer securities.
- 1409(65). [ 10 ] Amount and nature of indebtedness; rights of creditors.
- 1409(66). [ 11 ] Agreement by the authority providing for suspension and control of project in connection with the borrowing of funds.
- 1409(67). [ 12 ] Report to mayor or county governing body.
- 1409(68). [ 13 ] Repealed.
- 1409(69). [ 14 ] Property, bonds, etc., of authority exempt from taxation.
- 1409(70). [ 15 ] Security for funds of the authority deposited in bank.
- 1409(71). [ 16 ] Repealed.
- 1409(72). [ 17 ] Policy of State as to rentals.
- 1409(73). [ 18 ] Duties of authority as to rentals and tenant selection.
- 1509(74). [ 19 ] Power to issue bonds; how bonds secured.
- 1409(75). [ 20 ] Bonds; interest rate and life; forms; denominations; redemption; how payable; sale; signatures of commissioners or officers; validity.
- 1409(76). [ 21 ] Powers of authority in connection with the issuance of bonds, incurring obligations and securing payment of same.
- 1409(77). [ 22 ] Actions by obligee of authority to enforce performance of contracts and covenants, and to enjoin unlawful acts.
- 1409(78). [ 23 ] Possession of project by obligee upon default by authority; appointment of receiver; accounting.
- 1409(79). [ 24 ] County authorities empowered to provide housing for farmers of low income.
- 1409(80). [ 25 ] Application for low cost housing project for farmers.

less than ten dollars, nor more than one hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment. Justices of the peace shall have concurrent jurisdiction with circuit and criminal courts for the enforcement of the provisions of this article and the rules and regulations promulgated by the committee.

Notwithstanding the existence or pursuit of any other remedy, the committee may, in the manner provided by law, maintain an action in the name of the state for an injunction against any person, partnership, association, or corporation to restrain or prevent the establishment, conduct, management, or operation of any barber shop, beauty shop, school of barbering or beauty culture, or related agency, when such person, partnership, association, or corporation, repeatedly refuses to obtain registration or license therefor and continues the practice or teaching of barbering or beauty culture without first obtaining registration or a license therefor in the manner hereinbefore provided.

§ 1409(53). [15] **Provisions of Article One, Chapter Thirty, Code, to Apply to Committee.**—Unless otherwise specially provided herein, the provisions of article one, chapter thirty of the code of West Virginia shall apply to the state committee of barbers and beauticians.

§ 1409(54). [16] **Collections and Expenditures; Disposition of Funds.**—All money collected under the provisions of this article shall be deposited in the state treasury as provided by law, and shall be credited to the committee in a special fund to be known as the "Barbers and Beauticians Special Fund". All money in such fund shall be expended only for the administration and enforcement of the provisions of this article, except that at the end of each fiscal year there shall be transferred from this fund to the general revenue of the state ten per cent of all money collected by the committee during the year.

§ 1409(55). [17] **Provisions of Act Separable; Repeal of Laws.**—The various provisions of this act shall be construed as separable and several, and should any of the provisions or parts thereof be construed or held to be unconstitutional, or for any other reason invalid the remaining provisions of this act shall not be thereby affected. All acts and parts of acts in conflict with the provisions of this act, or any part thereof, are hereby repealed. Any ordinances of any municipalities in this state now in effect and having for their purposes the regulation of the practice of barbering or beauty culture, which are in conflict with the provisions of this act, or any part thereof, shall be null and void and of no effect on and after the date this act goes into effect.

§ 1409(56). [1] **Definitions.**—The following terms, wherever used or referred to in this act, shall have the following respective meanings, unless in any case a different meaning clearly appears from the context:

(a) "Authority" or "housing authority" shall mean a corporate body organized in accordance with the provisions of this act for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(b) "Mayor" shall mean the chief executive of the city, whether the official designation of his office be mayor, city manager or otherwise.

(c) "Council" shall mean the chief legislative body of the city.

(d) "Commissioner" shall mean one of the members of an authority appointed in accordance with the provisions of this act.

(e) "Government" shall include the state and federal governments and any subdivisions, agency or instrumentality, corporate or otherwise, of either of them.

