

No. 2831

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

— ● —

ENROLLED

HOUSE BILL No. 2831

(By ~~Delegate~~ MR. Speaker, MR. Chambers
+ Delegate Swann

[By Request of the Executive]

— ● —

Passed MARCH 14, 1987

In Effect JANUARY 1, 1987 ~~Passage~~

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H. B. 2831

(By MR. SPEAKER, MR. CHAMBERS and DELEGATE SWANN)
[By request of the Executive]

[Passed March 14, 1987; in effect January 1, 1987.]

AN ACT to amend and reenact section twenty-one, article two-c, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to issuance of private activity bonds and establishing an allocation and disbursements procedure for the annual state ceiling for tax-exempt private activity bonds in compliance with the provisions of section one hundred forty-six of the United States Internal Revenue Code of one thousand nine hundred eighty-six; granting the West Virginia housing development fund a set portion of the annual state ceiling for tax-exempt private activity bonds; and providing for reservation of funds, limitations, unused allocation, expirations and carryovers.

Be it enacted by the Legislature of West Virginia:

That section twenty-one, article two-c, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 2C. INDUSTRIAL DEVELOPMENT AND COMMERCIAL DEVELOPMENT BOND ACT.

§13-2C-21. Ceiling on issuance of private activity bonds; establishing procedure for allocation and disbursements; reservation of funds; limita-

tions; unused allocation; expirations and carryovers.

1 (a) Private activity bonds (as defined in section 141(a)
2 of the United States Internal Revenue Code of 1986,
3 other than those described in section 146(g) of the
4 Internal Revenue Code) issued pursuant to this article,
5 or under article eighteen, chapter thirty-one of this code,
6 during any calendar year shall not exceed the ceiling
7 established by section 146(d) of the United States
8 Internal Revenue Code.

9 (b) On or before the first day of each calendar year,
10 the director of the governor's office of community and
11 industrial development shall determine the state ceiling
12 for such year based on the criteria of the United States
13 Internal Revenue Code, which annual ceiling shall be
14 allocated among the several issuers of bonds under this
15 article or under article eighteen, chapter thirty-one of
16 this code, as follows:

17 (1) Fifty million dollars shall be allocated to the West
18 Virginia housing development fund for the purpose of
19 issuing qualified mortgage bonds, qualified mortgage
20 certificates or bonds for qualified residential rental
21 projects.

22 (2) One half the total state ceiling for each year
23 remaining after the allocation to the West Virginia
24 housing development fund described in subsection one
25 shall be allocated to the counties on a per capita basis
26 and, unless the context in which used requires other-
27 wise, shall be hereinafter in this section referred to as
28 the "county allocation."

29 (3) One half of the total state ceiling for each year
30 remaining after the allocation to the West Virginia
31 housing development fund described in subsection one
32 shall be retained by the state of West Virginia by the
33 governor's office of community and industrial develop-
34 ment and, unless the context in which used requires
35 otherwise, shall be hereinafter in this section referred
36 to as the "state allocation."

37 (c) The director of the governor's office of community

38 and industrial development shall notify each clerk of the
39 county commission of that county's apportionment from
40 the county allocation. All apportionments made to any
41 county from the county allocation shall be for issues of
42 the county commission of that county and for issues of
43 all municipalities or other governmental bodies within
44 that county.

45 (d) Notwithstanding the foregoing, in the event the
46 state allocation is fully distributed prior to the first day
47 of July of each calendar year, the governor's office of
48 community and industrial development may reallocate
49 all or any portion of the then remaining county
50 allocation to the state upon the director's notification of
51 such action to the clerk of the several county commis-
52 sions. Any reallocations of less than all of the then
53 remaining county allocation shall be made proportion-
54 ately from each county's apportionment then remaining.

55 (e) Distribution of both the county and state alloca-
56 tions to lessees, purchasers or owners of proposed
57 commercial or industrial projects shall be on a first
58 come, first serve basis and shall not be distributed or
59 allocated for any project until the governmental body
60 seeking the same shall submit an application for
61 reservation of funds as provided in subsection (f) of this
62 section. The governmental body must first adopt an
63 inducement resolution approving the prospective issu-
64 ance of bonds and setting forth the amount of bonds to
65 be issued. Each governmental body seeking an alloca-
66 tion of the state ceiling following the adoption of such
67 inducement resolution shall submit a notice of induce-
68 ment signed by its clerk, secretary or recorder or other
69 appropriate official to the governor's office of commu-
70 nity and industrial development. Such notice shall
71 include such information as may be required by the
72 governor's office of community and industrial develop-
73 ment by rule or regulation.

74 (f) Currently with or following the submission of its
75 notice of inducement, the governmental body at any
76 time deemed expedient by it may submit its notice of
77 reservation of funds which shall include the following
78 information:

- 79 (1) The date of the notice of reservation of funds;
80 (2) The identity of the governmental body issuing the
81 bonds;
82 (3) The date of inducement and the prospective date
83 of issuance;
84 (4) The name of the entity for which the bonds are to
85 be issued;
86 (5) The amount of the bond issue, or, if the amount
87 of the bond issue for which a reservation of funds has
88 been made has been increased, the amount of the
89 increase;
90 (6) The type of issue; and
91 (7) A description of the project for which the bonds
92 are to be issued.

93 (g) (1) Upon receipt of the notice of reservation of
94 funds by the governor's office of community and
95 industrial development, such office shall immediately
96 note upon the face of such notice the date and time the
97 same was so received and shall within ten days certify
98 to the governmental body submitting the same (A) that
99 the statewide ceiling has not been exceeded, if such be
100 the case, and (B) that the amount of the bond issue has
101 been allocated and reserved in the name of such
102 governmental body for the project for which the bonds
103 are to be issued and, thereafter, the amount of such bond
104 issue shall be so allocated and reserved.

105 (2) In the event the amount required in the notifica-
106 tion of reservation of funds, as provided for in subdivi-
107 sion (1) of this subsection, exceeds the apportionment
108 available to that county from the county allocation, the
109 governor's office of community and industrial develop-
110 ment shall immediately notify the governmental body
111 proposing to issue such bonds of that fact and such body
112 may apply to such office for an apportionment to the
113 extent of such excess from the state allocation.

114 (h) The governmental body shall submit a new notice
115 of reservation of funds pursuant to sections (f) and (g)
116 above for any increase in the amount of a bond issue for

117 which a reservation of funds has been made. Such notice
118 shall be treated as a new request for a reservation of
119 funds to the extent of such increase.

120 (i) If the bond issue for which a reservation has been
121 made has not been finally closed within one hundred
122 twenty days of the date of the certification of reservation
123 to be made by the governor's office of community and
124 industrial development, as required by the provisions of
125 subsection (g) of this section, or the thirty-first day of
126 December following such date of certification if sooner
127 and a statement of bond closure which has been
128 executed by the clerk, secretary, recorder or other
129 appropriate official of the governmental body reserving
130 the same has not been received by such office within
131 that time, then such reservation shall expire and be
132 deemed to have been forfeited and the funds so reserved
133 shall be released and revert to the county and/or state
134 allocation, as the case may be, from which the funds
135 were originally reserved and allocation will then be
136 made available for other qualified issues in accordance
137 with this section and the Internal Revenue Code:
138 *Provided*, That, as to any notice of reservation of funds
139 received by the governor's office of community and
140 industrial development during the month of December
141 in any calendar year with respect to any project
142 qualifying as an elective carry forward pursuant to
143 section 146(f)(5) of the Internal Revenue Code, such
144 reservation of funds and the allocation to which the
145 same relates shall not expire or be subject to forfeiture:
146 *Provided, however*, That any unused state ceiling as of
147 the thirty-first day of December in any year not
148 otherwise subject to a carry forward pursuant to section
149 146(f) of the Internal Revenue Code shall be allocated
150 to the West Virginia housing development fund, which
151 shall be deemed to have elected to carry forward the
152 unused state ceiling for the purpose of issuing qualified
153 mortgage bonds, qualified mortgage credit certificates
154 or bonds for qualified residential rental projects, each
155 as defined in the Internal Revenue Code. All requests
156 for subsequent reservation of funds and reallocation
157 upon loss of a reservation pursuant to this section will
158 be treated in the same manner as a new notice of

159 reservation of funds in accordance with sections (f) and
160 (g) above.

161 (j) Any amount of the county allocation remaining
162 unreserved on the first day of October in any calendar
163 year (which amount shall be determined by the director
164 of the governor's office of community and industrial
165 development) shall revert to the state allocation for the
166 remainder of that year, and all notification of reserva-
167 tion of funds by either the state or any county submitted
168 on or after such date shall be treated on a first come,
169 first serve basis.

170 (k) The amendments to this section adopted by the
171 Legislature at the regular session thereof, held in the
172 year one thousand nine hundred eighty-seven, shall
173 apply and be effective with respect to such year and to
174 all subsequent years.

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

Gregg O. Williams

Chairman Senate Committee

Lyle Settee

Chairman House Committee

Originating in the House.

Takes effect January 1, 1987.

Todd C. Willis

Clerk of the Senate

Donald J. Hagg

Clerk of the House of Delegates

Sam Tomblin

President of the Senate

John C. Chubb

Speaker of the House of Delegates

The within *appeared* this the *1st*
April day of _____, 1987.

Richard D. Preyer, Jr.

Governor

PRESENTED BY

GOVERNOR

Date 3/26/07

Time 2:48 p.m.

RECEIVED

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OFFICE OF THE
SECRETARY OF DEFENSE