# WEST VIRGINIA CODE CHAPTER 13 ARTICLE 2

WV Legislature

## §13-2-1. What political divisions may issue refunding bonds; when issued.

Any county, by and through its county commission, either for and on behalf of the county or for and on behalf of any magisterial district or group of magisterial districts therein; any municipal corporation, by and through its council or other governing body in lieu thereof; or any school district, or any independent school district, by and through its Board of Education or other fiscal body in lieu thereof, may, in the manner and subject to the limitations and conditions contained in this article, issue and sell its bonds for the purpose of refunding the bonds of such political division which have become or are becoming due and payable and for the discharge of which there are or will be when the bonds mature no funds or insufficient funds available; or when, in the opinion of the governing body of the political division obligated to the payment of such bonds, the rate of levy necessary to provide funds for their discharge will impose excessive taxes upon the taxpayers of such political division; or for the purpose of providing for the payment of outstanding bonds in advance of the maturity or redemption thereof through the making of a deposit as provided in section four of this article; or for the purpose of rendering outstanding bonds not due when such outstanding bonds are to be presented for payment before maturity by the exercise of option provisions or by agreement with the holders thereof. Such refunding bonds may be issued bearing the same or a higher or lesser rate of interest than the bonds to be refunded. Except to the extent that additional taxes for such purpose have been approved by the voters and the levy of such additional taxes provided for in the manner stipulated in sections seven through fourteen of article one of this chapter, no such refunding bonds shall be issued bearing a higher rate of interest than the bonds being refunded or shall be issued in a principal amount exceeding the principal amount of the bonds to be refunded unless the amount of debt service payable on such refunding bonds in each year is equal to or less than the amount of taxes expected to be available therefor as shall be certified by the chairman of the West Virginia Municipal Bond Commission prior to the issuance of such refunding bonds. The amount of taxes expected to be available in each year for purposes of this section shall be based upon the rates of levy stipulated in the order directing the election at which the issuance of the bonds being refunded was approved by the voters and upon the most recent assessed valuation of the affected property prior to such election. In the event only a portion of the bonds provided for such order are being refunded or have been issued, an appropriate reduction shall be made in the amount of taxes expected to be available based upon the actual debt service requirements of bonds which have been issued but are not being refunded and the estimated debt service requirements of bonds which have not been issued.

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## §13-2-2. Terms of refunding bonds; time, place and amount of payments.

Upon determining to issue such refunding bonds, the governing body of such political division shall, by resolution, authorize the issuance of such bonds in an amount not exceeding the principal amount permitted by section one of this article, fix the date thereof, the rate or rates of interest which such bonds shall bear, payable semiannually, and require that the bonds shall bear, payable at the office of the State Treasurer and at such other place or places as the body issuing the same may designate. Such resolution shall also provide that such bonds shall mature serially in annual installments beginning not more than three years after the date thereof, and the last of such annual installments shall mature in not exceeding thirty-four years from the date of such bonds. The amount payable in each year on the refunding bonds, together with any unrefunded or unissued bonds of the prior issue, may be so fixed that, when the amount of interest is added to the principal amount to be paid during the respective years, the total amount payable in each year shall be as nearly equal as practicable; or such bonds may be made payable in annual installments as nearly equal in principal as may be practicable.

All or a portion of the refunding bonds may be subject to redemption prior to the maturity thereof, at the option of the body issuing the same, at such times and prices and on such terms as shall be designated in the resolution required by this section. The body issuing the refunding bonds may not levy taxes in connection with the redemption of any refunding bonds in excess of the taxes that would have been levied for the payment of principal of and interest on such refunding bonds in such year.

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## §13-2-3. Certain provisions of article one to apply to refunding bonds.

All the provisions of sections seventeen, eighteen, nineteen and twenty of article one of this chapter, relating to bonds issued for original indebtedness, shall apply to the same extent and with equal force and effect to refunding bonds issued under the provisions of this article.

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## §13-2-4. Disposition of bonds; cancellation of original bonds.

The governing body of the political body of the political subdivision issuing bonds under this article may sell the same or any part thereof and collect the proceeds, or such bonds may be delivered to the holder or holders of the bonds to be refunded in exchange therefor.