(f) The "State" shall mean the State of West Virginia.

(g) "National recovery act" shall mean the act of Congress of the United States of America approved June sixteenth, one thousand nine hundred thirty-three, entitled "An act to encourage national industry, to foster fair competition, and to provide for construction of certain useful public works, and for other purposes," and any acts amendatory thereof or supplemental thereto.

(h) "Slum clearance" shall include the removal of housing conditions which shall be considered by the housing authority of the city in which such conditions exist to be insanitary or substandard or a menace to public health, and shall also include such other activities as may, at any time, be embraced within said term as used in the national recovery act.

(i) "Low-cost housing" shall include any housing accommodations which are or are to be rented at not in excess of a maximum rate per room, or maximum average rate per room, which shall be specified or provided by the housing authority of the city in which such housing accommodations are or are to be located, or the legislature, or a duly constituted agency of the State, or of the United States of America.

(j) "Project" shall include all lands, buildings, and improvements, acquired, owned, leased, managed or operated by a housing authority, and all buildings and improvements constructed, reconstructed or repaired by a housing authority, designed to provide housing accommodations, or stores, offices and community facilities appurtenant thereto, which are planned as a unit, whether or not acquired or constructed at one time, and which ordinarily are contiguous or adjacent to one another. The term "project" may also be applied to the planning of buildings and improvements, the acquisition of property, the demolition of existing structures, the clearing of land, the construction, reconstruction and repair of improvements and all other work in connection therewith.

(k) "Community facilities" shall include lands, buildings and equipment of recreation or social assembly, for educational, health or welfare activities

and other necessary utilities primarily for use and benefit of the occupants of housing accommodations to be constructed and operated hereunder.

§ 1409(56a). [1a] **Meanings of Other Terms.**—The following terms, wherever used or referred to in this act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Governing body" shall mean, in the case of a city, the council of the city, and in the case of a county, the commissioners of the county court.

(b) "Clerk" shall mean the clerk of the city or city recorder or the clerk of the county, as the case may be, or the officer charged with the duties customarily imposed on such clerk or recorder.

(c) "Area of operation": (1) In the case of a housing authority of a city, shall include such city and the area within five miles from the territorial boundaries thereof, provided that the area of operation of a housing authority of any city shall not include any area which lies within the territorial boundaries of some other city; (2) in the case of a housing authority of a county, shall include all of the county except that portion which lies within the territorial boundaries of any city.

(d) "Persons of low income" shall mean persons or families who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them without financial assistance to live in decent, safe and sanitary dwellings, without overcrowding; and the term "persons of low income" shall include "farmers of low income" as herein defined.

(e) "Farmers of low income" shall mean persons or families who at the time of their admission to occupancy in a dwelling of the authority: (1) Live under unsafe and insanitary housing conditions; (2) derive their principal income from operating or working upon a farm; and (3) had an aggregate average annual net income for the three years preceding their admission that was less than the amount determined by the authority to be necessary, within its area of operation, to enable them, without financial assistance, to obtain decent, safe and sanitary housing.

(f) "Bonds" shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this act.

(g) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, or lessor demising to an authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

§ 1409(57). [2] **Legislative Declaration of Necessity for Creation of Housing Authority Corporations.**—It is hereby declared as a matter of legislative determination that in order to promote and protect the health, safety, morals and welfare of the public, it is necessary in the public interest to provide for the creation of public corporate bodies to be known as housing authorities, and to confer upon and vest in said housing authorities all powers necessary or appropriate in order that they may engage in low-cost housing and slum clearance projects; and that the powers herein conferred upon

the housing authorities, including the power to acquire property, to remove insanitary or substandard conditions, to construct and operate housing accommodations and to borrow, expend and repay moneys for the purpose herein set forth, are public objects essential to the public interest.

