WEST VIRGINIA CODE CHAPTER 16 ARTICLE 29A

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§16-29A-1. Short title.

This article shall be known and may be cited as the "West Virginia Hospital Finance Authority Act."

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§16-29A-2. Declaration of policy and responsibility; purpose and intent of article; findings.

It is hereby declared to be the public policy of the State of West Virginia and a responsibility of the State of West Virginia, for the benefit of the people of the state and the improvement of their health, welfare and living conditions, to provide hospitals with appropriate means at reasonable cost to maintain, expand, enlarge and establish health care, hospital and other related facilities and to provide hospitals with the ability to refinance indebtedness. This article shall provide a method to enable hospitals to provide or maintain at reasonable cost pursuant to reasonable terms the facilities, structures and services needed to accomplish the purposes of this article, all to the public benefit and good, to the extent and in the manner provided in this article.

The Legislature finds and hereby declares that the responsibility of the state as outlined above cannot be effectively met without the hospital loan program as provided for in this article.

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§16-29A-3. Definitions.

As used in this article, unless the context clearly requires a different meaning:

"Authority" means the West Virginia Hospital Finance Authority created by section four of this article, the duties, powers, responsibilities and functions of which are specified in this article;

"Board" means the West Virginia Hospital Finance Board created by section four of this article, which shall manage and control the authority;

"Bond" means a revenue bond issued by the authority to effect the purposes of this article;

"Construction" means and includes new construction, reconstruction, enlargement, improvement and providing furnishings or equipment;

"Direct provider of health care" means a person or organization whose primary current activity is the provision of health care to individuals and includes a licensed or certified physician, osteopath, dentist, nurse, podiatrist or physician's assistant or an organization comprised of these health professionals or employing these health professionals;

"Hospital" means a corporation, association, institution or establishment for the care of those who require medical treatment, which may be a public or private corporation or association, or state-owned or operated establishment and specifically includes nursing homes which are licensed under chapter 16B of this code or those facilities certified under the Social Security Act as intermediate care facilities for individuals with an intellectual disability;

"Hospital facilities" means any real or personal property suitable and intended for, or incidental or ancillary to, use by a hospital and includes: Outpatient clinics; laboratories; laundries; nurses', doctors' or interns' residences; administration buildings; facilities for research directly involved with hospital care; maintenance, storage or utility facilities; parking lots and garages; and all necessary, useful or related equipment, furnishings and appurtenances and all lands necessary or convenient as a site for the foregoing and specifically includes any capital improvements to any of the foregoing. "Hospital facilities" specifically includes office facilities not less than 80% of which are intended for lease to direct providers of health care and which are geographically or functionally related to one or more other hospital facilities, if the authority determines that the financing of the office facilities is necessary to accomplish the purposes of this article;

"Hospital loan" means a loan made by the authority to a hospital and specifically includes financings by the authority for hospital facilities pursuant to lease-purchase agreements, installment sale or other similar agreements;

"Note" means a short-term promise to pay a specified amount of money, payable and secured as provided pursuant to this article and issued by the authority to effect the purposes of this

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article;

"Project costs" means the total of the reasonable or necessary costs incurred for carrying out the works and undertakings for the acquisition or construction of hospital facilities under this article. "Project costs" includes, but is not limited to, all of the following costs: The costs of acquisition or construction of the hospital facilities; studies and surveys; plans, specifications, architectural and engineering services; legal, organization, marketing or other special services; financing, acquisition, demolition, construction, equipping and site development of new and rehabilitated buildings; rehabilitation, reconstruction, repair or remodeling of existing buildings; interest and carrying charges during construction and before full earnings are achieved and operating expenses before full earnings are achieved or a period of one year following the completion of construction, whichever occurs first; and a reasonable reserve for payment of principal of and interest on bonds or notes of the authority. "Project costs" shall also include reimbursement of a hospital for the foregoing costs expended by a hospital from its own funds or from money borrowed by the hospital for such purposes before issuance and delivery of bonds or notes by the authority for the purpose of providing funds to pay the project costs. "Project costs" also specifically includes the refinancing of any existing debt of a hospital necessary in order to permit the hospital to borrow from the authority and give adequate security for the hospital loan. The determination of the authority with respect to the necessity of refinancing and adequate security for a hospital loan is conclusive;

"Revenue" means any money or thing of value collected by, or paid to, the authority as principal of or interest, charges or other fees on hospital loans or any other collections on hospital loans made by the authority to hospitals to finance, in whole or in part, the acquisition or construction of any hospital facilities or other money or property which is received and may be expended for or pledged as revenues pursuant to this article;

"Secretary" means the Secretary of the Department of Health;

"Veterans skilled nursing facility" means a skilled nursing care facility constructed and operated to serve the needs of veterans of the Armed Forces of the United States who are citizens of this state.

