# WEST VIRGINIA CODE CHAPTER 31 ARTICLE 19

WV Legislature

## §31-19-1. Short title.

This article shall be known as the "West Virginia Community Infrastructure Authority Act."

WV Legislature

**§31-19-2. Legislative findings and purposes.**

(a) The Legislature hereby finds and declares that increasing requirements for essential public improvements and escalating costs of providing such improvements have created inordinate demands upon the financial resources of counties and municipalities necessitating legislation to enable counties and municipalities to attain a more competitive position in capital markets.

(b) The Legislature hereby finds and declares further that it is in the public interest and is the responsibility of the State of West Virginia to foster and promote by all lawful means the provision of adequate capital markets and facilities for borrowing money by counties and municipalities for the financing of public improvements and the fulfillment of public purposes, and to make it possible for counties and municipalities to obtain new or additional sources of capital funds at acceptable interest costs, including activities to encourage investor interest in the purchase of bonds or notes of counties or municipalities as sound and preferred securities for investments.

(c) The Legislature hereby finds and declares further that it is in the public interest and is the responsibility of the State of West Virginia to encourage counties and municipalities to continue their independent undertakings of public improvements and fulfillment of public purposes and the financing thereof and to improve or enhance the possibilities of counties and municipalities obtaining funds, to the extent possible, at reduced interest costs, for orderly financing of public improvements and fulfillment of public purposes, particularly those counties or municipalities not otherwise able to borrow for such purposes during periods of need.

(d) The Legislature hereby finds and declares further that it is in the public interest, in order to implement and aid in the discharge of the responsibilities of the aforesaid, that a state instrumentality be created as a public body corporate with full powers to borrow money and issue its bonds and notes to the end that funds obtained thereby may be used for the purchase by such state instrumentality of the bonds or notes of counties and municipalities or for the purposes of making loans to the counties or municipalities for community infrastructure projects, and that such state instrumentality be granted all powers necessary or appropriate to accomplish and to carry out the aforesaid public purposes and responsibilities of the State of West Virginia in a manner to make it possible for counties or municipalities to sell their bonds and borrow funds at as low an interest rate as said instrumentality finds and determines to be feasible.

(e) The Legislature further finds and declares that in accomplishing these purposes, the West Virginia community infrastructure authority, created and established by this article, will be acting in all respects for the benefit of the people of the State of West Virginia to serve the public purposes of improving and otherwise promoting their health, education, welfare, safety and prosperity, and that the West Virginia community infrastructure authority, so created and established, is hereby empowered to act on behalf of the State of West Virginia and its people in serving the aforesaid public purposes for the benefit of the

WV Legislature

general public of said state.

WV Legislature

## §31-19-3. Definitions.

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

(1) "Authority" means the West Virginia community infrastructure authority created in section four of this article, the duties, powers, responsibilities and functions of which are specified in this article.

(2) "Board" means the West Virginia community infrastructure authority board created in section four of this article, which shall manage and control the West Virginia community infrastructure authority.

(3) "Bond" or "community infrastructure revenue bond" means a revenue bond or note issued by the West Virginia community infrastructure authority to effect the intents and purposes of this article.

(4) "Community infrastructure project" or "project" means any project of a public nature which is considered a part of the infrastructure of a county or municipality, including, but not limited to, roads and other appurtenances to community or economic development, which are specifically declared to be for a public purpose.

(5) "Cost" means, as applied to community infrastructure projects, the cost of acquisition, repair, renovation and construction thereof; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required by the county or municipality for such acquisition, renovation, repair or construction; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved; the cost of diverting highways, interchange of highways, access roads to private property, including the cost of land or easement therefor; the cost of all machinery, furnishing, and equipment; all finance charges, and interest prior to and during the construction and for no more than eighteen months after completion of construction; the cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring, renovating, repairing or constructing any such project; the financing of such acquisition, renovation, or repair or construction, including the amount authorized in the resolution of the authority providing for the issuance of community infrastructure revenue bonds to be paid into any special funds from the proceeds of such bonds; and the financing of the placing of any such project in operation, if necessary. Any obligations or expenses incurred after the effective date of this article by any county or municipality, with the approval of the authority, for surveys, borings, preparation of plans and specifications and other engineering services in connection with the acquisition, renovation, repair or construction of a project shall be regarded as a part of the cost of such project and shall be reimbursed out of the proceeds of grants, loans or community infrastructure revenue bonds as authorized by the provisions of this article.

WV Legislature

(6) "Department" means the Governor's office of community and industrial development.

