WEST VIRGINIA CODE: §13-2D-6

§13-2D-6. Security for bonds.

There is hereby created a statutory mortgage lien upon all real estate, buildings, structures, improvements and personal property included as a part of an airport which is acquired, purchased, constructed, or built or improved with the proceeds of bonds authorized to be issued under this article, for the purpose of securing the principal of said bonds and the interest thereon. The principal of and interest on any bonds issued under the authority of this article shall be secured by a pledge of the income and revenues derived from the operation of the airport and any other revenue derived from such airport, less the operating and maintenance costs and expenses, and also be secured by a pledge of the proceeds of any sale thereof. In the discretion and at the option of the county court, such revenue bonds may be secured by a trust indenture by and between the county court and a corporate trustee, which may be a trust company or bank having trust powers, within or without the State of West Virginia. The county court may authorize the issuance of such revenue bonds by order or resolution. The order or resolution authorizing the revenue bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for the protection and enforcement of the rights and remedies of the bondholders as may be reasonable and proper, and not in violation of law, including covenants setting forth the duties of the county court in relation to the construction or acquisition of an airport, or part thereof, or an addition thereto, and the improvement, operation, repair, maintenance and insurance thereof, and for the custody, safeguarding and application of all moneys, and may provide that the airport shall be constructed and paid for under the supervision and approval of the consulting engineers or architects employed and designated by the county court and satisfactory to the purchasers of the bonds, their successors, assigns or nominees, who may require the security given by any contractor and/or any depository of the proceeds of the bonds or the revenues received from the operation or sale of the airport to be satisfactory to such purchasers, their successors, assigns or nominees, and/or be satisfactory to the purchaser of the airport. Such indenture may set forth the rights and remedies of the bondholders, the county and/or such trustee and said indenture may provide for accelerating the maturity of the revenue bonds, at the option of the bondholders upon default by the county court issuing the same in the payment of the principal of said bonds or the interest thereon. The county court may also provide by order or resolution and in such trust indenture for the payment of the proceeds of the sale of the bonds and the revenues from the airport to such depository as it may determine for the custody thereof and for the method of distribution thereof, with such safeguards and restrictions as it may determine to be necessary or advisable for the protection thereof and upon the filing of a certified copy of such order or resolution, or of the indenture agreement for record in the office of the clerk of the county court of any county in which an airport is located the same shall have the same effect as to notice as the recordation of a deed of trust or other recordable instrument.

In lieu of the indenture agreement provided for hereinabove the principal of and interest on

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said bonds may be secured by a mortgage or deed of trust covering all or any part of the airport from which the revenues so pledged may be derived and the same may be secured by an assignment or pledge of the revenue received from the airport, less operating and maintenance costs and expenses. The proceedings under which such bonds are authorized to be issued, when such bonds are to be secured by a mortgage or deed of trust, may contain the same terms, conditions and provisions provided for herein when an indenture agreement is entered into between the county court and a trustee, and any such mortgage or deed of trust may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting the fixing and collection of revenue for any airport covered by such proceedings or mortgage, the terms to be incorporated in the agreement with respect to such airport, the maintenance and insurance of such airport, the creation and maintenance of special funds from the revenues received from such airport and the rights and remedies available to the bondholders, the county court or to the trustee under such mortgage or deed of trust, in event of default, all as the county court shall deem advisable and as shall not be in conflict with the provisions of this article or any existing law: Provided, That in making any such agreements or provisions a county shall not have the power to obligate itself by indenture, order, resolution, mortgage or deed of trust, except with respect to the airport and the application of the revenues therefrom, and shall not have the power to incur a pecuniary liability or a charge upon its general credit or against its taxing powers. The proceedings authorizing any bonds hereunder and any indenture, mortgage or deed of trust securing such bonds may provide that, in the event of default in payment of the principal of or the interest on such bonds or in the performance of any agreement contained in such proceedings, indenture, mortgage or deed of trust, such payment and performance may be enforced by the appointment of a receiver in a civil action with power to charge and collect revenue and to apply the revenues from the airport in accordance with such proceedings or the provisions of such indenture, agreement, mortgage or deed of trust. Any such mortgage or deed of trust may provide also that, in the event of default in such payment or the violation of any agreement contained in the mortgage or deed of trust, the mortgage or deed of trust may be foreclosed either by sale at public outcry or by proceedings in a civil action, and may provide that the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale, if the highest bidder therefor. No breach of any such agreement shall impose any pecuniary liability upon a county or any charge upon its general credit or against its taxing powers.

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