WEST VIRGINIA CODE: §17-17A-5

§17-17A-5. Security for notes; trust agreements.

In connection with any issue of notes hereunder, the commissioner may pledge or assign, as security for the payment of the principal of or interest on such notes, any of the following:

(a) Any amounts to be received from the United States of America, or any agency or instrumentality thereof, as reimbursements of the costs incurred in connection with the surface transportation improvements to be financed by such notes, together with the rights and interests of the state with respect to such reimbursement;

(b) Any amounts in the state road fund which may properly be applied to the reimbursements of any such costs pursuant to article three of this chapter;

(c) The proceeds of any such notes pending their use or of notes which may be issued to renew or refund such notes;

(d) The proceeds of any insurance or letters of credit or similar arrangements undertaken in connection with the acquisition, construction or financing of such surface transportation improvements;

(e) The proceeds of any tolls, or portions of tolls, charged and collected pursuant to the provisions of sections five-a and five-b of this article that are designated by the commissioner as security for the payment of the principal of or interest on notes issued for the purposes described in section five-a of this article; and

(f) Any other amounts specifically designated for the purpose of paying any such costs, but only to the extent appropriated by the Legislature and paid from general revenues prior to such pledge or dedicated for such purpose by the Legislature from proprietary revenues of the state.

Any such pledge or assignment shall be valid and binding from the time it is made, and the lien of such pledge or assignment shall be enforceable and need not be perfected by delivery or any filing or further act. Such lien shall be valid against all parties having claims of any kind in tort, contract or otherwise, irrespective of whether such parties have notice of the lien of such pledge or assignment.

The commissioner may enter into an agreement or agreements with any trust company or with any bank having the power of a trust company, either within or outside of the state, as trustee for the holders of notes issued hereunder, setting forth therein such duties of the state and of the commissioner in respect of the acquisition and construction of surface transportation improvements, the conservation and application of all moneys, the insurance of moneys on hand or on deposit, and the rights and remedies of the trustee and the holders

WV Legislature

of the notes, as may be agreed upon with the original purchasers of such notes, and including therein provisions restricting the individual right of action of holders as is customary in such trust agreements to protect and enforce the rights and remedies of the trustee and the holders. All expenses incurred in carrying out such agreement may be treated as a part of the cost of construction of the surface transportation improvements affected by the agreement.

WV Legislature