

76.261 Default on revenue bonds -- Trustee appointed -- Actions by trustee, receiver, powers.

- (1) The holders in aggregate principal amount of twenty percent (20%) of any class of construction subdistrict bonds authorized by KRS 76.254 may ex parte move a judge of the Circuit Court of the county containing the construction subdistrict to appoint a trustee to represent all of the holders of the same class of bonds when the facts described in paragraph (b) of subsection (2) have occurred.
- (2) The judge shall appoint a trustee (which may be corporate) upon a showing that:
 - (a) Movants in fact are holders of twenty percent (20%) or more of the aggregate principal amount of the affected class of the bonds;
 - (b) Movants claim that there has been a default exceeding thirty (30) days in the payment of interest or principal on the bonds, that the district has failed to comply with the provisions of KRS 76.005 to 76.295 relating to construction subdistrict bonds, or that the district has breached a contract with the holders of the bonds; and
 - (c) Movants have filed in the office of the county clerk of the county containing the district an instrument in the nature of a notice of action against the district which instrument states that movants have applied to have a trustee appointed pursuant to this section and which names the affected construction subdistrict.
- (3) The trustee may, or upon written request of any twenty percent (20%) in aggregate principal amount of his bondholder beneficiaries shall, file an action in his name against the district; the action shall seek all remedies, including but not limited to mandamus, prohibition, judgment against a special fund or funds, injunction, and declaratory judgment, needed to preserve and enforce the rights of the bondholders. The action shall be filed in the Circuit Court of the county containing the district.
- (4) The rights of bondholders include, but are not limited to, the right to:
 - (a) Require the district to collect from the construction subdistrict rates, rentals, and charges adequate to pay principal and interest on the bonds;
 - (b) Require the district to perform all lawful agreements with the bondholders;
 - (c) Require the district to account to the bondholders as if it were trustee of an express trust for their benefit;
 - (d) Have the district enjoined from doing any acts or things which may be unlawful or in violation of the rights of the bondholders;
 - (e) Have all bonds of the affected class declared due and payable.
- (5) Any trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right, upon application to the Circuit Court, to the appointment of a receiver, who may enter upon and take possession of the construction subdistrict facilities, or any part thereof, and operate and maintain the same, and collect and receive all rentals, rates, other charges, and revenues of the construction subdistrict payable after commencement of the receivership. The receiver shall deposit such moneys in a separate account

and apply them as the court directs. 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 construction subdistrict facilities. Such trustee shall, in addition to the foregoing, have and possess all 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.

Effective: July 15, 1980

History: Amended 1980 Ky. Acts ch. 188, sec. 60, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 384, sec. 199, effective June 17, 1978. -- Created 1964 Ky. Acts ch. 33, sec. 25.