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§16-29A-4. Creation of authority and board; status and members of board.

The West Virginia hospital finance authority is continued. The authority is a body corporate and a governmental instrumentality of the state. The exercise by the authority of the powers conferred by this article and the carrying out of its purposes and duties shall be deemed and held to be, and are determined to be, essential governmental functions and for a public purpose.

The authority shall be controlled, managed and operated by the seven-member board known as the West Virginia Hospital Finance Board, which is continued. The board shall consist of the secretary and the State Treasurer as members ex officio of the board. The other five members of the board shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall serve terms of two, three, four, five and six years, respectively. The successor of each such appointed member shall be appointed for a term of six years in the same manner as the original appointments were made, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. No more than three of the appointed board members shall at any one time belong to the same political party. Appointed board members may be reappointed to serve additional terms.

All members of the board shall be citizens of the state. Each appointed member of the board, before entering upon his or her duties, shall comply with the requirements of article one, chapter six of this code and give bond in the sum of $25,000 in the manner provided in article two, chapter six of this code. The Governor may remove any board member for cause as provided in article six, chapter six of this code. The secretary and the State Treasurer may each appoint a deputy to serve as a member of the board in their respective absences. Such deputy shall serve at his or her pleasure.

Four members of the board shall constitute a quorum, and the affirmative vote of four members shall be necessary for any action taken by vote of the board. No vacancy in the membership of the board shall impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority.

Annually, the board shall elect one of its appointed members as chairman and another as vice chairman and shall appoint a secretary-treasurer, who need not be a member of the board. The person appointed as secretary-treasurer, including a board member if he or she is so appointed, shall give bond in the sum of $50,000 in the manner provided in §6-2-1 *et seq.*, of this code.

Members of the board shall not receive compensation for services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties. Any payments for compensation and expenses shall be paid from the funds of the authority, after appropriations and authorization by the Legislature, and no liability or obligation shall be incurred by the authority beyond the extent to which moneys are available from funds of

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the authority.

There shall also be a director of the authority appointed by the board.

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§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 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

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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;

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(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 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

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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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§16-29A-6. Hospital loans.

The authority may lend money to hospitals for the acquisition, construction, improvement or alteration of hospital facilities. A hospital loan shall not be made unless the authority is reasonably satisfied that there will be made available to the hospital from the hospital loan and other sources all the funds necessary to pay all project costs; that the hospital facilities will produce revenues sufficient, together with any other revenues pledged, to meet the principal of and interest on the hospital loan, other costs, expenses and charges in connection with the hospital loan and other charges or obligations of the hospital which may be prior or equal to the hospital loan, promptly as they become due; and that the hospital is otherwise soundly financed. The hospital loan may be secured by a deed of trust on or a security interest in, as applicable, property of the hospital, including the hospital facilities, and may provide for the appointment of a receiver to operate the hospital facilities in case of default. A hospital loan made pursuant to this section shall not exceed the project costs as determined by the authority. A hospital loan shall be secured in a manner, be repaid in a period not exceeding fifty years and bear interest at a rate, all as determined by the authority, which interest rate may be decreased or increased so that it shall in no event be less than the rate paid by the authority on notes, renewal notes or bonds issued to fund the hospital loan. Such terms and provisions shall be set forth in a loan agreement between the authority and the hospital.

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§16-29A-7. Bonds and notes.

(a) The authority periodically may issue its negotiable bonds and notes in a principal amount which, in the opinion of the authority, shall be necessary to provide sufficient funds for the making of hospital loans, including temporary loans during the construction of hospital facilities, for the payment of interest on bonds and notes of the authority during construction of hospital facilities for which the hospital loan was made and for a reasonable time thereafter and for the establishment of reserves to secure those bonds and notes.

(b) The authority periodically may issue renewal notes, may issue bonds to pay notes and, if it considers refunding expedient, to refund or to refund in advance bonds or notes issued by the authority by the issuance of new bonds pursuant to the requirements of section thirteen of this article.

(c) The authority may, upon concurrent resolution passed by the Legislature, authorize the issuance of negotiable bonds and notes in a principal amount which are necessary to provide sufficient funds for the construction, reconstruction, renovation and maintenance of one or more skilled nursing facilities that will only serve the skilled nursing needs of West Virginia veterans who have performed active duty in an active component of the Armed Forces or performed active service in a reserve component of the Armed Forces. These bonds issued by the authority may not exceed $10 million. The revenues pledged for the repayment of principal and interest of these bonds shall include the net profit of the veterans instant lottery scratch-off game authorized by section nine-a, article twenty-two, chapter twenty-nine of this code excluding all architectural fees and associated project costs transferred pursuant to that section.

(d) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be special obligations of the authority, payable solely from the property, revenues or other sources of or available to the authority pledges therefor.

(e) The bonds and the notes shall be authorized by resolution of the authority, shall bear the date and shall mature at time or times, in the case of any such note or any renewals thereof, not exceeding seven years from the date of issue of the original note and in the case of any bond not exceeding fifty years from the date of issue, as the resolution may provide. The bonds and notes shall bear interest at rate or rates, be in a denomination, be in a form, either coupon or registered, carry registration privileges, be payable in the medium of payment and at place or places and be subject to the terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds and notes are executed by the chairman and vice chairman of the board, both of whom may use facsimile signatures. The official seal of the authority or a facsimile thereof shall be affixed to or printed on each bond and note and attested, manually or by facsimile signature, by the secretary-treasurer of the board, and any coupons attached to any bond or note shall bear the signature or facsimile signature of the chairman of the board. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or coupons ceases

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to be an officer before delivery of the bonds or notes, the signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until the delivery; and, in case the seal of the authority has been changed after a facsimile has been imprinted on the bonds or notes, the facsimile seal will continue to be sufficient for all purposes.

(f) A resolution authorizing bonds or notes or an issue of bonds or notes under this article may contain provisions, which are a part of the contract with the holders of the bonds or notes, as to any or all of the following:

(1) Pledging and creating a lien on all or any part of the fees and charges made or received or to be received by the authority, all or any part of the moneys received in payment of hospital loans and interest on hospital loans and all or any part of other moneys received or to be received, to secure the payment of the bonds or notes or of any issue of bonds or notes, subject to those agreements with bondholders or noteholders which then exist;

(2) Pledging and creating a lien on all or any part of the assets of the authority, including notes, deeds of trust and obligations securing the assets, to secure the payment of the bonds or notes or of any issue of bonds or notes, subject to those agreements with bondholders or note holders which then exist;

(3) Pledging and creating a lien on any loan, grant or contribution to be received from the federal, state or local government or other source;

(4) The use and disposition of the income from hospital loans owned by the authority and payment of the principal of and interest on hospital loans owned by the authority;

(5) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(6) Limitations on the purpose to which the proceeds of sale of bonds or notes may be applied and pledging the proceeds to secure the payment of the bonds or notes or of any issue of the bonds or notes;

(7) Limitations on the issuance of additional bonds or notes and the terms upon which additional bonds or notes may be issued and secured;

(8) The procedure by which the terms of a contract with the bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto and the manner in which the consent may be given; and

(9) Vesting in a trustee or trustees the property, rights, powers, remedies and duties which the authority considers necessary or convenient.

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§16-29A-8. Trustee for bondholders; contents of trust agreement.

In the discretion of the authority, any bonds, including refunding bonds, or notes issued by the authority may be secured by a trust agreement between the authority and a corporate trustee, which trustee may be any trust company within or without the state. Any such trust agreement may contain provisions as set forth in section seven of this article with respect to the resolution. All expenses incurred in carrying out the provisions of any trust agreement may be treated as a part of the costs of the operation of the hospital loan program provided for hereunder. Any such trust agreement, indenture or resolution authorizing the issuance of bonds or notes may provide the method whereby the general administrative overhead expenses of the authority shall be allocated among the several hospitals to which hospital loans have been made.

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§16-29A-9. Use of funds by authority; restrictions thereon.

All moneys, properties and assets acquired by the authority, whether as proceeds from the sale of bonds or notes or as revenues or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties and shall be used and reused in accordance with the purposes and provisions of this article. Such moneys shall at no time be commingled with other public funds. Such moneys, except as otherwise provided in any resolution authorizing the issuance of bonds or notes or in any trust agreement securing the same, or except when invested pursuant to subsection nine of section five of this article, shall be kept in appropriate depositories and secured as provided and required by law. The resolution authorizing the issuance of such bonds or notes of any issue or the trust agreement securing such bonds or notes shall provide that any officer to whom, or any banking institution or trust company to which, such moneys are paid, shall act as trustee of such moneys and hold and apply them for the purposes hereof, subject to the conditions this article and such resolution or trust agreement provide.

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§16-29A-10. Security for bonds and notes.

A resolution authorizing the issuance of bonds or notes under this article may provide that the principal of an interest on the bonds or notes issued shall be secured by a lien on any or all of the fees and charges made or received, or to be received, by the authority from the hospital in connection with the hospital loan, on any or all of the money received in payment of the hospital loan and interest on the hospital loan, on any or all of investment earnings or profits on any of these sources or on any or all of the security held for that payment, and on other funds or assets of the authority pledged for such purpose.

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§16-29A-11. Enforcement of payment and validity of bonds and notes.

(a) The provisions of this article and any resolution, indenture, deed of trust or security agreement shall continue in effect until the principal of and interest on the bonds or notes of the authority have been fully paid, and the duties of the authority under this article and any resolution, indenture, deed of trust or security agreement shall be enforceable by any bondholder or noteholder by mandamus, trustee's sale under the deed of trust or other appropriate action in any court of competent jurisdiction.

(b) The resolution authorizing the bonds or notes shall provide that such bonds or notes shall contain a recital that they are issued pursuant to this article, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

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§16-29A-12. Pledges; time; liens; recordation.

Any pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof.

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§16-29A-13. Refunding bonds.

Any bonds issued hereunder and at any time outstanding may at any time and from time to time be refunded by the authority by the issuance of its refunding bonds in such amount as it may deem necessary to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon; to provide additional funds for the purposes of the authority; and to pay any premiums and commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the redemption of the bonds to be refunded thereby or by exchange of the refunding bonds for the bonds to be refunded thereby: Provided, That the holders of any bonds so to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption. Any refunding bonds issued under the authority of this article shall be payable from the revenues out of which the bonds to be refunded thereby were payable, from other moneys or from the principal of and interest on or other investment yield from investments or proceeds of bonds or other applicable funds and moneys, including investments of proceeds of any refunding bonds, and shall be subject to the provisions contained in section seven of this article and shall be secured in accordance with the provisions of sections seven and eight of this article.

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§16-29A-14. Purchase and cancellation of notes or bonds.

The authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power, out of any funds available therefor, to purchase bonds, including refunding bonds, or notes of the authority.

If the bonds or notes are then redeemable, the price of such purchase shall not exceed the redemption price then applicable plus accrued interest to the next interest payment date thereon. If the bonds or notes are not then redeemable, the price of such purchase shall not exceed the redemption price applicable on the first date after such purchase upon which the bonds or notes become subject to redemption plus accrued interest to such date. Upon such purchase, such bonds or notes shall be canceled.

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§16-29A-15. Vested rights; impairment.

The state pledges and agrees with the holders of any bonds or notes issued under this article that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of the holders until the bonds or notes, together with the interest thereon, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes.

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§16-29A-16. Bonds and notes not debt of state, county, municipality or any political subdivision; expenses incurred pursuant to article.

Bonds, including refunding bonds, and notes issued under the authority of this article and any coupons in connection therewith shall not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state, and the holders and owners thereof shall have no right to have taxes levied by the Legislature or the taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon, but such bonds and notes shall be payable solely from the revenues and funds pledged for their payment as authorized by this article unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under the authority of this article, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by this article. All such bonds and notes shall contain on the face thereof a statement to the effect that the bonds or notes, as to both principal and interest, are not debts of the state or any county, municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article. Such article does not authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any county, municipality or any other political subdivision thereof.

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§16-29A-17. Negotiability of bonds and notes.

Whether or not the bonds or notes are of such form or character as to be negotiable instruments under the uniform commercial code, the bonds or notes authorized to be issued by this article are negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds or notes for registration.

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§16-29A-18. Bonds and notes legal investments.

