

WEST VIRGINIA CODE: §17-16F-17

§17-16F-17. Division empowered to issue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.

(a) The division, with approval of the secretary, may raise the cost of one or more railroad projects or parts of railroad projects by the issuance of railroad maintenance revenue bonds and notes of the state in such principal amount as the division deems necessary, but the aggregate amount of all issues of bonds and notes outstanding at one time for all projects authorized hereunder may not exceed that amount capable of being serviced by revenues received from such projects.

(b) The division, with approval of the secretary, may issue renewal notes, issue bonds to pay the notes and whenever it deems refunding expedient, refund any bonds by the issuance of railroad maintenance revenue refunding bonds of the state, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other authorized purpose. The refunding bonds shall be sold, and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded. Except as may otherwise be expressly provided by the division, every issue of its bonds or notes pursuant to this section are obligations of the division payable out of the revenues of the State Rail Section, which are pledged for such payment, without preference or priority of the first bonds issued, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues. Such pledge is valid and binding from the time the pledge is made, and the revenue so pledged and thereafter received by the division is immediately subject to the lien of such pledge without any physical delivery or further act and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the division irrespective of whether the parties have notice.

(c) All bonds and notes have and are declared to have all the qualities of negotiable instruments.

(d) The bonds and notes authorized by the division, with approval of the secretary, shall bear the date and shall mature at such time, in the case of any note or any renewals not exceeding five years from the date of issue of the original note, and in the case of any bond not exceeding 50 years from the date of issue, as the authorization may provide. The bonds and notes shall bear interest at a rate, be in denominations, be in the form, either coupon or registered, carry registration privileges, be payable in a medium of payment, at place and be subject to any terms of redemption that the division may authorize. The bonds and notes shall be sold by the division at public or private sale, at or not less than the price the division determines. The bonds and notes shall be executed by the commissioner. The official seal of, or a facsimile, shall be affixed or printed and attested, manually or by facsimile signature, by the commissioner, which may be made by facsimile or electronic signature. Any coupons attached shall bear the signature, facsimile signature, or electronic signature of the

commissioner. In case the commissioner whose signature, a facsimile signature, or an electronic signature, appears on any bonds, notes or coupons ceases to be commissioner before delivery of the bonds or notes, the signature, facsimile or electronic signature is nevertheless sufficient for all purposes the same as if he or she had remained in their respective positions until delivery and in case the seal of the commissioner has been changed after a facsimile has been imprinted on such bonds or notes the facsimile seal will continue to be sufficient for all purposes.

(e) Any authorization of any bonds or notes or any issue shall contain provisions, subject to agreements with bondholders or noteholders as may then exist, as part of the contract with the holders, as to pledging all or any part of the revenues of the State Rail Section to secure the payment of the bonds or notes or of any issue; the use and disposition of revenues of the State Rail Section; a covenant to fix, alter and collect rates, rentals and other charges so that pledged revenues will be sufficient to pay the costs of operation, maintenance and repairs, pay principal of and interest on bonds or notes secured by the pledge of such revenues and provide any reserves that may be required by the applicable authorization or trust agreement; the setting aside of reserve funds, sinking funds or replacement and improvement funds and the regulation and disposition; the crediting of the proceeds of the sale of bonds or notes to and among the funds referred to or provided for in the authorization of issuance of the bonds or notes; the use, lease, sale or other disposition of any railroad project or any other assets of the division; limitations on the purpose to which the proceeds of sale of bonds or notes may be applied and pledging such proceeds to secure the payment of the bonds or notes or of any issue; notes issued in anticipation of the issuance of bonds, the agreement of the commissioner to do all things necessary for the authorization, issuance and sale of such bonds in such amounts that may be necessary for the timely retirement of the notes; limitations on the issuance of additional bonds or notes; the terms upon which additional bonds or notes may be issued and secured; the refunding of outstanding bonds or notes; the procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent and the manner in which such consent may be given; limitations on the amount of moneys to be expended by the division for operating, administrative or other expenses of the division; securing any bonds or notes by a trust agreement; and any other matters, of like or different character, which in any way affect the security or protection of the bonds or notes.

(f) No person executing the bonds or notes is liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance.