WEST VIRGINIA CODE: §16-29A-5

§16-29A-5. Powers of authority.

The authority is hereby granted, has and may exercise all the powers necessary or appropriate to carry out and effectuate the purposes of this article, including the following:

(a) To sue and be sued in its own name and plead and be impleaded in its own name; to have a seal and alter the same at its pleasure; to make, execute and deliver contracts, indentures, agreements, conveyances and other instruments necessary or convenient to the exercise of its powers; to adopt and, from time to time, amend and repeal bylaws necessary and proper for the legislation of its business and rules and regulations to implement and make effective its powers and duties, such rules and regulations to be promulgated in accordance with the provisions of chapter twenty-nine-a of this code; and to maintain a principal office. Any actions against the authority shall be brought in the circuit court of Kanawha County, in which the principal office of the authority shall be located. When the cost under any contract or agreement to be entered by the authority, other than compensation for personal services, involves an expenditure of more than $3,000, the authority shall make a written contract with the lowest responsible bidder after public notice published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, the publication area for such publication to be the county wherein the work is to be performed or which is affected by the contract, which notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined and the time and place of receiving bids: Provided, That a contract, indenture or agreement for a hospital loan is not subject to the foregoing requirements, and the authority may enter into such contract, indenture or agreement pursuant to negotiation and upon such terms and conditions and for such period as it finds to be reasonable and proper under the circumstances and as necessary to best effectuate the purposes of this article: Provided, however, That a contract or agreement entered into by a hospital to which any hospital loan is made is not subject to the foregoing requirements. The authority may reject any and all bids. A bond with good and sufficient surety, approved by the authority, shall be required of all contractors in an amount equal to at least fifty percent of the contract price, conditioned upon the faithful performance of the contract.

(b) To solicit and accept gifts, grants, loans and other aids from any person, corporation or governmental agency.

(c) To make hospital loans, to participate in the making of hospital loans, to undertake commitments, to execute and be the beneficiary under deeds of trust, to enter into security agreements, to sell hospital loans and the security therefor at public or private sale, to modify or alter hospital loans and security therefor, to discharge hospital loans and security therefor, to order a trustee's sale under a deed of trust or commence an action to protect or enforce a right conferred upon it by a law, deed of trust, hospital loan, contract, indenture or

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other agreement and to bid for and purchase property which was the subject of a deed of trust at a trustee's sale or at any other sale and to acquire or take possession of that property and in that event complete, administer, pay the principal of and interest on any obligations incurred in connection with such property, dispose of and otherwise deal with the property in a manner necessary or desirable to protect the interest of the authority in the property. The hospital loans made by the authority may be secured by deeds of trust or security agreements, as applicable, or not, as the authority determines.

(d) To lend money to hospitals for the purpose of refinancing any outstanding indebtedness of a hospital if the authority determines the refinancing is necessary to realize the purposes of this article. A hospital loan made pursuant to this subsection shall not exceed the amount of the principal of and interest and redemption premium, if any, on the indebtedness to be refinanced which has not been repaid, plus the marketing, financing, legal and other costs incurred in connection with the refinancing and the issuance of bonds or notes of the authority issued in whole or in part to provide funds to make the hospital loan described in this subdivision, including the costs of funding a bond reserve and paying capitalized interest on the bonds or notes for a period not to exceed one year after the issuance of such bonds or notes. The determination of the authority under this subsection shall be conclusive.

(e) To charge, impose and collect fees and charges in connection with its hospital loans, commitments and servicing, including reimbursement of the costs of financing by the authority, service charges, insurance premiums and an allocable share of the operating expenses of the authority and to make provision for increasing the same, if necessary, as the authority determines is reasonable and approved by the board.

(f) To acquire, hold and dispose of real or personal property necessary or appropriate for the accomplishment of the purposes of this article.

(g) To procure insurance against a loss in connection with its property, assets or activities.

(h) To borrow money for its purpose, including its initial operating expense and issue its bonds or notes for the money and provide for the rights of the holders of the bonds or notes and to secure the bonds or notes by a deed of trust on or an assignment or pledge of any or all of its properties, including any part of the security for its hospital loans. The state shall not be liable on any bonds or notes of the authority; the bonds or notes shall not be a debt of the state; and each bond or note shall contain on its face a statement to that effect.

(i) To invest any funds not required for immediate use or disbursement, at its discretion, in any of the following:

(1) Direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America;

(2) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for cooperatives; federal intermediate credit banks; federal home

loan bank system; Export-Import Bank of the United States; federal farm credit banks; federal land banks; federal financing banks; the Federal National Mortgage Association or the Government National Mortgage Association;

(3) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes issued by public agencies or municipalities or preliminary loan notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(4) Certificates of deposit secured by obligations of the type specified in subparagraph (1);

(5) Direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the State of West Virginia;

(6) Direct and general obligations of any other state within the territorial United States, to the payment of the principal of and interest on which the full faith and credit of such state is pledged: Provided, That at the time of their purchase, such obligations are rated in either of the two highest rating categories by a nationally recognized bond-rating agency;

(7) Any fixed interest bond, note or debenture of any corporation organized and operating within the United States: Provided, That such corporation has a minimum net worth of $15 million and its securities or its parent corporation's securities are listed on one or more of the national stock exchanges: Provided, however, That (i) such corporation has earned a profit in eight of the preceding ten fiscal years as reflected in its statements, (ii) such corporation has not defaulted in the payment of principal of or interest on any of its outstanding funded indebtedness during its preceding ten fiscal years, and (iii) the bonds, notes or debentures of such corporation to be purchased are rated "AA" or the equivalent thereof or better than "AA" or the equivalent thereof by at least two or more nationally recognized rating services such as Standard and Poor's, Dun & Bradstreet or Moody's;

(8) Fully collateralized or insured bankers acceptances or time deposits drawn on and accepted by commercial banks; and

(9) Repurchase agreements of commercial banks or trust companies fully secured by obligations of the type specified in subparagraph (1) and having on the date of such agreement a fair market value equal to at least one hundred percent of the principal amount of such repurchase agreement.

(j) To engage necessary personnel and to engage the services of private consultants for rendering professional and technical assistance and advice.

(k) To establish or increase reserves from moneys received or to be received by the authority to secure or to pay the principal of and interest on bonds issued by the authority pursuant to

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this article.

(l) To lease, or lease with an option to purchase, to others its real or personal property, including hospitals and hospital facilities, for such rentals and upon such terms and conditions as the authority may deem advisable.

(m) To do all acts necessary and proper to carry out the powers expressly granted to the authority in this article.

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