

# Introduction: BUILD WV Act

[\(WV Code §5B-2L\)](#)

- Provides tax incentives to encourage the development of reasonably priced residential housing in areas of the state where there is expected technical, industrial, and/or commercial growth.
- The BUILD WV tax incentives are intended to alleviate rising construction costs and other constraints associated with housing development in West Virginia.
- **Please read §5B-2L-2: Legislative Findings and Purpose**

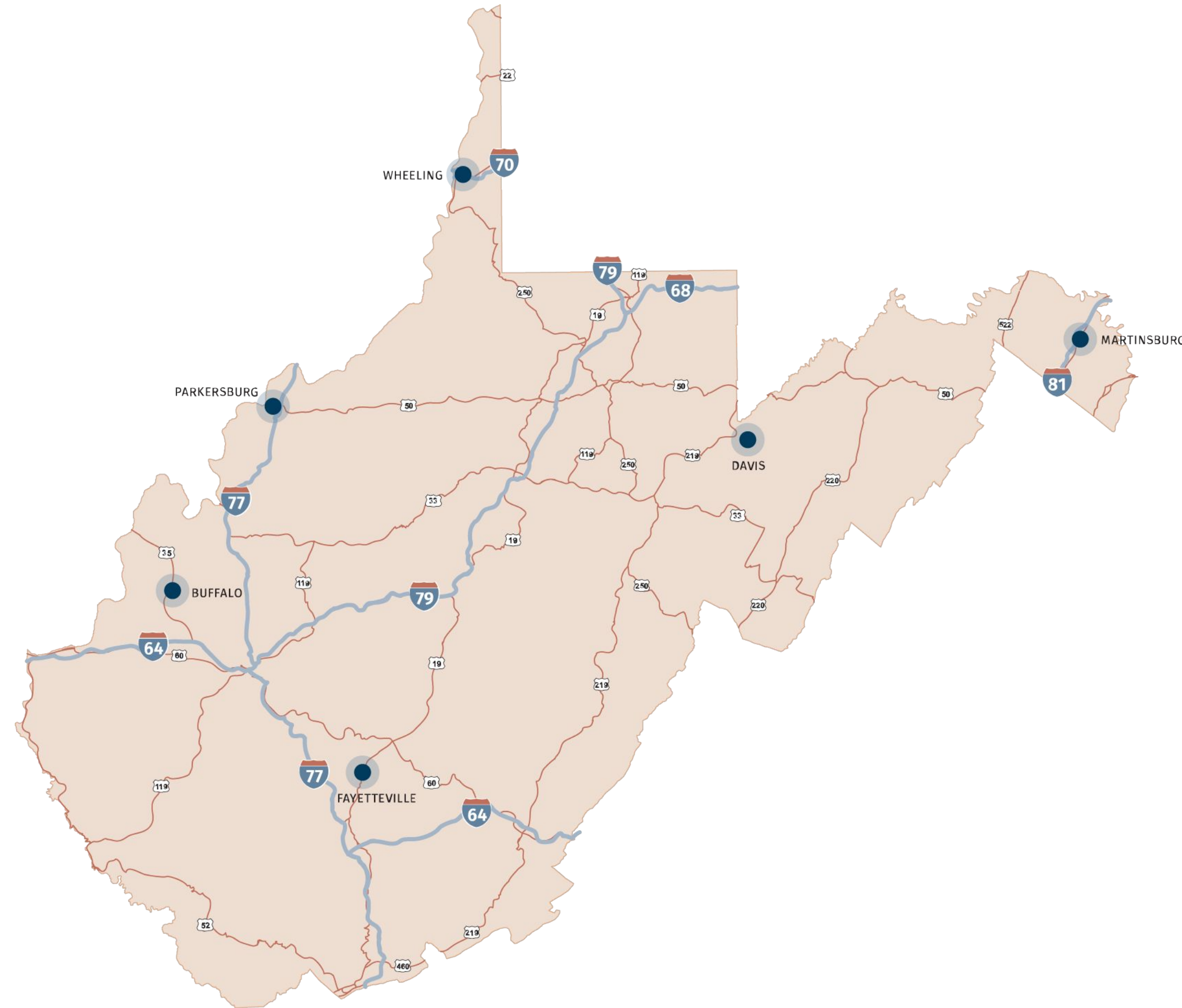
# BUILD WV Act continued...

[\(WV Code §5B-2L\)](#)

- Allows for BUILD WV Districts to be certified by the Secretaries of Commerce, Economic Development, and Tourism.
- BUILD WV Districts can extend up to 20 miles in any direction from the approved district center (Centerpoint could be a municipality, attraction, landmark, or other point of interest).
- Proposed projects must be located within a BUILD WV district to apply for and ultimately qualify for the incentives.

# Recent Activity:

- Current certified BUILD WV Districts:
  - Fayetteville
  - Davis
  - Martinsburg
  - Parkersburg
  - Buffalo
  - Wheeling
  - Clover Lick
  - Cottageville
  - Franklin
  - Cottageville
  - Maxwelton
  - Fabius
  - Princeton
- Additional district requests are under consideration at this time.
- **Projects locating in these areas may be eligible for BUILD WV incentives, but must go through the formal project application process with the WVDED.**



# BUILD WV Tax Incentives

- The BUILD WV Act provides for the following incentives for approved BUILD WV projects:
  - **Sales Tax Exemption** - Purchases of building materials, tangible personal property, and services by a construction manager, contractor or subcontractor directly used in the construction of a certified BUILD WV project are exempt from consumer sales and service tax. Additionally, this exemption applies to purchases for the repairs, maintenance and refurbishment of the BUILD WV project property.
  - **Property Value Adjustment Credit (PVAC)** - PVAC credit can be taken against personal or corporate income tax of the approved taxpayer, beginning in the tax year in which construction of the project property is completed. This credit can be taken, at a rate of 1/10th of the approved PVAC amount for up to 10 years, a portion of which is refundable, up to \$100,000 per project on an annual basis.
  - **Potential B&O Tax Exemption** - A municipality that imposes a B&O tax, may authorize by ordinance, a B&O tax exemption for gross income from rents, royalties, fees, or other remuneration derived by a lessor or landlord from the furnishing, leasing, or renting of any certified BUILD WV project property to a lessee or occupant.

**A proposed BUILD WV project must submit an application and be approved prior to the project's completion in order to qualify for the incentives.**

# How do I apply for the BUILD WV Incentives?

- Read [WV Code §5B-2L](#)
- Review project with the WV Department of Economic Development (WVDED) to obtain a project application
- Submit a draft application for review
- Formally apply and submit with non-refundable \$5,000 application fee
- Decision determined within 60 days
- Enter into an agreement with WVDED
- Within 3 months of project's completion, submit a certified costs report from a 3rd party accountant for WVDED's review.
- **A proposed BUILD WV project must submit an application and be approved prior to the project's completion in order to qualify for the incentives.**

## BUILD WV

Better United In  
Long-Term Development

## PROJECT APPLICATION CHECKLIST

### ABOUT THE PROGRAM

The BUILD WV Housing Development Tax Credit was an initiative of Governor Jim Justice in the 2022 Legislative Session. It was passed by the West Virginia Legislature with overwhelming support and signed into law on April 1, 2022. It aims to assist West Virginia's growing communities in attracting much-needed housing development projects. The credit offers a State Sales and Use Tax exemption for building materials and a 10-year property value adjustment refundable tax credit to offset building costs. West Virginia is one of the fastest growing in-bound states, and our demand for new, residential properties has never been higher.

The West Virginia Department of Economic Development (WVDED) oversees the program and reviews all applications. Contact Meghan Smith of WVDED with any questions at 304-993-3564 or [Meghan.E.Smith@wv.gov](mailto:Meghan.E.Smith@wv.gov).

### APPLICATION CHECKLIST

- Prior to completing this application, please read the Build WV Act, in [West Virginia Code §5B-2L](#).
- Complete the application questionnaire on the pages that follow.
- Attach letters or affidavits of good standing from (1) [the Department of Tax and Revenue](#); (2) [Workforce West Virginia](#); and (3) [the Secretary of State](#).
- Attach an Executive Summary, which summarizes the proposed project and describes how it addresses both economic problems and the immediate future needs of the area in which it will locate.
- Attach a written statement describing the business, developer, and/or builder's track record and ability to carry out the project.
- Attach an economic impact summary, describing the anticipated employment, revenues and expenses generated by the project.
- Attach any available parcel maps, renderings, or conceptual site plans.
- Attach the resume and two professional references for any owners in excess of 20%.
- Include a check (made out to "WVDED") with your application to cover the non-refundable fee in the amount of \$5,000. Applications will not be considered complete until the fee has been paid.
- Upon completion of the application, please either mail or e-mail a copy, including required supplemental materials, to the WVDED at the address below.

West Virginia Department of Economic Development  
ATTN: Meghan Smith  
1900 Kanawha Boulevard East, Building 3, Suite 600, Charleston, West Virginia 25305  
[Meghan.E.Smith@wv.gov](mailto:Meghan.E.Smith@wv.gov)

Within sixty (60) days of the application and fee submissions, the WVDED will review and notify the applicant of whether the application was approved or denied as a certified BUILD WV project. The WVDED's decision is final.

# What are the eligibility requirements for a BUILD WV Project?

- A BUILD WV project shall be for the **construction** of residential housing, including new construction or the **rehabilitation of existing unoccupied** structures.
- Projects eligible for the BUILD WV Act will meet the following criteria:
  - . Be located in a certified BUILD WV District
  - . Develop or rehabilitate at least six residential units or houses **OR** generate approved costs\* in excess of \$3,000,000
  - . Create a significant and positive economic impact on the state
  - . Will improve opportunity in the area where the project will be located for the successful establishment or expansion of other commercial businesses
  - . Entire list of approval considerations can be read under [§5B-2L-16](#).

\*WV Code §5B-2L-16 allows the WVDED to approve an overall sum of \$150 million in approved costs per fiscal year.

# Other considerations that could affect project approval:

- The WVDED is limited to approving \$150 million in total project costs per fiscal year.
- Example: Project applications received in FY 23-24 in the following order:
  - Project A: \$30M
  - Project B: \$10M
  - Project C: \$50M
  - Project X: \$15M
  - Project Y: \$35M
  - Project Z: \$20M
- Projects A, B, C, X, Y, and Z total \$160M in costs. WVDED can only approve \$10M of Project Z's costs because of the \$150M cap.

# What are considered “approved costs”?

- Virtually any cost directly associated in the construction of the housing project. For example:
  - Cost of land acquisition
  - Cost of bonds/insurance during construction
  - Cost of infrastructure/utility installations
  - Cost of labor, obligations to vendors, contractors, subcontractors, builders, suppliers, deliveries, etc.
  - Architectural and engineering services
  - Costs required to be paid under terms of any contract
  - All other costs comparable to the above
  - Common areas of a certified BUILD WV project are included as certified project property.



# What costs must be excluded from the project?

- Any portion of the project paid for with governmental (local, state, federal) incentives, grants, or bonds.
- Any project costs that have been included in other economic development incentives under WV Law.
- Any project costs covered by the WV Rehabilitation Investment Tax Credit Program (Historic Tax Credits)
- Any property that will be used as a residential or commercial timeshare or similar arrangement.
- **The exclusion of certain costs of a project does not automatically disqualify the remainder of the costs of the project.**

# BUILD WV - Sales Tax Exemption

- **Sales Tax Exemption** - Purchases of building materials, tangible personal property, and services by a construction manager, contractor or subcontractor directly used in the construction of a certified BUILD WV project are exempt from consumer sales and service tax.
- Additionally, this exemption applies to purchases for the repairs, maintenance and refurbishment of the BUILD WV project property.
- BUILD WV Sales Tax Exemption may be taken for the period of which the taxpayer is also taking the Property Value Adjustment Credit

# How do I claim the BUILD WV Sales Tax Exemption?

- Upon approval, the approved company may go to the WV State Tax Department's website and fill out the **Streamlined Sales and Use Tax Certificate of Exemption (F0003)**. Under item 4, checkbox L specify "Build WV". Prior purchases may be claimed on Form CST240, but only in accordance with the Streamlined Sales and Use Tax Guidelines.
- If exemption certificate is used for anything other than a BUILD WV project, can be subject to tax, penalties and interest if audited.
- A vendor is not required to accept exemption certificates. If a vendor does not accept an exemption certificate, then the only recourse is to file for a refund of the sales tax paid on exempt purchases with the Tax Division (Form CST240).

# How do I begin taking the PVAC tax credit?

- Applicant must first complete the approved project and submit certified costs report from a 3rd party CPA to the WVDED with 3 months of project completion date.
- WVDED will notify the WV State Tax Dept. of the actual project's costs
- Tax will calculate the actual PVAC using formula prescribed in WV State Code and notify taxpayer of actual credit entitlement amount\*, and the amount that can be taken per taxable year.
- Tax is currently developing an annual form to be filled out each tax year by the developer when reporting annual income taxes.
- **Begin taking the credit beginning in the tax year in which construction of the project property is completed.**

\*This is a suggested step in the process, but subject to change depending on how Tax would like to handle.

WVDED has recommended they issue a letter to the Taxpayer

# Calculating the Property Value Adjustment Credit

The amount of total property value adjustment credit allowed is the final product of the mathematical steps specified in paragraphs (A), (B) and (C).

- A. Approved costs, as certified by the Department of Economic Development, multiplied by 60 percent.
- B. The product of the multiplication in paragraph (A), multiplied by the statewide average class III property tax rate of this WV for the tax year in which construction of project property is completed, as certified by the Department of Economic Development.
- C. The product of the multiplication set forth in paragraph (B), multiplied by 10.

# Property Value Adjustment Credit Example:

Example: Good Homes LLC, a housing developer, intends to invest \$5 million into a housing development, located within a certified BUILD WV District, that will create 30 new residential units.

- **ASSUMPTIONS:** Avg. Statewide Class 3 Property Tax Rate (2022) = 2.2%, 10 year incentive program period is 2023-2032.
  - 1)  $\$5,000,000 \times 60\% = \$3,000,000$
  - 2)  $\$3,000,000 \times 2.2\% = \$66,000$
  - 3)  $\$66,000 \times 10 = \mathbf{\$660,000}$

Good Homes LLC may take up to \$660,000 against personal or corporate net income tax over ten years at a rate of 1/10th of that amount per year (\$66,000/year).

In instances where income tax liability is less than \$66,000/year, Good Homes LLC may take the excess amount of yearly credit allowed as a refundable credit, not to exceed \$100,000 per project on an annual basis.

# BUILD WV - B&O Tax Exemption

A municipality that imposes a B&O tax, **may authorize by ordinance**, a B&O tax exemption for gross income from rents, royalties, fees, or other remuneration derived by a lessor or landlord from the furnishing, leasing, or renting of any certified BUILD WV project property to a lessee or occupant.

# What if I end up adding more housing units after I've been approved?

- Once a project scope provided in a single application has been approved, the project may not be augmented, enlarged, extended, expanded. Final costs are to be totaled based on the project described to the WVDED in BUILD WV application.
- If future expansions or additions are anticipated that would qualify as a project on its own, the taxpayer may submit an additional and separate application for project approval, subject to all fees and required documentation.



# Helpful definitions:

- **“Common areas”** means, but is not limited to, lawns, roads, streets, alleys, sidewalks, parks, waterways, driveways, stairways, hallways, lobbies, corridors, sidewalks, parking lots, parking garages, community swimming pools, community laundry facilities, elevators, roofs, maintenance buildings, maintenance facilities, stairways, lobbies, corridors, and other property available for common use by all tenants and groups of tenants and their invitees. Common areas of a certified BUILD WV project are included as certified project property.
- **“Eligible company”** means any corporation, limited liability company, partnership, limited liability partnership, sole proprietorship, business trust, joint venture, or any other entity operating or intending to operate a certified project, whether owned or leased, within the state that meets the standards required by the Department of Economic Development for certification under this article. An eligible company may operate, or intend to operate, directly or indirectly through a lessee. The Department of Economic Development may certify multiple party projects comprised of more than one eligible company, as provided in this article.

# Helpful definitions cont'd:

- **“Infrastructure”** means, and is limited to, the real and tangible personal property located in a project that is directly used in, and necessary for, providing broadband internet access, electricity, water, natural gas, sewer service, sewage treatment service, rubbish disposal, and other utility services for residential units within a certified BUILD WV project. An electrical charging facility for charging electrical motor vehicles, or electrical hybrid motor vehicles of certified BUILD WV project residents may be treated as an infrastructure component of a certified BUILD WV project: Provided, That in no case shall any property or space that is used, in whole or in part, as a gasoline filling station or other motor vehicle fueling station constitute certified project property, or any part thereof.
- **“Timeshare”** means an agreement or arrangement in which two or more parties share the ownership of, or right to use, property (e.g. an apartment or condominium) that authorizes occupation by each party, typically for periods of less than a year. “Timeshare” includes a deeded contract providing such an arrangement and a fractional ownership agreement or arrangement. “Timeshare” means and includes property that the subject of any such agreement or arrangement.

# Contact information

BUILD WV Program contact:

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304-993-3564