The provisions of sections nine and ten, article six, chapter twelve of this code to the contrary notwithstanding, the bonds and notes of the authority are securities in which all public officers and bodies of this state, including the West Virginia state Board of Investments, all municipalities and other political subdivisions of this state, all insurance companies and associations and other persons carrying on an insurance business, including domestic for life and domestic not for life insurance companies, all banks, trust companies, societies for savings, building and loan associations, savings and loan associations, deposit guarantee associations and investment companies, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are authorized to invest in bonds or other obligations of the state may properly and legally invest funds, including capital, in their control or belonging to them.

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§16-29A-19. Exemption from taxation.

The exercise of the powers granted to the authority by this article will be in all respects for the benefit of the people of the state, for the improvement of their health, safety, convenience and welfare and is a public purpose. As the operation and maintenance of hospital facilities will constitute the performance of essential governmental functions, the authority shall not be required to pay any taxes or assessments upon any property acquired or used by the authority or upon the income therefrom. All bonds and notes of the authority, and all interest and income thereon, shall be exempt from all taxation by this state and any county, municipality, political subdivision or agency thereof, except inheritance taxes.

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§16-29A-20. Certificate of need.

Before the authority makes a hospital loan to any hospital, and as a condition precedent to the authority's making any such hospital loan, a certificate of need shall be obtained pursuant to article two-d of this chapter, or a determination shall be secured from the agency issuing the certificate of need that a certificate is not necessary for the hospital facilities with respect to which the hospital loan is proposed to be made: Provided, That if a certificate of need is not necessary for a specific project or projects, then the health care cost review authority created by section five, article twenty-nine-b of this chapter must be consulted by the authority concerning the availability of financial resources to both repay the loan and to fund the ongoing operations of the project or projects. The opinion of the health care cost review authority, while not determinative on the question of the issuance of the hospital loan, shall be entitled to substantial weight before the authority and shall be overcome only by clear and convincing evidence to the contrary. This section shall not apply to refinancing of present indebtedness or to refunding or advance refunding of bonds, notes, or for reimbursement of projects costs.

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§16-29A-21. Nondiscrimination; hospital facilities.

The authority shall require that use of hospital facilities assisted under this article shall be open to all regardless of race, religion, sex or creed, and that contractors and subcontractors engage in the construction or alteration of such hospital facilities shall provide an equal opportunity for employment, without discrimination as to race, religion, sex or creed. The hospital to which any hospital loan is made shall covenant with the authority that the nondiscrimination provision shall be enforced.

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§16-29A-22. Personal liability; persons executing bonds or notes.

Neither the members of officers of the board nor officers or employees of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

WV Legislature

§16-29A-23. Financial interest in contracts prohibited; penalty.

No officer, member or employee of the board or the authority shall be financially interested, directly or indirectly, in any contract of any person with the authority, or in the sale of any property, real or personal, to or from the authority. This section does not apply to contracts or purchases of property, real or personal, between the authority and any governmental agency. If any officer, member or employee of the board or the authority has such financial interest in a contract or sale of property prohibited hereby, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned in the county jail not more than one year, or both fined and imprisoned.

WV Legislature

§16-29A-24. Meetings and records of authority to be kept public.

All meetings of the authority shall be open to the public, and the records of the authority shall be open to public inspection at all reasonable times, except as otherwise provided in this section. All final actions of the authority shall be journalized, and such journal shall also be open to the inspection of the public at all reasonable times. Any records or information relating to secret processes or secret methods of manufacture or production which may be obtained by the authority or other persons acting under authority of this article are confidential and shall not be disclosed.

WV Legislature

§16-29A-25. Cumulative authority as to powers conferred; applicability of other statutes and charters.

This article shall be construed as granting cumulative authority for the exercise of the various powers herein conferred, and neither the powers nor any bonds or notes issued hereunder shall be affected or limited by any other statutory or charter provision now or hereafter in force, other than as may be provided in this article, it being the purpose and intention of this article to create full, separate and complete additional powers. The various powers conferred herein may be exercised independently and notwithstanding that no bonds or notes are issued hereunder.

WV Legislature

§16-29A-26. Liberal construction.

This article, being necessary for and to secure the public health, safety, convenience and welfare of the citizens of the state, shall be liberally construed to effect the public purposes hereof.

WV Legislature