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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976



ENROLLED

SENATE BILL NO. 494

(By Mr. Beatherton, Jr. President)



PASSED March 13 1976

In Effect ninty days from Passage

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/30/76

ENROLLED

Senate Bill No. 494

(By MR. BROTHERTON, MR. PRESIDENT)

[Passed March 13, 1976; in effect ninety days from passage.]

AN ACT to amend and reenact section eight, article two-c, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the statutory mortgage lien and other security for industrial development revenue bonds and commercial development revenue bonds.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.

ARTICLE 2C. INDUSTRIAL DEVELOPMENT AND COMMERCIAL DEVELOPMENT BOND ACT.

§13-2C-8. Security for bonds.

1 Unless the governmental body shall otherwise deter-
2 mine in the resolution authorizing the issuance of the
3 revenue bonds under the authority of this article, there is
4 hereby created a statutory mortgage lien upon all real
5 estate, buildings, structures, improvements and personal
6 property included as a part of an industrial project or
7 commercial project which was acquired, purchased, con-
8 structed, or built or improved, or financed with the pro-
9 ceeds of said bonds, for the purpose of securing the
10 principal of said bonds and the interest thereon. The
11 principal of and interest on any bonds issued under the
12 authority of this article shall be secured by a pledge of
13 the income and revenues derived from the lease, sale,
14 financing or other disposition of the industrial project or
15 commercial project, by the governmental body issuing

16 such bonds. In the discretion and at the option of the
17 county commission or municipality, such revenue bonds
18 may also be secured by a trust indenture by and between
19 the county commission or the municipality and a corporate
20 trustee, which may be a trust company or bank having
21 trust powers, within or without the state of West Virginia.
22 The governing body may authorize the issuance of such
23 revenue bonds by resolution. The resolution authorizing
24 the revenue bonds and fixing the details thereof may
25 provide that such trust indenture may contain such pro-
26 visions for the protection and enforcing the rights and
27 remedies of the bondholders as may be reasonable and
28 proper, not in violation of law, including covenants setting
29 forth the duties of the county commission or the munic-
30 ipality in relation to the construction, acquisition or financ-
31 ing of an industrial project or commercial project, or part
32 thereof, or an addition thereto, and the improvement, re-
33 pair, maintenance and insurance thereof, and for the cus-
34 tody, safeguarding and application of all moneys, and may
35 provide that the industrial project or commercial project
36 shall be constructed and paid for under the supervision
37 and approval of the consulting engineers or architects
38 employed and designated by the governing body and
39 satisfactory to the purchasers of the bonds, their succes-
40 sors, assigns or nominees, and the entity which leases,
41 purchases or will own the project or either thereof, who
42 may require the security given by any contractor or any
43 depository of the proceeds of the bonds or the revenues
44 received from the lease, sale, financing or other disposition
45 of the industrial project or commercial project be satis-
46 factory to such purchasers, their successors, assigns or
47 nominees, or be satisfactory to the entity which leases,
48 purchases or will own the industrial project or commer-
49 cial project. Such indenture may set forth the rights and
50 remedies of the bondholders, the county or municipality
51 or such trustee, and said indenture may provide for accel-
52 erating the maturity of the revenue bonds, at the option of
53 the bondholders or the governmental body issuing the
54 same, upon default in the payment of rentals, or amounts
55 due from the entity which leases, purchases, or will own

56 the project or for other cause. The governing body may
57 also provide by resolution and in such trust indenture for
58 the payment of the proceeds of the sale of the bonds and
59 the revenues from the industrial project or commercial
60 project to such depository as it may determine, for the
61 custody and investment thereof and for the method of
62 distribution thereof, with such safeguards and restrictions
63 as it may determine to be necessary or advisable for the
64 protection thereof and upon the filing of a certified copy
65 of such resolution or of the indenture for record in the
66 office of the clerk of the county commission of the county
67 in which an industrial project or commercial project is
68 located, the same shall have the same effect, as to notice,
69 as the recordation of a deed of trust or other recordable
70 instrument.

71 In lieu of the indenture provided for hereinabove the
72 principal of and interest on said bonds may be secured by
73 a mortgage or deed of trust covering all or any part of the
74 industrial project or commercial project from which the
75 revenues so pledged may be derived, and the same may
76 be secured by an assignment of the lease on or sale or
77 financing agreement with respect to said industrial project
78 or commercial project and by assignment or pledge of the
79 income received by virtue of said lease, sale or financing
80 agreement. The proceedings under which such bonds are
81 authorized to be issued, when secured by a mortgage or
82 deed of trust, may contain the same terms, conditions and
83 provisions provided for herein when an indenture is en-
84 tered into between the governing body and a trustee and
85 any such mortgage or deed of trust may contain any
86 agreements and provisions customarily contained in in-
87 struments securing bonds, including, without limiting the
88 generality of the foregoing, provisions respecting the
89 fixing and collection of rental, purchase or other payments
90 for any industrial project or commercial project covered
91 by such proceedings or mortgage, the terms to be incor-
92 porated in the lease, sale or financing agreement with re-
93 spect to such industrial project or commercial project, the
94 improvement, repair, maintenance and insurance of such
95 industrial project or commercial project, the creation and

96 maintenance of special funds from the revenues received
97 from the lease, sale or financing of such industrial project
98 or commercial project and the rights and remedies avail-
99 able in event of default to the bondholders, the govern-
100 mental body, or to the trustee under an agreement, inden-
101 ture, mortgage, or deed of trust, all as the governing body
102 shall deem advisable and as shall not be in conflict with
103 the provisions of this article or any existing law: *Provided*,
104 That in making any such agreements or provisions a coun-
105 ty or municipality shall not have the power to obligate
106 itself by indenture, ordinance, resolution, mortgage or
107 deed of trust, except with respect to the industrial project
108 or commercial project and the application of the revenues
109 therefrom, and shall not have the power to incur a pecu-
110 niary liability or a charge upon its general credit or
111 against its taxing powers. The proceedings authorizing any
112 bonds hereunder and any indenture, mortgage or deed of
113 trust securing such bonds may provide that, in the event
114 of default in payment of the principal of or the interest
115 on such bonds or in the performance of any agreement
116 contained in such proceedings, indenture, mortgage or
117 deed of trust, such payment and performance, may be
118 enforced by the appointment of a receiver in equity with
119 power to charge and collect rents or other amounts and to
120 apply the revenues from the industrial project or commer-
121 cial project in accordance with such proceedings or the
122 provisions of such agreement, indenture, mortgage or
123 deed of trust. Any such agreement, indenture, mortgage or
124 deed of trust may provide also that in the event of default
125 in such payment or the violation of any agreement con-
126 tained in the mortgage or deed of trust, the agreement,
127 indenture, mortgage or deed of trust may be foreclosed
128 either by sale at public outcry or by proceedings in
129 equity and may provide that the holder or holders of any
130 of the bonds secured thereby may become the purchaser
131 at any foreclosure sale, if the highest bidder therefor. No
132 breach of any such agreement, indenture, mortgage or
133 deed of trust shall impose any pecuniary liability upon a
134 county or municipality or any charge upon its general
135 credit or against its taxing powers.

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

James L. Davis
Chairman Senate Committee

Clarence C. Chustard Jr.
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage. ^s *Geo.*

J. Scillon Jr.
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

H. B. ...
President of the Senate

Lewis F. ...
Speaker House of Delegates

The within *approved* this the *27th*
day of *March*, 1976

Anna ...
Governor



PRESENTED TO THE
GOVERNOR

Date 3/23/76

Time 3:10 p.m.