WEST VIRGINIA CODE: §13-2A-14

§13-2A-14. Receivership upon default; termination.

In the event that the public body shall default in the payment of the principal or interest on any of the refunding bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the public body or the governing body or officers, agents or employees thereof shall fail or refuse to comply with the provisions of this article, or shall default in any agreement made with the holders of the refunding bonds, any holder or holders of refunding bonds, or trustee therefor, shall have the right to apply in an appropriate judicial proceeding to the circuit court, or any court of competent jurisdiction, for the appointment of a receiver of the enterprise, whether or not all refunding bonds have been declared due and payable and whether or not such holder, or trustee therefor, is seeking or has sought to enforce any other right, or exercise any remedy in connection with such refunding bonds. Upon such application the circuit court may appoint, and if the application is made by the holders of twenty-five percent in principal amount of such refunding bonds then outstanding, or any trustee for holders of such refunding bonds in such principal amount, shall appoint a receiver of the enterprise.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of the enterprise and each and every part thereof and may exclude the public body, its governing body, officers, agents, and employees and all persons claiming under them, wholly therefrom and shall have, hold, use, operate, manage and control the same and each and every part thereof, and, in the name of the public body or otherwise, as the receiver shall deem best, shall exercise all the rights and powers of the public body with respect to the enterprise as the public body itself might do. Such receiver shall maintain, restore, insure and keep insured, the enterprise, and from time to time shall make all such necessary or proper repairs which to such receiver shall seem expedient, and shall establish, levy, maintain and collect such fees, tolls, rentals, and other charges in connection with the enterprise as such receiver shall deem necessary or proper and reasonable, and shall collect and receive all revenues and shall deposit the same in a separate account and apply such revenues so collected and received in such manner as the court shall direct.

Whenever all that is due upon the refunding bonds, and interest thereon, and upon any other notes, bonds or other obligations, and interest thereon, having a charge, lien or encumbrance on the revenues of the enterprise and under any of the terms of any covenants or agreements with bondholders shall have been paid or deposited as provided therein, and all defaults shall have been cured and made good, the court may, in its discretion, and after such notice and hearing as it deems reasonable and proper, direct the receiver to surrender possession of the enterprise to the public body, but the same right of the holders of the refunding bonds to secure the appointment of a receiver shall exist upon any subsequent

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default, as hereinabove provided.

Such receiver shall, in the performance of the powers hereinabove conferred upon him act under the direction and supervision of the court making such appointment, and shall at all times be subject to the orders and decrees of such court and may be removed thereby. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any functions specifically set forth herein.

Notwithstanding anything in this section to the contrary, said receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of whatever kind or character belonging to the municipality and useful for the enterprise, but the authority of any such receiver shall be limited to the operation and maintenance of the enterprise and no court shall have jurisdiction to enter any order or decree requiring or permitting said receiver to sell, mortgage, or otherwise dispose of any such assets.

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