**§ 1409(58). [3] City and County Housing Authorities Created; When to Transact Business or Exercise Powers; Determination of Need for Housing Authority; Resolution of Governing Body Proof of Establishment; Appointment of Commissioners; Term; Removal.**—In each city and in each county there is hereby created a public body corporate and politic to be known as the "Housing Authority" of the city or county: Provided, however, that such authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the city or the county, as the case may be, by proper resolution, shall determine at any time hereafter that there is need for an authority to function in such city or county: And provided further, that nothing contained herein shall be construed as creating an additional housing authority in a city where a housing authority has been created pursuant to the provisions of chapter ninety-three, acts of the legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, but each such housing authority created pursuant to said chapter ninety-three shall continue as a public body corporate and politic as though created pursuant to this act and shall have the area of operation defined in section one-a [§ 1409(56a)] for a housing authority of a city.

With respect to the provisions of other sections of this act and their application to housing authorities of counties, the term "city" shall be construed as referring to a county unless a different meaning clearly appears from the context.

The determination as to whether or not there is such need for an authority to function (a) may be made by the governing body on its own motion or (b) shall be made by the governing body upon the filing of a petition signed by twenty-five residents of the city or county, as the case may be, asserting that there is need for an authority to function in such city or county and requesting that the governing body so declare. The governing body shall adopt a resolution declaring that there is need for a housing authority in the city or county, as the case may be, if it shall find (a) that insanitary or unsafe inhabited dwelling accommodations exist in such city or county or (b) that there is a shortage of safe or sanitary dwelling accommodations in such city or county available to persons of low income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary the governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other cause.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolu-

tion by the governing body declaring the need for the authority. Such resolution shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above-enumerated conditions exist in the city or county, as the case may be. A copy of such resolutions duly certified by the clerk shall be admissible in evidence in any suit, action or proceeding.

When the governing body of a city adopts a resolution as aforesaid, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint five persons as commissioners of the authority created for said city. When the governing body of a county adopts a resolution as aforesaid, said body shall appoint five persons as commissioners of the authority created for said county. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of five years, except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city or county for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified, unless sooner removed according to this act. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services, but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the mayor (or in the case of an authority for a county, by the governing body of such county), but a commissioner shall be removed only after he shall have been given a copy of the charges at least ten days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk. The powers of each authority shall be vested in the commissioners thereof in office from time to time.

**§ 1409(59). [4] Persons Prohibited from Acquiring Interest in Property; Prior Ownership to be Disclosed.**—No commissioner or employee of an authority shall acquire any interest direct or indirect in any project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any project. If any member or employee of any authority owns or controls an interest direct or indirect in any property included in any project, which was acquired prior to his appointment or employment, he shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority.

**§ 1409(60). [5] Organization, Officers and Employees of the Authority.**—As soon as possible after the establishment of an authority the commissioners

shall organize for the transaction of business by choosing from among their number a chairman and a vice chairman and by adopting by-laws and rules and regulations suitable to the purposes of this act. Three commissioners shall constitute a quorum for the purpose of organizing the authority and conducting the business thereof. The commissioners shall, from time to time, select and appoint such officers and employees, including engineering, architectural and legal assistants, as they may require for the performance of their duties, and shall prescribe the duties and compensation of each officer and employee.

§ 1409(61). [6] **Commissioner to Receive Necessary Expenditures made by Him, but No Compensation for Services.**—No commissioner shall receive any compensation whether in form of salary, per diem allowances or otherwise, for or in connection with his services as such commissioner. Each commissioner shall, however, be entitled to reimbursement, to the extent of appropriations or other funds available therefor, for any necessary expenditures in connection with the performance of his general duties or in connection with the construction or operation of any project. The authority may allocate such expenses among its projects in such manner as it may consider proper.

§ 1409(62). [7] **Authority a Body Corporate; Powers; Investigations or Examinations.**—An authority shall constitute a body both corporate and politic, exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted:

To investigate into living and housing conditions in the city and into the means and methods of improving such conditions; to determine where unsanitary or substandard housing conditions exist; to study and make recommendations concerning the city plan in relation to the problems of clearing, replanning and reconstruction of areas in which unsanitary or substandard conditions exist, and the providing of housing accommodations for persons of low income, and to cooperate with any city or regional planning agency, to prepare, carry out and operate projects; to provide for the construction, reconstruction, improvement, alteration or repair of any project or any part thereof; to take over by purchase, lease or otherwise any project undertaken by any government; to act as agent for the federal government in connection with the acquisition, construction, operation and/or management of a project or any part thereof; to arrange with the city or with a government for the furnishing, planning, replanning, opening or closing of streets, roads, roadways, alleys or other places or facilities, or for the acquisition by the city or by the city, state or federal government or any agency, instrumentality or subdivision thereof, including, specifically, the federal emergency administration of public works and the public works emergency housing corporation, of property, options or property rights or for the furnishing of property or services in connection with a project; to lease or rent any of the housing or other accommodations of any of the lands, buildings, structures or facilities embraced in any project, and to establish and revise the rents or charge therefor; to enter upon any building or property in order to conduct investigations or to make surveys or soundings; to purchase, lease, obtain options upon, acquire by eminent domain or otherwise, sell, exchange, trans-

fer, assign or mortgage any property real or personal or any interest therein; to acquire any property real or personal or any interest therein from any person, firm, corporation, or the city, state or federal government or any agency, instrumentality or subdivision thereof, including, specifically, the federal emergency administration of public works and the public works emergency housing corporation, by gift, grant, bequest or devise; to own, hold, clear and improve property; in its discretion, to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable; to borrow money upon its bonds, notes, debentures or other evidences of indebtedness, and to secure the same by mortgages upon property held or to be held by it or by pledge of its revenues, or in any other manner; to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement in property or securities in which savings bank may legally invest funds subject to their control; to sue and be sued; to have a seal, and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; to make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with this act, to carry into effect the powers and purposes of the authority; to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are out of the State or unable to attend before the authority, or excused from attendance; and to do all things necessary or convenient to carry out the powers given in this act. Any of the investigations or examinations provided for in this act may be conducted by the authority or by a committee appointed by it, consisting of one or more members thereof, or by counsel, or by an officer or employee specifically authorized by the authority to conduct it. Any member of the authority, its counsel, or any person designated by it to conduct an investigation or examination, shall have power to administer oaths, take affidavits and issue subpoenas or commissions.

§ 1409(62a). [7a] **Power to Include in Contracts Requirements as to Wages and Hours of Labor, and Compliance with Conditions of Federal Government Attached to Financial Aid.**—A housing authority, in addition to its other powers, shall have power (notwithstanding anything to the contrary contained in this act or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

§ 1409(62b). [7b] **Joint Undertakings by Authorities.**—Any two or more authorities may join or cooperate with one another in the exercise of any or all of their powers for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of any one or more such authorities.

§ 1409(63). [8] **Power to Acquire Lands, etc., by Purchase or by Right of Eminent Domain.**—Whenever it shall be deemed necessary by an

authority in connection with the exercise of its powers herein conferred to take or acquire any lands, structures or buildings or other rights, either in fee or as easements for any housing or slum clearance project, such authority may purchase the same directly or through its agents from the owner or owners thereof, or failing to agree with the owner or owners thereof, such authority may exercise the power of eminent domain in the manner provided for condemnation proceedings, in chapter seventy-four, acts of the legislature of West Virginia, regular session, one thousand nine hundred seven, and chapter twenty-three, acts of one thousand nine hundred fifteen.

§ 1409(64). [9] **Ordinances, etc., of Locality in Which Situated; Restrictions on Acquisition or Disposal of Property; Not Required to Offer Securities.**—All projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the project is situated. No provisions with respect to the acquisition, operation or disposition of property by public bodies shall be applicable to an authority unless the legislature shall specifically so state. No authority shall be required to offer its securities to the state sinking fund commission at any time, nor shall any authority be required to turn over any surplus or sinking funds to the state sinking fund commission.

§ 1409(65). [10] **Amount and Nature of Indebtedness; Rights of Creditors.**—Subject to the restrictions set forth in this act, the authority may incur any indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with any project undertaken by it hereunder. No statutory limitation with respect to the nature or amount of indebtedness which may be incurred by municipalities or other public bodies shall apply to indebtedness of an authority, unless the legislature shall specifically so provide. No indebtedness of any nature of an authority shall constitute a debt or obligation of a municipality or the state or any other subdivision or agency or instrumentality thereof, or a charge against any property of such municipality, the State, or other subdivision, agency or instrumentality thereof. No obligation incurred by the authority shall give any right against any commissioner of such authority, but a commissioner shall be liable only for his own malfeasance. The rights of creditors of an authority shall be solely against such authority as a corporate body and shall be satisfied only out of property held by it in its corporate capacity, and the enforcement of such rights shall be subject to all the provisions of this act.

