

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1973**

**ENROLLED**

**SENATE BILL NO. 2067**

(By Mr. Brotherton, Mr. President)

PASSED April 14, 1973

In Effect 90 Days from Passage

FILED IN THE OFFICE  
EDGAR F. WEISKELL III  
SECRETARY OF STATE  
THIS DATE 5/3/73

2067

## ENROLLED

# Senate Bill No. 2067

(By Mr. Brotherton, Mr. President)

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[Passed April 14, 1973; in effect ninety days from passage.]

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AN ACT to amend and reenact section five, article two-e, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to refunding bonds for the purpose of effecting the release, termination or modification of liens, restrictions, conditions or limitations imposed in connection with the bonds to be refunded; providing for the maximum stated rate of interest thereon and the maximum net interest cost upon the sale or exchange thereof.

*Be it enacted by the Legislature of West Virginia:*

That section five, article two-e, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

### ARTICLE 2E. REVENUE BOND REFUNDING ACT.

#### §13-2E-5. Issuance of refunding bonds; application of proceeds.

1 Refunding bonds issued under this article may be exchanged  
2 for not less than a like principal amount of the revenue  
3 bonds to be refunded, or may be sold at public or private  
4 sale, or may be exchanged in part and sold in part, in such  
5 manner and upon such terms as may be determined by the  
6 governing body to be for the best interests of the public  
7 body: *Provided*, That such refunding bonds shall not be sold  
8 or exchanged at a price lower than a price which will show  
9 a net saving to the issuer after deducting all expenses of  
10 the refunding: *Provided, however*, That if the governing  
11 body determines that one of the purposes of issuing such  
12 refunding bonds is to effect the release, termination or

13 modification of liens, restrictions, conditions or limitations  
15 imposed in connection with the bonds which are to be re-  
16 funded, then such refunding bonds may be issued without the  
17 necessity of showing a net saving to the issuer, in which  
18 event such refunding bonds shall bear interest at such rate or  
19 rates as the governing body may determine, but such rate or  
20 rates shall not exceed the maximum stated rate of interest  
21 which the revenue bonds to be refunded thereby could bear if  
22 they were being issued as of the date of issuance of such  
23 refunding bonds, and such refunding bonds may not be sold  
24 or exchanged at a price which would result in a net  
25 interest cost in excess of the maximum net interest cost  
26 which the revenue bonds to be refunded could be sold or  
27 exchanged for if they were being issued as of the date  
28 of issuance of such refunding bonds.

29 If any such refunding bonds are to be sold, they may be  
30 issued in such principal amount as may be determined advis-  
31 able by the governing body including, without limitation,  
32 the aggregate principal amount of the revenue bonds to be  
33 refunded, interest accrued and to accrue to the date or  
34 dates on which the revenue bonds being refunded are  
35 scheduled to mature or to be redeemed prior to maturity,  
36 any redemption premiums which must be paid in order to  
37 refund such outstanding revenue bonds and any costs and  
38 expenses of issuing the refunding bonds and providing for  
39 retirement of revenue bonds to be refunded. If sold, the net  
40 proceeds shall either be immediately applied to the payment  
41 or redemption and retirement of the revenue bonds to be  
42 refunded, or the net proceeds of the refunding bonds may be  
43 invested at the discretion and under the supervision of the  
44 escrow agent in whole, or in part, (a) in direct obligations  
45 issued by the United States of America or one of its  
46 agencies, (b) in obligations unconditionally guaranteed by  
47 the United States of America as to principal and interest,  
48 or (c) in certificates of deposit of a banking corporation or  
49 association which is a member of the federal deposit  
50 insurance corporation, or successor; but any such certificates  
51 of deposit must be fully secured as to both principal and  
52 interest by pledged collateral consisting of direct obligations  
53 of or obligations guaranteed by the United States of America  
54 having a market value, excluding accrued interest, at all times  
55 at least equal to the amount of the principal of an  
56 accrued interest on such certificates of deposit. Any such

57 investments must mature, or be payable in advance of  
58 maturity at the option of the holder, and must bear interest  
59 in such manner as to provide funds which, together with  
60 uninvested money placed in the hereinafter mentioned escrow,  
61 will be sufficient to pay when due or called for redemption  
62 the revenue bonds refunded, together with interest accrued  
63 and to accrue thereon and redemption premiums, if any,  
64 and such refunding bond proceeds or obligations so purchased  
65 therewith shall, and with other funds legally available to the  
66 public body for such purpose may, be deposited in escrow  
67 with the state sinking fund commission to be held in trust  
68 for the payment and redemption of the revenue bonds  
69 refunded, and such money and obligations and any reinvest-  
70 ment thereof shall be held in trust by such escrow agent  
71 for the payment of interest on the refunded bonds when due,  
72 and principal thereof and applicable redemption premiums,  
73 if any, when due, or upon the date or dates for which  
74 they shall have been called for redemption, or upon an  
75 earlier voluntary surrender at the option of the escrow agent;  
76 provided if interest earned by any investment in such escrow  
77 is shown to be in excess of the amounts required from time  
78 to time for the payment of interest on and principal of the  
79 refunded revenue bonds, including applicable redemption  
80 premium, then such excess may be withdrawn from escrow  
81 and disbursed by the public body as are other revenues  
82 of the enterprise. Any moneys in the sinking or reserve  
83 funds or other funds maintained for the outstanding revenue  
84 bonds to be refunded may be applied in the same manner  
85 and for the same purpose as are the net proceeds of refund-  
86 ing bonds or may be deposited in the special fund or any  
87 reserve funds established for account of the refunding bonds.  
88 The term "net proceeds" as used above shall mean the gross  
89 proceeds of the refunding bonds after the deduction there-  
90 from of all accrued interest, costs and expenses incurred in  
91 connection with the authorization and issuance of the refund-  
92 ing bonds and the retirement of the outstanding revenue  
93 bonds, and including all costs and expenses resulting from  
94 price variations to par or otherwise incurred in the pur-  
95 chase of obligations for escrow and in the disposition of the  
96 refunding bonds.

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

*W. Laurel Darby*  
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Chairman Senate Committee

*Clarence C. Chestnut, Jr.*  
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Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

*Howard W. Carson*  
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Clerk of the Senate

*V. Blankenship*  
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Clerk of the House of Delegates

*W. T. Brotherton, Jr.*  
-----  
President of the Senate

*Levin J. McManus*  
-----  
Speaker House of Delegates

The within *approved* this the *27th*  
*April*, 1973.  
*Archie A. Shafer, Jr.*  
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Governor

PRESENTED TO THE  
GOVERNOR

Date 4/27/73

Time 10:39 a.m.

RECEIVED

MAY 3 9 34 AM '73

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA