
WEST VIRGINIA CODE CHAPTER 31
ARTICLE 18C

WV Legislature

§31-18C-1. Short title.

This article shall be known and may be cited as the "West Virginia Veterans' Mortgage Fund Act."

WV Legislature

§31-18C-2. Legislative findings; purpose and intent of article.

It is hereby found, determined and declared as a matter of legislative finding: (a) That veterans, who have sacrificed in the service of their country valuable years of their lives and considerable earning potential, constitute a readily identifiable and particularly deserving segment of this state's population; (b) that by making additional housing loans available to eligible veterans, limited below-market rate private home loan funds will be more readily available to those qualified to receive such loans; and (c) that the provisions of the Qualified Veterans Housing Bond Amendment of 1984 authorize the Legislature to enact legislation to establish a fund for the purpose of making loans to qualified veterans.

It is hereby declared to be the public policy of this state to assist its qualified veterans in financing owner-occupied residences. It is the purpose and intent of the Legislature in enacting this article to provide loans to qualified veterans of this state to finance owner-occupied single-family residential dwellings, as a recognition of their sacrifice and service.

The Legislature finds that the public policy of the state as set forth in this section cannot be effectively attained without the funding, establishment, operation and maintenance of the veterans' mortgage fund, and further, that although federal law now effectively prohibits the issuance of tax-exempt bonds to finance the operation of the veterans' mortgage fund program, at such time as federal law is amended so as to permit the issuance of such bonds, because of the critical need to provide such financing for veterans and because of the possibility that Congress might at any time thereafter again take action which would prohibit the operation of the veterans' mortgage fund program, an emergency will exist, requiring that any procedural, interpretive or legislative rules determined by the West Virginia Housing Development Fund to be necessary for the administration of the veterans' mortgage fund program, be promulgated by the West Virginia Housing Development Fund as emergency rules, in accordance with and subject to the provisions of section fifteen, article three, chapter twenty-nine-a of this code. This article authorizes the issuing and selling of general obligation bonds of the state secured by the general credit and taxing power of the state to be issued to provide financing for mortgage loans to qualifying veterans.

§31-18C-3. Definitions.

As used in this article, unless the context otherwise requires:

- (1) "Bond" means any veterans' mortgage bond, a state general obligation bond issued pursuant to this article;
- (2) "Housing development fund" means the West Virginia Housing Development Fund created and established under article eighteen, chapter thirty-one of this code;
- (3) "Lending institution" means a bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage bank, mortgage company, credit union, life insurance company or other financial institution that customarily provides service or aids in the financing of mortgages on single-family residential housing which has been approved for participation in the program by the Housing Development Fund; the term includes a holding company for any of the foregoing;
- (4) "Loan" means a veterans' mortgage loan to finance the purchase, construction, improvement or rehabilitation of a residential dwelling, made or acquired by the Housing Development Fund under this article, in the name of and on behalf of the state, secured by a deed of trust or mortgage on such residential dwelling;
- (5) "Outstanding bond" means a bond which has been issued pursuant to this article and has not been repaid, but does not include bonds which are to be paid from designated moneys or securities which are irrevocably held in trust solely for such purpose;
- (6) "Program" means the veterans' mortgage fund program administered by the Housing Development Fund pursuant to this article;
- (7) "Residential dwelling" means a single-family residence located in the state, in which a veteran intends to reside as his or her principal residence;
- (8) "State" means the State of West Virginia; and
- (9) "Veteran" means a person who served in the active military, naval or air service, and who was discharged or released therefrom under conditions other than dishonorable.

§31-18C-4. Veterans' mortgage fund created; purpose.

(a) There is hereby created and established under the jurisdiction of the Office of the Treasurer of the state a veterans' mortgage fund. All moneys resulting from the sale of bonds pursuant to this article shall be credited to such fund.

(b) For the purpose of creating and maintaining a fund to provide loans for veterans in accordance with this article, the state shall issue its negotiable bonds to provide funds for a veterans' mortgage fund loan program to be made pursuant to this article.

§31-18C-5. Money and interests included in the veterans' mortgage fund.

(a) The veterans' mortgage fund shall include:

(1) Any interest of the state in all loans made to veterans pursuant to the program including any guaranty or insurance thereon or on the homes or any mortgage-backed certificates or like instruments taken in exchange therefor, until the principal amount of such loans together with any interest and penalties due have been received by the state;

(2) The proceeds from the issuance and sale of such bonds;

(3) Income, rents and any other pecuniary benefits received by the state as a result of making or acquiring veterans' mortgage loans;

(4) Sums received by way of indemnity or forfeiture for the failure of any bidder for the purchase of any such bonds to comply with his bid and accept and pay for such bonds;

(5) Interest received from investments of any such money including earnings received on bond proceeds prior to disbursement for the purchase of loans; and

(6) Any equitable interest in properties encumbered under this program.

(b) Money in the veterans' mortgage fund shall be deposited in the State Treasury to the credit of the veterans' mortgage fund.

(c) Money in the fund shall be held in the following accounts:

(1) A loan account, into which shall be deposited the proceeds from the issuance and sale of bonds, from which loans shall be made or repaid; and

(2) A general account, into which shall be deposited all other money properly credited to the fund, from which shall be paid the principal of and interest on the bonds, and all expenses relating to the administration and operation of such fund.

§31-18C-6. Veterans' mortgage bonds; amount; terms of bonds; when may issue.

(a) Bonds of the state, under authority of the Qualified Veterans Housing Bond Amendment of 1984, are hereby authorized to be issued and sold for the sole purpose of raising funds for the veterans' mortgage fund, to be used for financing loans. No such bonds may be issued, however, unless they are part of an issue described in a written declaration executed by the Governor and filed in the office of the Secretary of State. The aggregate annual amount payable on all such bonds, including both principal and interest, shall be limited such that the debt service accruing on such bonds in any fiscal year shall not exceed \$35 million exclusive of any amounts payable on such bonds for which moneys or securities have been irrevocably set aside and dedicated solely for the purpose of such payment. The total proceeds of each bond sale shall be deposited in the manner hereinafter provided and shall be earmarked, designated and used for the purposes of this article.

(b) The description contained in any declaration with respect to an issue of bonds hereunder shall specify that the veterans' mortgage fund program is to be financed through the issuance of the bonds, the estimate of the cost of loans, the aggregate amount of outstanding bonds which may at any point in time constitute a part of such issue, the time or times and manner of sale of such bonds, and the particular terms of such bonds, or the manner in which such terms will be determined, including the date or dates, time or times of issuance, time or times and amount or amounts of maturity or maturities, specified or variable rate or rates of interest, the form of such bonds and provisions for registration or exchange, if applicable, the method and manner of payment of such bonds, the provisions, if any, for redemption or renewal of such bonds, and specifying such other similar matters as the Governor may determine to be necessary and appropriate in connection with the sale and issuance of the bonds.

(c) Such bonds shall be executed by the Governor under the great seal of the state, attested by the signature of the Secretary of State, and the coupons, if any, attached thereto shall be authenticated by the signature of the Governor. Such signatures may be by facsimile signature, but, unless provision has been made for the authentication thereof by a bond registrar determined to be responsible by the Governor, each bond shall bear at least one manual signature.

(d) Prior to the preparation of definitive bonds, the Governor may under like restrictions issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Such bonds may be issued without any other proceedings, or the happening of any other conditions or things than those proceedings, conditions or things which are specified and required by this article or by the Constitution of the state.

§31-18C-7. Pledge of credit of state and security for bonds.

(a) The state covenants and agrees with the holders of the bonds issued pursuant hereto as follows: (1) That such bonds shall constitute a direct and general obligation of the state; (2) that the full faith and credit of the state is hereby pledged to secure the payment of the principal of and interest on such bonds; (3) that an annual state tax shall be collected in an amount sufficient to pay, as it may accrue, the interest on such bonds and the principal thereof; and (4) that such tax shall be levied in any year only to the extent that the moneys in the veterans' mortgage fund irrevocably set aside for and applied to the payment of the interest on and principal of said bonds becoming due and payable in such year are insufficient therefor.