§ 1409(66). [11] **Agreement by the Authority Providing for Suspension and Control of Project in Connection with the Borrowing of Funds.**—An authority may, in connection with the borrowing of funds, or otherwise, enter into any agreement with the federal government or any agency or subdivision thereof, including, specifically, the federal emergency administration of public works and the public works emergency housing corporation, providing for supervision and control of the authority or of any project, and containing such other covenants, terms and conditions as the authority may deem advisable.

§ 1409(67). [12] **Report to Mayor or County Governing Body.**—At least once a year, an authority shall file with the mayor (or with the gov-

erning body in the case of a housing authority of a county) a report of its activities for the preceding year, and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this act.

§ 1409(68). [13]: Repealed by Acts 1941, c. 48, §7.

§ 1409(69). [14] **Property, Bonds, etc., of Authority Exempt from Taxation.**—The authority shall be exempt from the payment of any taxes or fees to the State or any subdivision thereof, or to any officer or employee of the State or any subdivision thereof. The property of an authority shall be exempt from all local and municipal taxes. Bonds, notes, debentures and other evidences of indebtedness of an authority are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, shall be exempt from taxes.

§ 1409(70). [15] **Security for Funds of the Authority Deposited in Bank.**—In order to protect funds deposited by an authority, all banks, bankers, trust companies or other persons carrying on a banking business, organized under the laws of the State, are authorized to give to the authority an undertaking with such sureties as shall be approved by the authority, faithfully to keep and pay over upon the order of the authority any such deposits and agreed interest thereon, or in lieu of the said sureties, to deposit with the authority as collateral such securities and in such amounts as may be agreed upon with the authority pursuant to a collateral deposit agreement in form and terms satisfactory to the authority. The collateral to be deposited shall consist of securities in which saving banks may legally invest funds within their control.

§ 1409(71). [16]: Repealed by Acts 1941, c. 49.

§ 1409(72). [17] **Policy of State as to Rentals.**—It is hereby declared to be the policy of this State that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city or county. To this end an authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived) will be sufficient to pay, as the same become due, the principal and interest on the bonds of the authority; to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority; and to create (during not less than six years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve.

§ 1409(73). [18] **Duties of Authority as to Rentals and Tenant Selection.**—In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant

selection: (a) It may rent or lease the dwelling accommodations therein only to persons of low income and at rentals within the financial reach of such persons; (b) it may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding; and (c) it shall not accept any person or persons (other than farmers of low income, as herein defined) as tenants in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual net income in excess of five times the annual rental of the quarters to be furnished such person or persons, except that in the case of such person or persons with three or more minor dependents, such ratio shall not exceed six to one; in computing the rental for the purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to occupants of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental.

Nothing contained in this or the preceding section shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this or the preceding section.

§ 1409(74). [19] **Power to Issue Bonds; How Bonds Secured.**—An authority shall have power to issue bonds from time to time, in its discretion, for any of its corporate purposes. An authority shall also have power to issue or exchange refunding bonds for the purpose of paying, retiring, extending or renewing bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable from income and revenues of the authority and from grants or contributions from the federal government or other source. Such income and revenues securing the bonds may be: Exclusively the income and revenues of the housing project financed in whole or in part with the proceeds of such bonds; exclusively the income and revenues of certain designated housing projects, whether or not they are financed in whole or in part with the proceeds of such bonds; or the income and revenues of the authority generally. Any such bonds may be additionally secured by a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority.

§ 1409(75). [20] **Bonds; Interest Rate and Life; Forms; Denominations; Redemption; How Payable; Sale; Signatures of Commissioners or Officers; Validity.**—Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding six per cent per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds shall be sold at not less than par at public sale held after notice published once at least five days prior to such sale in a newspaper having a general circulation in the city or county and in a financial newspaper published in the city of New York, New York: Provided, however, that such bonds may be sold to the federal government at private sale at not less than par and, in the event less than all of the bonds authorized in connection with any project or projects are sold to the federal government, the balance of such bonds may be sold at private sale at not less than par at an interest cost to the authority of not to exceed the interest cost to the authority of the portion of the bonds sold to the federal government.

