

# WEST VIRGINIA CODE: §17-16F-15

## §17-16F-15. Rail operations; purchases.

(a) The division may sell, transfer, or lease all, or any part of, the rail properties and other property acquired under the provisions of this article to any responsible person, firm, or corporation for continued operation of a railroad or other public purpose: *Provided*, That approval for the continued operation or other public purpose, is granted by the Surface Transportation Board of the United States, whenever approval is required. The sale, transfer, or lease shall be for a price and subject to any further terms and conditions which the division deems necessary and appropriate to this article.

(b) After acquiring any railroad lines within the state, the division shall assist any responsible person, firm, or corporation to secure, as promptly as possible, any order or certificate required by the Surface Transportation Board for the performance of railroad service. The division shall also give any assurances or guarantees which are necessary or desirable to carry out the purposes of this article.

(c) The division shall take whatever steps are necessary to determine the absolute fee simple title ownership of all rail properties of any railroad within the state. The determination may include the status of the rail properties with respect to easements, rights-of-way, leases, reversionary rights, fee simple title ownership, and any related title matters. The division may retain attorneys, experts, or other assistants, and issue any contracts as are necessary to make the title determination.

(d) All rail properties offered for sale by any railway corporation within the state after the enactment date of this article shall be offered first for sale to the state.

(e) The division shall cooperate with other states when purchasing rail properties within this state. The division shall also acquire railroad rights in other states and rail properties lying in other states to carry out the intentions and purposes of this article. In carrying out the powers and duties conferred by this article, the division shall enter into general contractual arrangements, including joint purchasing and leasing of rail properties with other states.

(f) In weighing the varied interests of the residents of this state, the division shall consider the individual interest of any county or municipality expressing a desire to acquire a portion, or all, of the abandoned real estate located within its jurisdiction. The division may acquire the abandoned property for subsequent conveyance to the county or municipality.

(g) The division may utilize federal funds, grants, gifts, or donations which are available and any sums that are appropriated in carrying out the purposes of this article. The division may also apply for discretionary or other funds available under the provisions of the federal Regional Rail Reorganization Act of 1973 or any current or future federal programs.

(h) The division may apply for an acquisition and modernization loan, or a guarantee of a loan, pursuant to the federal Regional Rail Reorganization Act of 1973, or any other federal programs, within the limit of funds appropriated for those purposes.

(i) The division may purchase any railroad rolling stock, equipment, and machinery necessary for the operation and maintenance of any rail properties purchased by it on behalf of the state, with any funds made available for this purpose. The division may also acquire and have available a pool of equipment and machinery which may be utilized by the operators of the rail properties for the purpose of track maintenance and other related railroad activities upon terms and conditions determined appropriate. Notwithstanding any the provisions of this code to the contrary, the division and the Commissioner of the Division of Highways may enter into contracts or agreements for the lease or purchase and maintenance of any vehicles required for its purposes.

(j) The division may contract for the rebuilding or relocation of any rail properties acquired pursuant to this article, within the provisions of the federal Regional Rail Reorganization Act of 1973 or any current or future federal statutes, or any other applicable legislation. The division may also spend any sums appropriated, as well as any other available funds, for the modernization, rebuilding, and relocation of any rail properties owned by the state or by a private carrier. The division shall do any maintenance on any rail properties owned by the state as is necessary in the public interest.

(k) The division may contract with any domestic or foreign person, firm, corporation, agency, or government to provide, maintain, or improve rail transportation service on the rail properties acquired by the state under this article.

(l) Whenever the division determines that any rail properties acquired by the state are no longer needed for railroad purposes, it shall, with the permission of the Governor, permanently or temporarily transfer the rail properties to any other state department or agency or political subdivision of the state, which shall utilize the properties for a public purpose. Whenever more than one department or agency or political subdivision wishes to utilize the property, the division shall resolve such a conflict and make a prompt determination of the reasonable and proper order of priority, taking into consideration any applicable state plans, policies, or objectives. If no state department or agency or political subdivision wants the properties, the division may sell them.