(b) In addition, in connection with any issue of bonds hereunder, the Governor may pledge or assign as security for the payment of the principal of or interest on such bonds, any of the following:

(1) The proceeds of any such bonds pending their use or of bonds which may be issued to renew such bonds;

(2) The loans made with the proceeds of such bonds including all collateral security for the payment of such loans;

(3) The proceeds of any mortgage or other insurance or guaranty or letters of credit or similar arrangements undertaken in connection with the financing of the program; and

(4) Any other assets, including certificates of any entity approved by the Governor received in exchange for loans pursuant to subdivision (k), section sixteen of this article, specifically designated for the purpose of paying any such principal or interest.

(c) Any such pledge or assignment by the Governor shall be valid and binding from the time it is made, and the lien of such pledge or assignment shall be enforceable and need not be perfected by delivery or any filing or further act. Such lien shall be valid against all parties having claims of any kind in tort, contract or otherwise, irrespective of whether such parties have notice of the lien of such pledge or assignment.

§31-18C-8. Legality for investment; tax exemption.

(a) The bonds are hereby made securities in which all insurance companies and associations, and other persons carrying on an insurance business, all banks, bankers, trust companies, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, and other persons, except administrators, guardians, executors, trustees and fiduciaries, who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them.

(b) The bonds and the income therefrom shall at all times be exempt from taxation.

§31-18C-9. Listing by Auditor; agent for registration.

All bonds issued under this article shall be separately listed by the Auditor of the state in books provided for the purpose, in each case giving the date, number, character and amount of obligations issued, and in case of registered bonds, the name and post office address of the person, firm or corporation registered as the owner thereof, but the Governor may, in his declaration with respect to such bonds, designate an agent within or without the state for the purpose of registration of transfer of such bonds.

WV Legislature

§31-18C-10. Veterans' loan payments used to pay bonds and interest; investment of remainder.

(a) There shall be paid into the general account in the veterans' mortgage fund all money from any and all loan payments made by veterans under the terms of the loans for the purpose of paying the interest on and principal of such bonds and from any other source whatsoever which is made liable by law or contract for the payment of the principal of such bonds or the interest thereon.

(b) Moneys from time to time in the general account in the fund in excess of the amount currently required for the payment of the due principal of, or interest on, the bonds, and the current expenses of the fund shall be invested by the State Treasurer at the direction of the Governor.

§31-18C-11. Sale by Governor; minimum price.

The Governor shall sell the bonds herein authorized at such time or times as he may determine necessary to provide funds for the making or purchase of loans, as herein provided, and after consultation with the Housing Development Fund regarding the status and requirements of the program and subject to the limitations contained in this article. All sales shall be at not less than at such price or prices as he shall determine to be in the best interest of the state.

§31-18C-12. Auditor to be custodian of unsold bonds.

The State Auditor shall be the custodian of all unsold bonds issued pursuant to the provisions of this article.

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§31-18C-13. Bond counsel and financial advisor.

The Governor shall designate the bond counsel responsible for the issuance of a final approving opinion regarding the legality of the sale of such bonds and may at his discretion designate a financial advisor to the Governor for the issuance and sale of such bonds.

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§31-18C-14. Approval and payment of all necessary expenses.

All necessary expenses, including legal expenses incurred in the execution of this article, to the extent such expenses are not otherwise paid out of the veterans' mortgage fund, shall be paid out of the General Fund of the state on warrants of the Auditor of the state drawn on the State Treasurer.

WV Legislature

§31-18C-15. Administration of veterans' mortgage fund program by West Virginia Housing Development Fund.

The program shall be administered by the West Virginia Housing Development Fund.

WV Legislature

§31-18C-16. Powers and duties of Housing Development Fund regarding veterans' mortgage fund.