In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. Any provisions of any law to the contrary notwithstanding, any bonds issued pursuant to this act shall be negotiable.

In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character, and said project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of this act.

§ 1409(76). [21] **Powers of Authority in Connection with the Issuance of Bonds, Incurring Obligations and Securing Payment of Same.**—In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, any authority, in addition to its other powers shall have power:

To pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

To covenant as to the bonds to be issued and as to the issuance of such bonds or otherwise, and as to the issuance of such bonds in escrow or otherwise and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

To covenant (subject to the limitations contained in this act) as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amounts of bonds the holders of which must consent thereto and the manner in which such consent may be given.

To covenant as to use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by said authority, to take possession and (so long as the authority shall continue in default) to retain such possession and to use, operate and manage any housing project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustees; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

§ 1409(77). [22] **Actions by Obligees of Authority to Enforce Performance of Contracts and Covenants and to Enjoin Unlawful.**—An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

By mandamus, suit, action or proceeding at law or in equity to compel said authority and the commissioners, officers, agents or employees thereof

to perform each and every term, provision and covenant contained in any contract of said authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by this act.

By suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of said authority.

§ 1409(78). [23] **Possession of Project by Obligee Upon Default by Authority; Appointment of Receiver; Accounting.**—An authority shall have power by its resolution, trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right (in addition to all rights that may otherwise be conferred), upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction.

To cause possession of any housing project or any part thereof to be surrendered to any such obligee which possession may be retained by such bondholder or trustee so long as the authority shall continue in default.

To obtain the appointment of a receiver of any housing project of said authority or any part thereof and of the rents and profits therefrom. If such receiver be appointed, he may enter and take possession of such housing project or any part thereof and (so long as the authority shall continue in default) operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of said authority as the court shall direct.

To require said authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

§ 1409(79). [24] **County Authorities Empowered to Provide Housing for Farmers of Low Income.**—Housing authorities created for counties are specifically empowered and authorized to borrow money, accept grants and exercise their other powers to provide housing for farmers of low income. In connection with such projects, such housing authorities may enter into such leases or purchase agreements, accept such conveyances and rent or sell dwellings forming part of such projects to or for farmers of low income, as such housing authority deems necessary in order to assure the achievement of the objectives of this act. Such leases, agreements or conveyances may include such covenants as the housing authority deems appropriate regarding such dwellings and the tracts of land described in any such instrument, which covenants shall be deemed to run with the land where the housing authority deems it necessary and the parties to such instrument so stipulate. Nothing contained in this section shall be construed as limiting any other powers of any housing authority.

§ 1409(80). [25] **Application for Low Cost Housing Project for Farmers.**—The owner of any farm operated, or worked upon, by farmers

of low income in need of safe and sanitary housing may file an application with a housing authority of a county requesting that it provide for a safe and sanitary dwelling or dwellings for occupancy by such farmers of low income. Such applications shall be received and examined by housing authorities in connection with the formulation of projects or programs to provide housing for farmers of low income.

N. H. DYER, M.D., M.P.H.  
STATE DIRECTOR OF HEALTH



# State of West Virginia

DEPARTMENT OF HEALTH

CHARLESTON 25305

November 28, 1967

Honorable Robert D. Bailey  
Secretary of State  
State Capitol  
Charleston, West Virginia 25305

Dear Mr. Bailey:

Enclosed are two copies of a Reference Page and two copies of Index Pages for The Public Health Laws of West Virginia and a Manual of Regulations of the West Virginia Board of Health. These Laws and Regulations are filed in the Odd Size File as item number 3.

Sincerely yours,

A handwritten signature in cursive script that reads "N. H. Dyer".

N. H. Dyer, M. D., M. P. H.  
State Director of Health

FILED IN THE OFFICE  
ROBERT D. BAILEY  
SECRETARY OF STATE  
THIS DATE 11/28/67