WEST VIRGINIA CODE: §18-9D-9

§18-9D-9. Issuance of revenue refunding bonds; use of moneys; power to enter into escrow agreements; call for redemption.

The issuance of revenue refunding bonds under the provisions of this article shall be authorized by resolution of the School Building Authority and shall otherwise be subject to the limitations, conditions, and provisions of other revenue bonds under this article. The revenue refunding bonds may be issued in an amount at the option of the authority sufficient to pay either in part or in full, together with interest earned on the investment of the proceeds thereof, whether or not at the time of the issuance of the revenue refunding bonds the hereafter mentioned bonds are payable or callable for optional redemption: (1) The principal of the outstanding bonds; (2) the redemption premium, if any, on the outstanding bonds if they are to be redeemed prior to maturity; (3) the interest due and payable on the outstanding bonds to and including the maturity date thereof or the first date upon which the outstanding bonds are to be redeemed, including any interest theretofore accrued and unpaid; and (4) all expenses of the issuance and sale of said revenue refunding bonds, including all necessary financial and legal expenses, and also including the creation of initial debt service reserve funds. Any existing moneys pledged with respect to the outstanding bonds may be used for any or all of the purposes stated in (1), (2), (3) and (4) above or may be deposited in a sinking fund or reserve fund or other funds for the issue of bonds which have been issued wholly or in part for the purpose of such refunding. Such amount of the proceeds of the revenue refunding bonds as shall be sufficient for the payment of the principal, interest and redemption premium, if any, on the outstanding bonds which will not be immediately due and payable shall be deposited in trust, for the sole purpose of making such payments, in a banking institution chosen by the authority and in accordance with any provisions which may be included in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same. Any of the moneys so deposited in trust may, prior to the date on which such moneys will be needed for the payment of principal of, interest and redemption premium, if any, on the outstanding bonds, be invested and reinvested as determined by the authority, in whole or in part: (a) In direct obligations issued by the United States of America or one of its agencies or in direct obligations of the State of West Virginia; (b) in obligations unconditionally guaranteed by the United States of America as to principal and interest; or (c) in certificates of deposit of a banking corporation or association which is a member of the federal deposit insurance corporation, or successor; but any such certificates of deposit must be fully secured as to both principal and interest by pledged collateral consisting of direct obligations of or obligations guaranteed by the United States of America, or direct obligations of the State of West Virginia, having a market value, excluding accrued interest, at all times at least equal to the amount of the principal of and accrued interest on the certificates of deposit. Any such investments must mature, or be payable in advance of maturity at the option of the holder, and shall bear interest in such manner as to provide funds which, together with uninvested money, will be sufficient to pay when due or called for redemption the bonds refunded, together with interest accrued and

WV Legislature

to accrue thereon and redemption premiums, if any, and the refunding bonds' proceeds or obligations so purchased therewith shall be deposited in escrow and held in trust for the payment and redemption of the bonds refunded: *Provided*, That if interest earned by any investment in the escrow is shown to be in excess of the amounts required from time to time for the payment of interest on and principal of the refunded bonds, including applicable redemption premium, then the excess may be withdrawn from escrow and disbursed in such manner as the authority shall by resolution determine. Any moneys in the sinking or reserve funds or other funds maintained for the outstanding bonds to be refunded may be applied in the same manner and for the same purpose as are the net proceeds of refunding bonds or may be deposited in the special fund or any reserve funds established for account of the refunding bonds.

The authority to issue revenue refunding bonds shall be in addition to any other authority to refund bonds conferred by law.

The School Building Authority may enter into such escrow agreements with such bank or banks and to insert therein such protective and other covenants and provisions as it may consider necessary to permit the carrying out of the provisions of this article and to ensure the prompt payment of the principal of and interest and redemption premiums on the revenue bonds refunded.

Where any revenue bonds to be refunded are not to be surrendered for exchange or payment and are not to be paid at maturity with escrowed obligations, but are to be paid from such source prior to maturity pursuant to call for redemption exercised under a right of redemption reserved in such revenue bonds, the authority shall, prior to the issuance of the refunding bonds, determine which redemption date or dates shall be used, call the revenue bonds for redemption and provide for the giving of the notice of redemption required by the proceedings authorizing the revenue bonds. Where notice is to be given at a time subsequent to the issuance of the refunding bonds, the necessary notices may be deposited with the State Treasurer or the bank acting as escrow agent of the refunding bond proceeds and the escrow agent appropriately instructed and authorized to give the required notices at the prescribed time or times. If any officer of the public body signing any such notice shall no longer be in office at the time of the utilization of the notice, the notice shall nevertheless be valid and effective for its intended purpose.

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