

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

HOUSE BILL No. 115

(By Mr. Fussion)



PASSED March 12, 1937

In Effect from Passage

ENROLLED

House Bill No. 115

(By MR. HUSSION)

[Passed March 12, 1937; in effect from passage.]

AN ACT to amend and reenact chapter forty-four, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, to authorize the county court of any county to acquire and hold lands and buildings, and to convey real estate, and to enter into a contract, or a lease, or both, with the United States government, or any federal agency authorized to make or enter into such contract, or lease, or any bank or financial institution authorized by law to make loans, or any individual or persons, for the erection, construction, equipment, leasing and renting of any courthouse, hospital, other public building or jail, with an option to purchase same and to provide for the payment of a yearly rental for such by said court, or to authorize any such court to construct, equip, maintain and operate a courthouse, hospital, other public building or jail in and for said county, and to

borrow funds from the public works administration, or other federal governmental agency authorized to make loans, or any bank or financial institution authorized by law to make loans, or any individual or persons, for the purpose of constructing and equipping said building, or buildings, together with the right to purchase additional real estate and to issue bonds in payment of the same, and to pledge a sufficient amount of revenue, within the constitutional limitation and within the limitations as provided by general law and this act, to pay the principal amount of said bonds and interest thereon, within a period not to exceed thirty years, and to pledge such real estate and property as security for the payment of such bonds and interest.

Be it enacted by the Legislature of West Virginia:

Section 1. *County Courts authorized to Contract With*
2 *Federal Agency for Construction, Etc., of Court House, Jail*
3 *or Other Public Building.* The county court of any county
4 is hereby authorized and empowered to acquire real estate and
5 to convey real estate and to enter into a contract, or lease, or
6 both, with the United States government, or any federal
7 agency authorized to make or enter into such contract, or

8 lease, or with any bank or financial institution, or with any
9 individual or persons for the erection, construction, equip-
10 ment, leasing and renting of a courthouse, hospital, other
11 public buildings, or jail, with an option to purchase same
12 and to provide for the payment of a yearly rental for such
13 by said court; and to contract with the United States govern-
14 ment, or any federal agency authorized to make or enter into
15 such contract, or any bank or financial institution, or any in-
16 dividual or persons, to the end that said government, or any
17 of its agencies, or agents thereunto duly authorized, or bank
18 or financial institution or individual or persons, may for and
19 on behalf of any county court, build, erect, construct, equip
20 or furnish upon said property any such building, or build-
21 ings, including a hospital; and to contract with said govern-
22 ment, or any federal agency, or bank, or financial institution,
23 or individual, or persons, for the lease, or rental, of said
24 building, or buildings, with the privilege and authority of
25 renewing said lease from year to year, for any period of
26 years, not exceeding thirty, with the right to purchase said
27 building, or buildings, and real estate on which the same is,
28 or are, situated, and to apply toward the purchase price

29 thereof any and all rentals paid to said government, or
30 agency, or bank, or financial institution, or individual, or per-
31 sons, under the provisions of this act; and the said county
32 court shall pay to the United States government, or any fed-
33 eral agency, or bank, or financial institution, or individual, or
34 persons, said yearly rental, or rentals, for the use and occu-
35 pancy of said building, or buildings, if and when the same
36 are constructed, which said yearly rental, or rentals, in the
37 aggregate, shall not exceed the total amount, and the inter-
38 est thereon expended by said government, or agency or bank
39 or financial institution, or individual, or persons, on said pro-
40 ject, or projects, and the said yearly rentals shall be paid out
41 of levies laid within the constitutional debt limitations; and
42 to do any and all other things lawfully required by said
43 United States government, or any federal agency, or bank, or
44 financial institution, or individual, or persons, which are
45 necessary and proper to effectuate the purpose of this act.

Sec. 2. *Annual Levy for Rentals.* The said court shall
2 levy and collect annually an amount sufficient to pay said
3 rental, or rentals, for that particular year for the purposes
4 aforesaid in the manner and form as provided by law.

Sec. 3. *County Courts Authorized to Borrow Money From*
2 *Federal Agency to Buy Land and Construct, Etc., Court-*
3 *houses, Jails or Other Public Buildings; Authorized to Issue*
4 *Bonds.* Any county court is likewise authorized and em-
5 powered to acquire real estate for, construct, equip, furnish
6 and maintain a courthouse, hospital or other public buildings
7 or jail and to borrow funds from the United States govern-
8 ment, the public works administration, or other governmental
9 agency authorized to make loans, or any bank, or financial
10 institution authorized by law to make loans, or any individual,
11 or persons for the purpose of building, constructing, furnish-
12 ing and equipping said courthouse, hospital, other buildings
13 or jail, and for the purpose of acquiring real estate therefor,
14 and shall have the right to acquire by purchase, condemna-
15 tion, gift or otherwise, real estate on which to build the same,
16 within the discretion of the court. Such county court is
17 authorized and empowered to issue bonds for the purpose
18 of paying the cost of such real estate, building, furnishing
19 and equipment and to pledge a sufficient amount of revenue
20 within the constitutional limitations and within the limi-
21 tations as provided by general law, to pay the principal of

22 said bonds and the interest thereon, within a period not to
23 exceed thirty years. Such court is further authorized and
24 empowered to do and perform any and all acts and make all
25 contracts necessary to effectuate the general purpose of this
26 act, including the acquisition, by original grant, gift, condem-
27 nation, or other lawful means of real estate, and if all necessary
28 permits, easements and other rights in real estate, and title
29 to and possession thereof, or to make such purchase and ac-
30 quisition with the money borrowed, as provided in this act.