(7) "Revenue" means any money or thing of value collected by, or paid to, the West Virginia community infrastructure authority in connection with any community infrastructure project or as principal of or interest, charges or other fees on loans, or any other collections on loans made by the West Virginia community infrastructure authority to counties or municipalities to finance in whole or in part the acquisition, renovation, repair or construction of any community infrastructure project or projects, or other money or property which is received and may be expended for or pledged as revenues pursuant to this article.

WV Legislature

**§31-19-4. West Virginia Community Infrastructure Authority created; West Virginia Community Infrastructure Board created; organization of Authority and Board; appointment of board members; their term of office, compensation and expenses; duties and responsibilities of director and staff of authority.**

(a) There is hereby created the West Virginia Community Infrastructure Authority. The authority is a governmental instrumentality of the state and a body corporate. The exercise by the authority of the powers conferred by this article and the carrying out of its purposes and duties are essential governmental functions and for a public purpose.

The authority shall be controlled, managed and operated by the five-member board known as the West Virginia Community Infrastructure Board, which is hereby created. The Director of the West Virginia Development Office, or her or his designee, the Director of the Division of Environmental Protection, or her or his designee, and the Commissioner of the Division of Highways, or her or his designee, are members ex officio of the board. The Executive Director of the West Virginia Development Office, or her or his designee, is the ex officio chair. Two members of the board shall be representative of the general public, one of which shall have had experience or a demonstrated interest in local government. The two members who are not ex officio members of the board shall be appointed by the Governor, by and with the advice and consent of the Senate, for initial terms of three 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 her or his predecessor was appointed shall be appointed only for the remainder of such term. Each board member shall serve until the appointment and qualification of her or his successor. The two appointed board members shall not at any one time belong to the same political party. Appointed board members may be reappointed to serve additional terms, not to exceed two consecutive full terms. All members of the board shall be citizens of the state. Each appointed member of the board, before entering upon her or his duties, shall comply with the requirements of article one, chapter six of this code and give bond in the sum of $20,000 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.

Annually the board shall elect one of its appointed members as chair, and shall appoint a secretary-treasurer, who need not be a member of the board. Three members of the board is a quorum and the affirmative vote of three members is necessary for any action taken by vote of the board. No vacancy in the membership of the board impairs the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority. The person appointed as secretary-treasurer, including a board member if she or he is so appointed, shall give bond in the sum of $50,000 in the manner provided in article two, chapter six of this code.

The Executive Director of the West Virginia Development Office or her or his designee, the Director of the Division of Environmental Protection or her or his designee, and the Commissioner of the Division of Highways or her or his designee, shall not receive any

WV Legislature

compensation for serving as board members. Each of the two appointed board members of the board shall receive an annual salary of $5,000, payable at least twice per month. Each of the five board members shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of her or his duties as a member of such board. All such expenses incurred by the board are payable solely from funds of the authority or from funds appropriated for such purpose by the Legislature and no liability or obligation shall be incurred by the authority beyond the extent for which moneys are available from funds of the authority or from such appropriations.

(b) There shall be a director of the authority appointed by the board who shall supervise and manage the Community Infrastructure Authority, and the West Virginia Development Office shall serve as the staff for the authority. Except as otherwise provided in this section, the duties and responsibilities of the director and of the staff shall be established by the authority. At the board's discretion, it may provide for the position of general counsel, who shall be an employee of the authority, or for the appointment of special counsel. As the board deems necessary and desirable, it may at any time elect to change its decision on the employment or appointment of a counsel.

(c) The director, or her or his designee, may employ or appoint any staff members in addition to those provided by the West Virginia Development Office, including general or special counsel if the position is established by the board. The number of employees needed, the positions to be filled and their salaries or wages shall be determined by the director with the approval of the board, unless the board elects to not require its approval. At any time the board may elect to change its decision concerning approval of additional staff hiring and salaries.

(d) The board shall meet at least quarterly, and more often as it deems necessary. The director and any other staff member or members as the director deems expedient shall attend board meetings.

