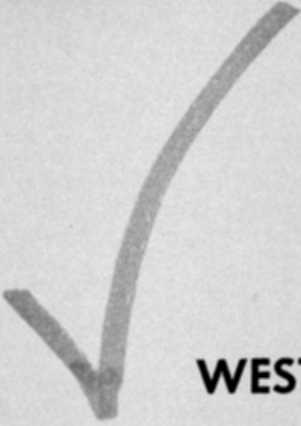
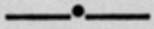


No: 653



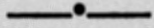
WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985



ENROLLED

SENATE BILL NO. 653

(By Mr. Jones, Mr. President, et al.)



PASSED April 13, 1985

In Effect ninety days from Passage



ENROLLED

Senate Bill No. 653

(BY MR. TONKOVICH, MR. PRESIDENT (BY REQUEST) AND MR. HARMAN)

[Passed April 13, 1985; in effect ninety days from passage.]

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eighteen-c, relating to implementation of the provisions of the Qualified Veterans Housing Bond Amendment of 1984 by the establishment of, and the sale of bonds for, the veterans' mortgage fund and the administration of the veterans' mortgage fund program by the West Virginia housing development fund; providing that article eighteen-c be known as the West Virginia veterans' mortgage fund; finding that qualified veterans constitute a readily identifiable and particularly deserving segment of the state's population; providing definitions for the terms bond, housing development fund, lending institution, loan, outstanding bond, program, residential dwelling, state and veteran; creating the veterans' mortgage fund; designating money and interests included in the veterans' mortgage fund; authorizing the issuance of veterans' mortgage bonds; pledging the credit of the state and providing security for bonds; establishing legality for investment and tax exemptions; providing for listing by auditor and agent for registration; authorizing use of veterans' loan payments to pay bonds and interest; providing for sale of bonds by governor; authorizing auditor to be custodian of unsold

bonds; providing for designation of bond counsel and financial advisor; providing for approval and payment of necessary expenses; naming housing development fund to administer the veterans' mortgage fund program; authorizing the housing development fund to make available the veterans' mortgage funds; providing for terms and conditions of loans; authorizing the housing development fund to issue rules and regulations; prohibiting funds and benefits inuring to benefit of directors; and providing for annual audit.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eighteen-c, to read as follows:

ARTICLE 18C. VETERANS' MORTGAGE FUND.

§31-18C-1. Short title.

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

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

- 1 It is hereby found, determined and declared as a matter of
- 2 legislative finding: (a) That veterans, who have sacrificed in
- 3 the service of their country valuable years of their lives and
- 4 considerable earning potential, constitute a readily
- 5 identifiable and particularly deserving segment of this
- 6 state's population; (b) that by making additional housing
- 7 loans available to eligible veterans, limited below-market
- 8 rate private home loan funds will be more readily available
- 9 to those qualified to receive such loans; and (c) that the
- 10 provisions of the Qualified Veterans Housing Bond
- 11 Amendment of 1984 authorize the Legislature to enact
- 12 legislation to establish a fund for the purpose of making
- 13 loans to qualified veterans.
- 14 It is hereby declared to be the public policy of this state to
- 15 assist its qualified veterans in financing owner-occupied
- 16 residences. It is the purpose and intent of the Legislature in
- 17 enacting this article to provide loans to qualified veterans
- 18 of this state to finance owner-occupied single-family

19 residential dwellings, as a recognition of their sacrifice and
20 service.

21 The Legislature finds that the public policy of the state as
22 set forth in this section cannot be effectively attained
23 without the funding, establishment, operation and
24 maintenance of the veterans' mortgage fund, and further,
25 that although federal law now effectively prohibits the
26 issuance of tax-exempt bonds to finance the operation of
27 the veterans' mortgage fund program, at such time as
28 federal law is amended so as to permit the issuance of such
29 bonds, because of the critical need to provide such
30 financing for veterans and because of the possibility that
31 Congress might at any time thereafter again take action
32 which would prohibit the operation of the veterans'
33 mortgage fund program, an emergency will exist, requiring
34 that any procedural, interpretive or legislative rules
35 determined by the West Virginia housing development fund
36 to be necessary for the administration of the veterans'
37 mortgage fund program, be promulgated by the West
38 Virginia housing development fund as emergency rules, in
39 accordance with and subject to the provisions of section
40 fifteen, article three, chapter twenty-nine-a of this code.
41 This article authorizes the issuing and selling of general
42 obligation bonds of the state secured by the general credit
43 and taxing power of the state to be issued to provide
44 financing for mortgage loans to qualifying veterans.

§31-18C-3. Definitions.

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

3 (1) "Bond" means any veterans' mortgage bond, a state
4 general obligation bond issued pursuant to this article;

5 (2) "Housing development fund" means the West
6 Virginia housing development fund created and established
7 under article eighteen, chapter thirty-one of this code;

8 (3) "Lending institution" means a bank, trust company,
9 savings bank, national banking association, savings and
10 loan association, building and loan association, mortgage
11 bank, mortgage company, credit union, life insurance
12 company or other financial institution that customarily
13 provides service or aids in the financing of mortgages on
14 single-family residential housing which has been approved

15 for participation in the program by the housing
16 development fund; the term includes a holding company for
17 any of the foregoing;

18 (4) "Loan" means a veterans' mortgage loan to finance
19 the purchase, construction, improvement or rehabilitation
20 of a residential dwelling, made or acquired by the housing
21 development fund under this article, in the name of and on
22 behalf of the state, secured by a deed of trust or mortgage on
23 such residential dwelling;

24 (5) "Outstanding bond" means a bond which has been
25 issued pursuant to this article and has not been repaid, but
26 does not include bonds which are to be paid from
27 designated moneys or securities which are irrevocably held
28 in trust solely for such purpose;

29 (6) "Program" means the veterans' mortgage fund
30 program administered by the housing development fund
31 pursuant to this article;

32 (7) "Residential dwelling" means a single-family
33 residence located in the state, in which a veteran intends to
34 reside as his or her principal residence;

35 (8) "State" means the state of West Virginia; and

36 (9) "Veteran" means a person who served in the active
37 military, naval or air service, and who was discharged or
38 released therefrom under conditions other than
39 dishonorable.

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

1 (a) There is hereby created and established under the
2 jurisdiction of the office of the treasurer of the state a
3 veterans' mortgage fund. All moneys resulting from the sale
4 of bonds pursuant to this article shall be credited to such
5 fund.

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

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

1 (a) The veterans' mortgage fund shall include:

2 (1) Any interest of the state in all loans made to veterans

3 pursuant to the program including any guaranty or
4 insurance thereon or on the homes or any mortgage-backed
5 certificates or like instruments taken in exchange therefor,
6 until the principal amount of such loans together with any
7 interest and penalties due have been received by the state;

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

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

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

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

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

21 (b) Money in the veterans' mortgage fund shall be
22 deposited in the state treasury to the credit of the veterans'
23 mortgage fund.

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

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

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

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

1 (a) Bonds of the state, under authority of the Qualified
2 Veterans Housing Bond Amendment of 1984, are hereby
3 authorized to be issued and sold for the sole purpose of
4 raising funds for the veterans' mortgage fund, to be used for
5 financing loans. No such bonds may be issued, however,
6 unless they are part of an issue described in a written
7 declaration executed by the governor and filed in the office
8 of the secretary of state. The aggregate annual amount

9 payable on all such bonds, including both principal and
10 interest, shall be limited such that the debt service accruing
11 on such bonds in any fiscal year shall not exceed thirty-five
12 million dollars exclusive of any amounts payable on such
13 bonds for which moneys or securities have been irrevocably
14 set aside and dedicated solely for the purpose of such
15 payment. The total proceeds of each bond sale shall be
16 deposited in the manner hereinafter provided and shall be
17 earmarked, designated and used for the purposes of this
18 article.

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

37 (c) Such bonds shall be executed by the governor under
38 the great seal of the state, attested by the signature of the
39 secretary of state, and the coupons, if any, attached thereto
40 shall be authenticated by the signature of the governor.
41 Such signatures may be by facsimile signature, but, unless
42 provision has been made for the authentication thereof by a
43 bond registrar determined to be responsible by the
44 governor, each bond shall bear at least one manual
45 signature.

46 (d) Prior to the preparation of definitive bonds, the
47 governor may under like restrictions issue temporary bonds
48 with or without coupons, exchangeable for definitive bonds
49 upon the issuance of the latter. Such bonds may be issued
50 without any other proceedings, or the happening of any

51 other conditions or things than those proceedings,
52 conditions or things which are specified and required by
53 this article or by the constitution of the state.

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

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

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

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

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

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

27 (4) Any other assets, including certificates of any entity
28 approved by the governor received in exchange for loans
29 pursuant to subsection eleven, section sixteen of this
30 article, specifically designated for the purpose of paying
31 any such principal or interest.

32 (c) Any such pledge or assignment by the governor shall
33 be valid and binding from the time it is made, and the lien of
34 such pledge or assignment shall be enforceable and need not
35 be perfected by delivery or any filing or further act. Such
36 lien shall be valid against all parties having claims of any

37 kind in tort, contract or otherwise, irrespective of whether
38 such parties have notice of the lien of such pledge or
39 assignment.

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

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

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

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

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

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

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

8 (b) Moneys from time to time in the general account in
9 the fund in excess of the amount currently required for the
10 payment of the due principal of, or interest on, the bonds,

11 and the current expenses of the fund shall be invested by the
12 state treasurer at the direction of the governor.

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

1 The governor shall sell the bonds herein authorized at
2 such time or times as he may determine necessary to provide
3 funds for the making or purchase of loans, as herein
4 provided, and after consultation with the housing
5 development fund regarding the status and requirements of
6 the program and subject to the limitations contained in this
7 article. All sales shall be at not less than at such price or
8 prices as he shall determine to be in the best interest of the
9 state.

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

1 The state auditor shall be the custodian of all unsold
2 bonds issued pursuant to the provisions of this article.

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

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

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

1 All necessary expenses, including legal expenses incurred
2 in the execution of this article, to the extent such expenses
3 are not otherwise paid out of the veterans' mortgage fund,
4 shall be paid out of the general fund of the state on warrants
5 of the auditor of the state drawn on the state treasurer.

**§31-18C-15. Administration of veterans' mortgage fund
program by West Virginia housing
development fund.**

1 The program shall be administered by the West Virginia
2 housing development fund.

**§31-18C-16. Powers and duties of housing development fund
regarding veterans' mortgage fund.**

1 The West Virginia housing development fund is hereby
2 authorized and empowered:

- 3 (a) To make available the moneys from the veterans'
4 mortgage fund for the making or purchase of loans in the
5 name of and on behalf of the state;
- 6 (b) To make and execute contracts, including contracts
7 for the purchase of bond or pool insurance, releases,
8 compromises, compositions and other instruments
9 necessary or convenient for the exercise of its powers, or to
10 carry out its purposes under this article;
- 11 (c) To impose and collect reasonable fees and charges in
12 connection with the making, purchase and servicing of
13 loans, which fees and charges shall be limited to the
14 amounts required to pay the expenses related to the
15 administration of the program, including operating and
16 administrative costs and any bond guaranty fees;
- 17 (d) To employ such agents and consultants as it deems
18 advisable and to fix their compensation and prescribe their
19 duties with respect to the program;
- 20 (e) To acquire, hold and dispose of personal and real
21 property for its purposes under this article;
- 22 (f) To enter into agreements or other transactions with
23 any federal or state agency, any lending institution or any
24 other person, partnership, corporation, association or
25 organization;
- 26 (g) To sell, at public or private sale, any loan or other
27 negotiable instrument or obligation securing a loan made
28 under the provisions of this article;
- 29 (h) To make loans or to purchase loans from lending
30 institutions in the manner and under the terms and
31 conditions prescribed by this article;
- 32 (i) To enter into agreements with lending institutions
33 and other entities for advertising the program, for taking
34 applications for loans, for originating loans in the name of
35 the state or in the name of such lending institution, for
36 supervising the execution of promissory notes, deeds of
37 trust and other documents and agreements associated with
38 the program, for accepting and transmitting loan payments
39 and otherwise servicing loans, for the operation and
40 administration of any other aspect of the program or to
41 operate and administer any and all aspects of the program;
- 42 (j) To reimburse itself or to pay such lending institutions
43 or other entities pursuant to any such agreements for any

44 reasonable and necessary fees and expenses incurred in the
45 operation and administration of the program; and

46 (k) To exchange loans for certificates issued by an entity
47 approved by the governor for amounts and on terms and
48 conditions acceptable to the governor.

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

1 No loans shall be made or acquired by the housing
2 development fund except loans to veterans who meet
3 reasonable criteria of credit worthiness as defined by the
4 housing development fund and in accordance with the
5 following terms and conditions, among other terms and
6 conditions which the housing development fund shall
7 require that:

8 (a) No loan shall be made unless an affidavit shall be
9 executed by the veteran establishing his eligibility and
10 submitted to the housing development fund together with
11 evidence of his or her eligible status;

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

14 (c) All loans shall be repaid in full over a term not to
15 exceed thirty years plus a reasonable construction period in
16 the case of a construction loan, and at a rate of interest
17 determined by the housing development fund, which may
18 set the interest rate to provide a margin over the rate paid on
19 the bonds issued under this article. The difference between
20 the interest rate on the loans and the interest rate on such
21 bonds may be used in whole or in part to defray the expense
22 of administering the program;

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

25 (e) Each loan shall be evidenced by a negotiable
26 promissory note executed and delivered by the veteran and
27 shall be secured by a first lien deed of trust upon the
28 residential dwelling financed by the proceeds of the loan,
29 subject only to such exceptions as shall be acceptable to the
30 housing development fund; and

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

34 The housing development fund is hereby empowered and

35 authorized to propose and promulgate such rules and
36 regulations as it determines are necessary or desirable in
37 the administration of the program, including procedural,
38 interpretive, legislative and emergency rules.

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

1 No part of the funds of the veterans' mortgage fund shall
2 inure to the benefit of or be distributable to the directors or
3 officers of the housing development fund or other private
4 persons except that the housing development fund shall be
5 authorized and empowered to pay reasonable
6 compensation for services rendered, and to make loans as
7 previously specified in furtherance of its purposes under
8 this article: *Provided*, That no such loans shall be made to
9 and no property shall be purchased or leased from, or sold,
10 leased or otherwise disposed of to any director or officer of
11 the housing development fund.

§31-18C-19. Annual audit.

1 The housing development fund shall cause an annual
2 audit to be made by an independent certified public
3 accountant of the books, accounts and records of the
4 program, and with respect to the receipts, disbursements,
5 contracts, mortgages or deeds of trust, assignments, loans
6 and all other matters relating to its operations of the
7 program. The person, firm, association, partnership or
8 corporation performing such audit shall furnish copies of
9 the audit report to the treasurer, where such audit report
10 shall be placed on file and made available for inspection by
11 the general public.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Nassir E. Elshar
.....
Chairman Senate Committee

Floyd Fuller
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Todd C. Smith
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Ran Turkmen
.....
President of the Senate

Joseph P. Allright
.....
Speaker House of Delegates

The within *Approved* this the *1st*
May day of *May*, 1985.
Recha. Thangji
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/19/85

Time

8:53 p.m.

RECEIVED

1985 MAY -2 PM 3:18

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE