

76.160 Enforcement of rights of bondholders -- Trustee -- Receiver.

- (1) Subsections (2) and (3) have no application to construction subdistrict bonds or obligations. All references to revenues, rates, rentals, charges, or collections in subsections (2) and (3) exclude those derived from or made on account of construction subdistricts. District facilities referred to in subsections (2) and (3) exclude construction subdistrict facilities.
- (2) In the event that the district shall default in the payment of principal of, or interest on, any of the bonds issued pursuant to KRS 76.010 to 76.210 after the said principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event that the district shall fail or refuse to comply with the provisions of KRS 76.010 to 76.210, or shall default in any agreement made with the holders of the bonds, the holders of twenty percent (20%) in aggregate principal amount of the bonds then outstanding, by instrument or instruments filed in the office of the county clerk of the county embracing the district and proved or acknowledged in the same manner as a deed to be recorded, may apply to a judge of the Circuit Court of the county, to appoint a trustee to represent all of the bondholders for the purposes herein provided. Upon such application such judge shall appoint a trustee and such trustee may, and upon written request of the holders of twenty percent (20%) in principal amount of the bonds of the district then outstanding shall, in his or its own name, (a) by mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the bondholders, including but not limited to the right to require the district to collect rates, rentals, and other charges, adequate to carry out any agreement as to, or pledge of, the revenues of the district, and to require the district and its officers to carry out any other agreement with the bondholders and to perform its and their duties under KRS 76.010 to 76.210; (b) bring suit upon the bonds; (c) by action or suit in equity, require the district to account as if it were the trustee of an express trust for the bondholders; (d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of bondholders; (e) declare all bonds due and payable, and if all defaults shall be made good then to annul such declarations and its consequences.
- (3) Any such trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right, upon application to the judge in the chancery branch, to the appointment of a receiver, who may enter upon and take possession of the facilities of the district, or any part or parts thereof, and operate and maintain the same, and collect and receive all rentals, rates, and other charges, and other revenues, of the district, thereafter arising therefrom, in the same manner as the district and its officers might do, and shall deposit all such moneys in a separate account and apply the same in such manner as such court shall direct. In any suit, action, or proceeding, by the trustee, the fees, counsel fees, and expenses of the trustee and of the receiver, if any, shall constitute disbursements taxable as costs. All costs and disbursements allowed by the court shall be a first charge on any revenue derived from the facilities of the district. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation

of the bondholders in the enforcement and protection of their rights.

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 69. -- Amended 1964 Ky. Acts ch. 33, sec. 8. -- Created 1946 Ky. Acts ch. 104, sec. 14.