



Ohio Revised Code

Section 1745.44 Sale or other disposition of assets.

Effective: May 22, 2012

Legislation: House Bill 267 - 129th General Assembly

(A) Unless the governing principles of the unincorporated nonprofit association provide otherwise, the lease, sale, exchange, transfer, or other disposition of any assets of the association may be made without the necessity of procuring authorization from the court under section 1715.39 of the Revised Code, upon terms and for the consideration that may be authorized by the managers, except that a lease, sale, exchange, transfer, or other disposition of all, or substantially all, of the assets may be made only when that transaction is also authorized, either before or after authorization by the managers, by the voting members of the association at a meeting held for that purpose.

(B)(1) A public benefit association may not dispose of its assets with value equal to more than fifty per cent of the fair market value of the net tangible and intangible assets, including goodwill, of the association over a period of thirty-six consecutive months in a transaction or series of transactions, including the lease, sale, exchange, transfer, or other disposition of those assets, that are outside the ordinary course of its business or that are not in accordance with the purpose or purposes for which the association was organized, as set forth in its governing principles, unless one or more of the following apply:

(a) The transaction has received the prior approval of the court of common pleas of the county in this state in which the principal office of the public benefit association is located in a proceeding of which the attorney general's charitable law section has been given written notice by certified mail within three days of the initiation of the proceeding and in which proceeding the attorney general may intervene as of right.

(b) The public benefit association has provided written notice of the proposed transaction, including a copy or summary of the terms of that transaction, at least twenty days before consummation of the lease, sale, exchange, transfer, or other disposition of the assets, to the attorney general's charitable law section and to the members of the association, and the proposed transaction has been approved by the members.



(c) The transaction is in accordance with the purpose or purposes for which the public benefit association was organized, as set forth in its governing principles, and the lessee, purchaser, or transferee of the assets is a public benefit entity.

(2) The attorney general may require pursuant to section 109.24 of the Revised Code the production of the documents necessary for review of a proposed transaction under division (B)(1) of this section. The attorney general may retain at the expense of the public benefit association one or more experts, including an investment banker, actuary, appraiser, certified public accountant, or other expert, that the attorney general considers reasonably necessary to provide assistance in reviewing a proposed transaction under division (B)(1) of this section.

(C) The attorney general may institute a civil action to enforce the requirements of division (B)(1) of this section in the court of common pleas of the county in this state in which the principal office of the public benefit association is located or in the Franklin county court of common pleas. In addition to any civil remedies that may exist under common law or the Revised Code, a court may rescind the transaction or grant injunctive relief or impose any combination of these remedies.

(D) The unincorporated nonprofit association or the public benefit association by its managers may abandon the proposed lease, sale, exchange, transfer, or other disposition of the assets of the association pursuant to division (A) or (B) of this section, as applicable, subject to the contract rights of other persons, if that power of abandonment is conferred upon the managers either by the terms of the transaction or by the same vote of members and at the same meeting of members as that referred to in division (A) or (B) of this section, as applicable, or at any subsequent meeting.

(E) An action to set aside a conveyance by an unincorporated nonprofit association or a public benefit association on the ground that any section of the Revised Code applicable to the lease, sale, exchange, transfer, or other disposition of the assets of that association has not been complied with shall be brought within one year after that transaction, or the action shall be forever barred.