WV Legislature

**§31-19-5. Authority may finance community infrastructure projects; loans to or bond purchases from counties and municipalities shall be subject to terms of loan or bond purchase agreements.**

To accomplish the public policies and purposes and to meet the responsibility of the state as set forth in this article, the West Virginia community infrastructure authority may make loans to counties and municipalities for the acquisition, renovation, repair or construction of community infrastructure projects by such counties and municipalities, and may issue community infrastructure revenue bonds of this state, payable solely from revenues, to pay the cost of, or finance, in whole or in part, by loans to counties and municipalities, such projects. A community infrastructure project shall not be undertaken unless it has been determined by the authority based upon information provided to it by the county or municipality or other agency charged by law with the responsibility of reporting to be consistent with any applicable requirements of law. Any resolution of the authority providing for making a loan or bond purchase pursuant to this article shall include a finding by the authority that such determinations have been made. A loan or bond purchase agreement shall be entered into between the authority and each county or municipality to which a loan is made or from which bonds are purchased for the acquisition, renovation, repair or construction of a community infrastructure project, which loan or bond purchase agreement shall include without limitation the following provisions:

(1) The cost of such project, the amount of the loan or bond purchase, the terms of repayment of such loan or bond purchase and the security therefor;

(2) The specific purposes for which the proceeds of the loan or bond purchase shall be expended, the procedures as to the disbursements of loan or bond purchase proceeds and the duties and obligations imposed upon the county or municipality in regard to the construction, renovation, repair or acquisition of the project;

(3) The agreement of the county or municipality to raise the funds for repayment, through levy, pursuant to an election pursuant to article one, chapter thirteen of this code; and

(4) The agreement of the county or the municipality to comply with all applicable laws, rules and regulations issued by the authority or other state, federal or local bodies in regard to the construction, repair, renovation or acquisition of the project.

WV Legislature

**§31-19-6. Powers, duties and responsibilities of the authority generally.**

The West Virginia community infrastructure authority is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose. The authority shall have the power and capacity to:

(1) Adopt, and from time to time, amend and repeal bylaws necessary and proper for the regulation of its affairs and the conduct 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.

(2) Adopt an official seal.

(3) Maintain a principal office and, if necessary, regional suboffices at locations properly designated or provided.

(4) Sue and be sued in its own name and plead and be impleaded in its own name, particularly to enforce the obligations and covenants made under sections seven and eight of this article. 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.

(5) Establish and operate a revolving loan fund for the purpose of making loans to counties and municipalities for the acquisition, renovation, repair or construction of community infrastructure projects by such counties or municipalities; purchase the bonds of counties and municipalities issued for the acquisition, renovation, repair or construction of community infrastructure projects by such county or municipality; and, in accordance with the provisions of chapter twenty-nine-a of this code, adopt rules and procedures for making such loans or purchasing such bonds.

(6) Issue community infrastructure revenue bonds and notes and community infrastructure revenue refunding bonds of the state, payable as provided in section seven of this article unless the bonds are refunded by refunding bonds, for the purpose of making loans to or bond purchases from counties or municipalities for one or more community infrastructure projects or parts thereof.

(7) Acquire by gift or purchase, hold or dispose of real and personal property in the exercise of its powers and performance of its duties as set forth in this article.

(8) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers.

(9) Receive and accept from any federal agency, subject to the approval of the Governor, grants for or in aid of the construction, repair, renovation or acquisition of community infrastructure projects, and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions are made.



WV Legislature

(10) Purchase property coverage and liability insurance for any community infrastructure project and for any offices of the authority, insurance protecting the authority and its officers and employees against liability, if any, or damage to property or injury to or death of persons arising from its operations and any other insurance the authority may agree to provide under any resolution authorizing the issuance of community infrastructure revenue bonds or in any trust agreement securing the same.

(11) Establish or increase reserves from moneys received or to be received by the authority to secure or pay the principal of and interest on bonds and notes issued by the authority pursuant to this article or other law.

(12) Receive and disburse the proceeds of such general obligation bonds of the state as may be allowed by law pursuant to any resolution or act of the Legislature.

(13) To the extent permitted under its contracts with the holders of bonds or notes of the authority, consent to modification of the rate of interest, time and payment of installment of principal or interest, security, or any other term of a bond or note, contract or agreement of any kind to which the authority is a party.

(14) Make grants to counties or municipalities for one or more community infrastructure projects or parts thereof.

(15) Provide consultation services to municipalities or counties in connection with the acquisition, renovation, repair or construction of any community infrastructure project.

(16) Establish and amend the criteria and qualifications for the making of any loan to or the purchasing of any bond from a county or municipality and the terms not inconsistent with this article of any loan or bond purchase agreement with any county or municipality.

(17) Do all acts necessary and proper to carry out the powers expressly granted to the authority in this article.

WV Legislature

**§31-19-7. Authority empowered to issue community infrastructure revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.**

The authority is hereby empowered to issue from time to time community infrastructure revenue bonds and notes of the state in such principal amounts as the authority deems necessary to make loans to or bond purchases from counties and municipalities for one or more community infrastructure projects.

The authority may, from time to time, issue renewal notes, issue bonds to pay such notes and whenever it deems refunding expedient, refund any bonds by the issuance of community infrastructure revenue refunding bonds by the state pursuant to the provisions of section sixteen of this article. Except as may otherwise be expressly provided in this article or by the authority, every issue of its bond or notes shall be obligations of the authority payable out of the revenues and reserves created for such purposes by the authority which are expressly 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 shall be valid and binding from the time the pledge is made and the revenues so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and 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.

All such bonds and notes shall have and are hereby declared to have all the qualities of negotiable instruments.

The bonds and notes shall be authorized by resolution of the authority, shall bear such date and shall mature at such time, in case of any such note or any renewal thereof not exceeding five years from the date of issue of such original note, and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution may provide. The bonds and notes shall bear interest at such rate or rates, including variable rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment, in such place and be subject to such 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 shall be executed by the chairman of the authority who may use a facsimile signature. The official seal of the authority or a facsimile shall be affixed thereto or printed thereon and attested, manually or by facsimile signature by the secretary-treasurer of the authority, and any coupons attached thereto shall bear the signature or facsimile signature of the chairman of the authority. In case any officer whose signature, or a facsimile of whose signature appears on any bonds, notes or coupons ceases to be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he had remained in office until such delivery and in case the seal of the authority have been changed after a facsimile has been imprinted on such bonds or notes, such facsimile will continue to be sufficient for all

purposes.

Any resolution authorizing any bonds or notes or any issue thereof may contain provisions (subject to such agreements with bondholders or noteholders as may then exist, which provisions shall be a part of the contract with the holders thereof) as to pledging all or any part of the revenues of the authority to secure the payment of the bonds or notes or of any issue thereof; the use and disposition of revenues of the authority; the setting aside of reserve funds, sinking funds or replacement and improvement funds and the regulation and disposition thereof; the crediting of the proceeds of the sale of bonds or notes to and among the funds referred to and provided for in the resolution authorizing the issuance of the bonds or notes; the use, lease, sale or other disposition of any assets of the authority; limitations on the purpose to which the proceeds of sale of bonds or notes may be applied; notes issued in anticipation of the issuance of bonds; the agreement of authority to do all things necessary for the authorization, issuance and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitation 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 thereof and the manner in which such consent may be given; limitations on the amount of moneys to be expended by the authority for operating, administrative or other expenses of the authority securing any bonds or notes by a trust agreement; and any other matter, of like or different character, which in any way affect the security or protection of the bonds or notes.

In the event that the sum of all reserves pledged to the payment of such bonds or notes shall be less than the minimum reserve requirements established in any resolution or resolutions authorizing the issuance of such bonds or notes, the chairman of the authority shall certify, on or before December 1, of each year, the amount of such deficiency to the Governor of the state for inclusion, if the Governor shall so elect, of the amount of such deficiency in the budget to be submitted to the next session of the Legislature for appropriation to the authority to be pledged for payment of such bonds or notes: Provided, That the Legislature shall not be required to make any appropriations so requested, and the amount of such deficiencies shall not constitute a debt or liability of the state.

Neither the members 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.

WVLegislature

## §31-19-8. Trustee for bondholders; contents of trust agreement.

Any community infrastructure revenue bonds or notes or community infrastructure revenue refunding bonds issued by the authority under this article may be secured by a trust agreement between the authority and a corporate trustee, which trustee may be any trust company or banking institution having the powers of a trust company within or without this state. The authority shall promulgate rules and regulations pursuant to article three, chapter twenty-nine-a of this code establishing the method of choosing any such trustee which shall be done by a public competitive bidding procedure.

The authority shall, in all instances, seek to achieve the highest possible rating for any community infrastructure revenue bonds or notes or community infrastructure revenue refunding bonds or notes.

Any such trust agreement may pledge or assign revenues of the authority to be received. Any such trust agreement or any resolution providing for the issuance of such bonds or notes may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including the provisions contained in section seven of this article and covenants setting forth the duties of the authority in relation to provisions regarding the payment of the principal of and interest, charges and fees on loans made to, or bond purchases from, counties and municipalities from the proceeds of such bonds or notes, the custody, safeguarding and application of all moneys. Any banking institution or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or notes or of revenues shall furnish such indemnifying bonds or pledge such securities as are required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee and may restrict individual rights of action by bondholders and noteholders as customarily provided in trust agreement or trust indentures securing similar bonds. Such trust agreement may contain such other provisions as the authority deems reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as part of the cost of the construction, renovation, repair or acquisition of a community infrastructure project.