It is the intention of this article to authorize political divisions to issue bonds for the purpose of refunding outstanding bonds without thereby contracting any additional indebtedness, and it shall be conditional upon the delivery of any refunding bonds that the bonds to be refunded be canceled and paid simultaneously with the issuance and delivery of such refunding bonds: Provided, That such refunding bonds shall be issued in an amount sufficient to effect the refunding and may include an amount sufficient to pay (1) the principal amount outstanding of the bonds to be refunded, (2) interest accrued or to accrue to the date of maturity or the date of redemption of the bonds to be refunded (which need not necessarily be on the first available redemption date), (3) any redemption premiums to be paid thereon, (4) any reasonable expenses incurred in connection with such refunding and (5) any other reasonable costs deemed appropriate by the state, including without limitation, the expenses of preparing and delivering the refunding bonds, legal fees, financial advisor fees, consultant fees, and other expenses incurred in connection with the issuance, sale and delivery of the refunding bonds.

For all purposes of this section, bonds shall be considered to have been canceled and paid in advance of their due date or date of redemption if there shall have been deposited with the West Virginia Municipal Bond Commission either:

(a) Moneys, sufficient to pay when and as due at maturity or prior redemption all amounts of principal, redemption premium, if any, and interest payable on such bonds; or

(b) Direct obligations of the United State of America or the State of West Virginia, or obligations fully and irrevocably secured as to the payment of both principal and interest by such direct obligations, the payment on which when due will provide moneys, sufficient to pay when and as due at maturity or prior redemption all amounts of principal, redemption premium, if any, and interest payable on such bonds.

All such amounts shall be set aside and held in trust and irrevocably dedicated solely to the payment of such bonds, except that amount in excess of the amounts required for the payment of the bonds so refunded may be applied to the payment of costs related to the issuance, carrying, insuring or servicing the refunding bonds, including costs of credit or market enhancement services, such as letters of credit, remarketing arrangements and similar services. Any amount deposited pursuant to this section may include amounts already held on deposit by the West Virginia Municipal Bond Commission for the payment of the bonds to be refunded.

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## §13-2-5. Article sufficient authority for issuing refunding bonds.

This article shall, without reference to any other act of the Legislature, be full authority for the issuance, sale and exchange of bonds in this article authorized. No order, ordinance, resolution or proceeding in respect to the issuance of any bonds hereunder shall be necessary except such as are required by this article. No publication of any notice, order, ordinance or proceeding relating to the issuance of such bonds shall be necessary.

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## §13-2-6. Issuance without election or notice.

The issuance and sale of exchange bonds in this article authorized may be had without an election or publication of any notice.

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## §13-2-7. Invalidity of part of article not to affect other parts.

If any clause, sentence, paragraph or part of this article shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of the article, but shall be confined in its application to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment has been rendered.

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## §13-2-8. Bonds exempt from taxation.

All bonds of the State of West Virginia or of any political subdivision thereof issued hereunder shall be exempt from all taxation by the state or by any political subdivision thereof.

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## §13-2-9. Funding of orders, drafts or warrants by county courts and boards of education at rate lower than six percent.

County courts and boards of education may, upon the application of the owner or holder or holders, by an order entered of record, fund any indebtedness represented by orders, drafts, or warrants by taking up one or more of such orders, drafts, or warrants issued on the same fund, and issue in lieu thereof new orders, drafts or warrants to the person or persons entitled to receive the sums of money due upon said orders, drafts, or warrants, and in which orders there shall be set out in detail the number of each order, draft, or warrant, the date thereof, to whom issued, the fund or funds on which drawn, the name on the present holder thereof, or the person or persons entitled to receive the sum due thereon, if interest-bearing the date from which interest began, the credits, if any endorsed thereon, and the date thereof, and such other information so as to completely identify the orders, drafts or warrants for which new orders, drafts or warrants are issued: Provided, however, That no power or authority herein given or contained shall be construed to make legal and binding any order, draft or warrant not legal and/or binding when originally ordered and/or issued by any county court or Board of Education. The court and/or boards shall when the orders, drafts or warrants are interest-bearing, in issuing such new orders, drafts or warrants, issue them on the same fund upon which the original order, draft or warrant was issued and for the aggregate amount of unpaid principal and interest to that date, and cancel all such orders, drafts or warrants funded and file the same with the clerk of the county court of their county for preservation. All such new orders, drafts or warrants shall not become interest-bearing until the same shall have been presented to the sheriff for payment and endorsed as provided by law, and when so presented shall draw interest at five and one-half percent per annum.

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