31 Such county court shall have authority, and is empowered,
32 to make such contracts, agreements and covenants between it
33 and the United States government, or the public works ad-
34 ministration, or other governmental agency, or bank, or finan-
35 cial institution, or individual, or persons for the loan of such
36 funds to said county court, and securing payment thereof
37 as they may be able to effectuate, subject only to this limita-
38 tion, that the bonds issued, or given as security thereof, shall
39 be payable out of the levies now provided for by general law
40 and by this act; to be levied by said county court in and for
41 said county; to acquire needed real estate, to construct, equip,
42 furnish and maintain such courthouse, hospital, other public

43 buildings or jail, and to make and enter into such contracts,
44 and to do and perform such acts as may be necessary for the
45 construction, equipment, operation and maintenance of the
46 same, subject to such burdens, restrictions and encumbrances
47 as it may be necessary to incur and bear, in securing such
48 bonds and such real estate construction, equipment and main-
49 tenance.

50 Bonds issued hereunder shall be exempt from taxation by
51 the state of West Virginia, or any county therein, or any
52 district or municipality thereof.

Sec. 4. *Statutory Mortgage Lien of Bond Holders; En-*
2 *forcement of Lien.* There shall be and there is hereby created
3 a statutory mortgage lien upon the said real estate, buildings
4 and property so acquired, constructed or built from the pro-
5 ceeds of bonds authorized to be issued under this act, which
6 shall exist in favor of the holder of said bonds, and each of
7 them, and to and in favor of the holder of the interest cou-
8 pons attached to said bonds, and such courthouse, hospital,
9 other public buildings, or jail, and the real estate so acquired
10 and used for and in connection therewith, shall remain sub-
11 ject to such statutory mortgage lien until payment in full

12 of the principal and interest of said bonds. Any holder of
13 bonds issued under the provisions of this act, or the holder
14 of any coupons representing interest accrued thereon, may,
15 either at law or in equity, enforce the statutory mortgage
16 lien hereby created and conferred, and may, by proper suit,
17 compel the performance of the duties of the officials of the
18 said court set forth in this act. If there be default in the
19 payment of the principal of or interest upon any of said
20 bonds, any court having jurisdiction in any proper action
21 may appoint a receiver to administer said property on behalf
22 of the said court with power to charge and collect rents or
23 income sufficient to provide for the payment of said bonds
24 and interest thereon, and for the payment of the operating
25 expenses, and to apply the income, rents or other revenue in
26 conformity with this act and the order providing for the is-
27 suance of said bonds.

Sec. 5. *Revenue to Pay Bonds; Sinking Fund Require-*
2 *ments; Form of Bonds; Use of Bond Proceeds.* Any county
3 court issuing bonds under the provisions of this act shall there-
4 after, so long as any such bonds remain outstanding, oper-
5 ate and maintain said courthouse, hospital, other public

6 buildings, or jail, to provide revenues sufficient to pay all
7 operating costs, provide a sinking fund for, and to retire the
8 bonds and pay the interest thereon as the same may become
9 due. The amounts, as and when so set apart by said county
10 court, shall be remitted to the state sinking fund commission
11 at least thirty days previous to the time interest or principal
12 payments become due, to be retained and paid out by said
13 commission consistent with the provisions of this act and with
14 the order pursuant to which such bonds have been issued. The
15 state sinking fund commission is hereby authorized to act as
16 fiscal agent for the administration of such sinking fund un-
17 der any order passed pursuant to the provisions of this act,
18 and shall invest all sinking funds, as provided by general law.
19 Bonds issued under the provisions of this act are hereby de-
20 clared to be and to have all the qualities of negotiable instru-
21 ments. Such bonds shall bear interest at not more than six
22 per cent per annum, payable semi-annually, and shall ma-
23 ture at any time fixed by the county court, in not more than
24 thirty years from their date, and may be made redeemable
25 at the option of the county court at such price and under
26 such terms and conditions as said court may fix, by its order,

27 prior to the issuance of such bonds. Bonds issued hereunder
28 shall be payable at the office of the state treasurer, or some
29 bank in the city of New York.

30 In case any of the officers whose signatures appear on the
31 bonds or coupons shall cease to be such officers before the de-
32 livery of such bonds, such signatures shall, nevertheless, be
33 valid and sufficient for all purposes the same as if they had
34 remained in office until such delivery. The county court shall
35 by order entered prior to the issuance of said bonds, fix the
36 denominations, times and places of payment of such bonds,
37 the principal and interest of which shall be payable in lawful
38 money of the United States of America. The proceeds of
39 such bonds shall be used solely for the payment of the cost of
40 land, buildings, furniture and equipment thereon, and shall
41 be checked out by the county court under such restrictions
42 as are contained in the order providing for the issuance of
43 said bonds. If the proceeds of bonds issued for any court-
44 house, hospital, other public buildings, or jail, shall exceed
45 the cost thereof, the surplus shall be paid into the fund here-
46 in provided for the payment of principal and interest upon
47 such bonds. Such fund may be used for the purchase or re-

48 demption of any of the outstanding bonds payable from such
49 fund at the market price, but at not exceeding the price at
50 which any of such bonds shall in the same year be redeemable,
51 as fixed by the court in its said order, and all bonds redeemed
52 or purchased shall forthwith be cancelled, and shall not again
53 be issued.

53a Prior to the preparation of definitive bonds, the county
54 court may, under like restrictions, issue temporary bonds, or
55 interim certificates, with or without coupons, exchangeable
56 for definitive bonds upon the issuance of the latter. Such
57 bonds may be issued without any other proceedings or the
58 happening of any other conditions or things than those pro-
59 ceedings, conditions and things which are specified and re-
60 quired by this act.

Sec. 6. *Character of Debt Incurred.* Nothing in this act
2 contained shall be so construed or interpreted as to author-
3 ize or permit any county court to incur a debt for and on
4 behalf of said court of any kind or nature contrary to the
5 provisions of the constitution of the state in relation to debt.

Sec. 7. *Additional Powers Conferred by Act.* This act
2 shall be deemed to provide an additional and alternative

3 method for the doing of the things authorized hereby, and
4 shall be regarded as supplementary and additional to powers
5 conferred by other laws.

Sec. 8. *Act to be Liberally Construed.* This act, being
2 necessary for the health, welfare and public requirements of
3 the public of the several counties, it shall be liberally con-
4 strued to effectuate the purpose thereof.

Sec. 9. *Limitations on Amount of Debt; Increase of Levies.*
2 Notwithstanding the provisions of general law, any county
3 court authorized by this act to issue bonds, may become in-
4 debted for the purposes in this act authorized, to an amount,
5 including all other indebtedness, up to but not exceeding five
6 per cent of the value of the taxable property in such county
7 as shown by the last assessment thereof for state and county
8 purposes next prior to the authorization of such bonds, sub-
9 ject to the levy limitations as provided in the constitution.
10 For the purpose of effectuating the provisions and purposes
11 of this act and for the purpose of obtaining revenue to pay
12 said bonds and their interest, or for the purpose of redeem-
13 ing said bonds in whole or in part, such court may and is
14 authorized to increase the levies on each class of property

15 not to exceed fifty per cent of the rates authorized by section
16 ten, article eight, chapter sixty-seven, acts of the Legis-
17 lature, second extraordinary session, one thousand nine
18 hundred thirty-three, not to exceed three years, and may sub-
19 mit to the voters of the county the question of authorizing
20 such increase, not to exceed three years, at the same time
21 and as a part of the scheme to issue said bonds and provide
22 for the payment thereof. Such increase of levies shall not
23 continue for more than three years without submission to
24 the voters, but the question of future levy increases for
25 such purposes may be again submitted to the voters.

26 Upon the question of issuance of such bonds, providing for
27 the payment thereof, the increase of said levies, at least sixty
28 per cent of the votes cast shall be in favor thereof, as pro-
29 vided by general law.

Sec. 10. *Provisions of Act Severable.* The provisions of
2 this act are separable and not matters of mutual essential in-
3 ducement, and it is the intention to confer the whole or any
4 part of the powers herein provided for, and if any of the sec-
5 tions or provisions, or parts thereof, are for any reason illegal,
6 it is the intention that the remaining sections and provisions,
7 or parts thereof, shall remain in full force and effect.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Arthur B. Galt

 Chairman Senate Committee

Will D. Doelke

 Chairman House Committee

Originated in the

Takes effect passage.

Charles H. Hays

 Clerk of the Senate

Geo. S. Hall

 Clerk of the House of Delegates

Chas. E. Hays

 President of the Senate

J. K. Thomas

 Speaker House of Delegates

The within this the

day of, 1937.

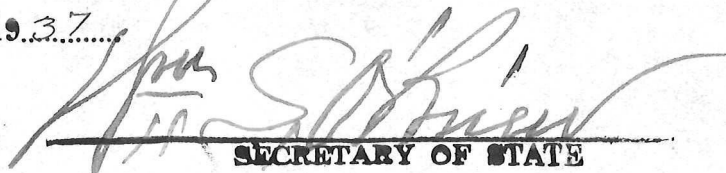
.....
 Governor.

Filed in the office of the Secretary of State
 of West Virginia. **MAR 19 1937**
 Wm. S. O'BRIEN,
 Secretary of State

I certify that the foregoing act, having been presented to the Governor for his approval, and not having been returned by him to the House of the Legislature in which it originated within the time prescribed by the constitution of the state, has become a law without his approval.

This the 19th day of March,

1937



SECRETARY OF STATE