WV Legislature

## §31-19-9. Legal remedies of bondholders and trustees.

Any holder of community infrastructure revenue bonds issued pursuant to this article or any of the coupons appertaining thereto and the trustee under any trust agreement, except the extent the rights given by this article may be restricted by the applicable resolution or such trust agreement, may by civil action, mandamus or other proceedings protect and enforce any rights granted under the laws of the state or granted under this article by the trust agreement or by the resolution in the issuance of such bonds, and may enforce and compel the performance or all duties required by this article, pursuant to the trust agreement or resolution, to be performed by the authority or any officer thereof.

WV Legislature

## §31-19-10. Bonds and notes not debt of state, county, or municipality; expenses incurred pursuant to article.

Community infrastructure revenue bonds and notes and community infrastructure revenue refunding bonds issued pursuant to 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 or municipality of the state and the holders or owners thereof shall have no right to have taxes levied by the Legislature or taxing authority of any county or municipality 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 pursuant to 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 or municipality thereof, but are payable solely from revenues and funds pledged for their payment.

All expenses incurred in the carrying out of 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 or municipality thereof.

WV Legislature

## §31-19-11. Use of funds by authority; restrictions thereon.

All moneys, properties and assets acquired by the authority whether as proceeds from the sale of community infrastructure revenue bonds 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 community infrastructure revenue bonds or in any trust agreement securing the same, or except when invested pursuant to section twelve 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 of any issue or of the trust agreement securing such bonds 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.

WV Legislature

## §31-19-12. Investment of funds by authority.

Except as otherwise provided in any resolution authorizing the issuance of community infrastructure revenue bonds or in any trust agreement securing the same, the authority is hereby authorized and empowered to invest any funds not needed for immediate disbursement in any of the following securities:

(1) Direct obligations of or obligations 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 land banks; The Federal National Mortgage Association or the Government National Mortgage Association;

(3) Public housing bonds issued by the 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 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 United States of America;

(4) Certificates of deposit secured by obligations of the United States of America;

(5) Direct obligations of or obligations 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 of 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 nationally recognized bond-rating agencies; and

(7) Any fixed interest bond, note or debenture of any corporation organized and operating with the United States: Provided, That such corporation shall have 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 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.

WV Legislature

## §31-19-13. Reports by authority to Governor and Legislature.

As soon as possible after the close of each fiscal year, the authority shall make an annual report of its activities for the preceding fiscal year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the preceding fiscal year. The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants.

The cost of such audit shall be treated as a part of the cost of operation of the authority.

WV Legislature

## §31-19-14. Community infrastructure bonds lawful investments.

The provisions of sections nine and ten, article six, chapter twelve of this code to the contrary notwithstanding all community infrastructure revenue bonds issued pursuant to this article shall be lawful investments for the West Virginia state Board of Investments and shall also be lawful investments for banking institutions, societies for savings, building and loan associations, savings and loan associations, deposit guarantee associations, trust companies, insurance companies, including domestic for life and domestic not for life insurance companies.

WV Legislature

## §31-19-15. 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 notes or bonds of the authority.

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

WV Legislature

## §31-19-16. 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 purpose of the authority; and 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 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 pursuant to this article shall be payable from the revenues out of which the bonds to be refunded thereby were payable, or from other moneys or the principal of and interest on or other investment yield from, investments or proceeds of bonds or other applicable funds or 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.

WV Legislature

## §31-19-17. 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 for the enhancement of their residential, agricultural, recreational, economic, commercial and industrial opportunities and is a public purpose. As the construction, acquisition, repair or renovation of community infrastructure projects will constitute the performance of essential governmental functions, the authority shall not be required to pay any taxes or assessments upon any community infrastructure project or upon any property acquired or used by the authority or upon the income therefrom. Such bonds and notes and all interests and income thereon shall be exempt from all taxation by this state, or any county, municipality, political subdivision or agency thereof, except inheritance taxes.

WV Legislature

## §31-19-18. Financial interests in contracts prohibited; penalty.

No officer, member or employee of 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 authority has such financial interests in the 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

## §31-19-19. 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 journals 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

## §31-19-20. Liberal construction of article.

The provisions of this article are hereby declared to be remedial and shall be liberally construed to effectuate its purposes and intents.

WV Legislature

## §31-19-21. Severability.

If any section, part or provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any other section, part or provision of this article or its application and to this end the provisions of this article are declared to be severable.

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