The West Virginia Housing Development Fund is hereby authorized and empowered:

- (a) To make available the moneys from the veterans' mortgage fund for the making or purchase of loans in the name of and on behalf of the state;
- (b) To make and execute contracts, including contracts for the purchase of bond or pool insurance, releases, compromises, compositions and other instruments necessary or convenient for the exercise of its powers, or to carry out its purposes under this article;
- (c) To impose and collect reasonable fees and charges in connection with the making, purchase and servicing of loans, which fees and charges shall be limited to the amounts required to pay the expenses related to the administration of the program, including operating and administrative costs and any bond guaranty fees;
- (d) To employ such agents and consultants as it deems advisable and to fix their compensation and prescribe their duties with respect to the program;
- (e) To acquire, hold and dispose of personal and real property for its purposes under this article;
- (f) To enter into agreements or other transactions with any federal or state agency, any lending institution or any other person, partnership, corporation, association or organization;
- (g) To sell, at public or private sale, any loan or other negotiable instrument or obligation securing a loan made under the provisions of this article;
- (h) To make loans or to purchase loans from lending institutions in the manner and under the terms and conditions prescribed by this article;
- (i) To enter into agreements with lending institutions and other entities for advertising the program, for taking applications for loans, for originating loans in the name of the state or in the name of such lending institution, for supervising the execution of promissory notes, deeds of trust and other documents and agreements associated with the program, for accepting and transmitting loan payments and otherwise servicing loans, for the operation and administration of any other aspect of the program or to operate and administer any and all aspects of the program;
- (j) To reimburse itself or to pay such lending institutions or other entities pursuant to any such agreements for any reasonable and necessary fees and expenses incurred in the operation and administration of the program; and
- (k) To exchange loans for certificates issued by an entity approved by the Governor for

amounts and on terms and conditions acceptable to the Governor.

WV Legislature

§31-18C-17. Terms and conditions of loans from veterans' mortgage fund.

No loans shall be made or acquired by the Housing Development Fund except loans to veterans who meet reasonable criteria of creditworthiness as defined by the Housing Development Fund and in accordance with the following terms and conditions, among other terms and conditions which the Housing Development Fund shall require that:

(a) No loan shall be made unless an affidavit shall be executed by the veteran establishing his eligibility and submitted to the Housing Development Fund together with evidence of his or her eligible status;

(b) The proceeds of all loans shall be used only for financing the purchase of residential dwellings by veterans;

(c) All loans shall be repaid in full over a term not to exceed thirty years plus a reasonable construction period in the case of a construction loan, and at a rate of interest determined by the Housing Development Fund, which may set the interest rate to provide a margin over the rate paid on the bonds issued under this article. The difference between the interest rate on the loans and the interest rate on such bonds may be used in whole or in part to defray the expense of administering the program;

(d) The principal amount of each loan shall be limited to the appraised value of the residential dwelling;

(e) Each loan shall be evidenced by a negotiable promissory note executed and delivered by the veteran and shall be secured by a first lien deed of trust upon the residential dwelling financed by the proceeds of the loan, subject only to such exceptions as shall be acceptable to the Housing Development Fund; and

(f) All notes and deeds of trust accepted as security for loans under this article shall be payable to the order of and for the use and benefit of the state.

The Housing Development Fund is hereby empowered and authorized to propose and promulgate such rules and regulations as it determines are necessary or desirable in the administration of the program, including procedural, interpretive, legislative and emergency rules.

§31-18C-18. Prohibition of funds inuring to the benefit of or being distributable to the directors or officers.

No part of the funds of the veterans' mortgage fund shall inure to the benefit of or be distributable to the directors or officers of the Housing Development Fund or other private persons except that the Housing Development Fund shall be authorized and empowered to pay reasonable compensation for services rendered, and to make loans as previously specified in furtherance of its purposes under this article: Provided, That no such loans shall be made to and no property shall be purchased or leased from, or sold, leased or otherwise disposed of to any director or officer of the Housing Development Fund.

§31-18C-19. Annual audit.

The Housing Development Fund shall cause an annual audit to be made by an independent certified public accountant of the books, accounts and records of the program, and with respect to the receipts, disbursements, contracts, mortgages or deeds of trust, assignments, loans and all other matters relating to its operation of the program. The person, firm, association, partnership or corporation performing such audit shall furnish copies of the audit report to the treasurer, where such audit report shall be placed on file and made available for inspection by the general public.