



Ohio Revised Code

Section 3375.404 Issuance of notes and anticipation notes.

Effective: September 13, 2018

Legislation: House Bill 292 - 132nd General Assembly

(A) As used in this chapter:

- (1) "Anticipation notes" means notes issued in anticipation of the library facilities notes authorized by this section.
- (2) "Authorizing proceedings" means the resolution, legislation, trust agreement, certification and other agreements, instruments, and documents, as amended and supplemented, authorizing, or providing for the security or sale or award of, notes, and includes the provisions set forth or incorporated in those notes and proceedings.
- (3) "Board" or "board of library trustees" means the board of library trustees appointed pursuant to sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, and 3375.30 of the Revised Code.
- (4) "Library fund" means the public library fund provided for in Chapter 5747. of the Revised Code or any successor to that fund.
- (5) "Note service charges" means principal, including any mandatory sinking fund or redemption requirements for retirement of notes, interest, and any redemption premium payable on notes.
- (6) "Notes" means the library facilities notes authorized by this section, including anticipation notes.
- (7) "Public library" means any of the libraries provided for in sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, and 3375.30 of the Revised Code.
- (8) "Refunding notes" means notes issued to provide for the refunding of the notes, or of obligations issued prior to March 4, 1996, collectively referred to in this section as refunded obligations.

(B) A board of library trustees of a public library that receives an allocation of the library fund



pursuant to section 5705.32 and Chapter 5747. of the Revised Code may anticipate its portion of the proceeds of the library fund distribution and, if the board receives proceeds from a tax levied under section 5705.23 of the Revised Code by the taxing authority of the political subdivision to whose jurisdiction the board is subject, the lawfully available proceeds of that tax and issue library facilities notes of the public library in the principal amount necessary to pay the costs of financing the facilities or other property referred to in division (C) of section 3375.40 of the Revised Code, or to refund any refunded obligations, provided that the board projects annual note service charges on the notes, or on the notes being anticipated by anticipation notes, to be capable of being paid from the annual library fund receipts of the public library and the available proceeds of the tax. The maximum aggregate amount of notes that may be outstanding at any time in accordance with their terms upon issuance of the new notes shall not exceed an amount which requires or is estimated to require payments from library fund and tax receipts of note service charges on the notes, or, in the case of anticipation notes, projected note service charges on the notes anticipated, in any calendar year in an amount exceeding the sum of the following:

- (1) Forty per cent of the average of the library fund receipts of the public library for the two calendar years prior to the year in which the notes are issued;
- (2) The portion of the lawfully available proceeds from a tax levied under section 5705.23 of the Revised Code that the board has, in the authorizing proceedings, covenanted to appropriate annually for the purpose of paying note service charges or, in the case of anticipation notes, projected note service charges.

A board may at any time issue renewal anticipation notes, issue notes to pay renewal anticipation notes, and, if it considers refunding expedient, issue refunding notes whether the refunded obligations have or have not matured. The refunding notes shall be sold and the proceeds needed for such purpose applied in the manner provided in the authorizing proceedings of the board.

(C) Every issue of notes outstanding in accordance with their terms shall be payable out of the money received by the public library from the library fund or from a tax levied under section 5705.23 of the Revised Code or proceeds of notes, renewal anticipation notes, or refunding notes which may be pledged for such payment in the authorizing proceedings. The pledge shall be valid and binding from the time the pledge is made, and the receipts and proceeds so pledged and



thereafter received by the board shall immediately be subject to the lien of that pledge without any physical delivery of the receipts or proceeds or further act. The lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the board, whether or not such parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created or further evidenced need be filed or recorded except in the board's records.

(D) No property tax levied under section 5705.23 of the Revised Code that is either pledged, or that a board of library trustees has covenanted to appropriate annually, to pay the note service charges and projected note service charges under this section shall be repealed while those notes are outstanding. If such a tax is reduced while those notes are outstanding, the taxing authority to whose jurisdiction the board is subject shall continue to levy and collect the tax under the authority of the original election authorizing the tax at a rate in each year that the board of library trustees reasonably estimates will produce an amount equal to the note service charges on the notes for that year.

(E) Notes issued under this section do not constitute a debt, or a pledge of the faith and credit, of the state, the public library, or any other political subdivision of the state, and the holders or owners of the notes have no right to have taxes levied by the general assembly or by the taxing authority of any political subdivision of the state, including the board of the public library, for the payment of note service charges. Notes are payable solely from the funds pledged for their payment as authorized by this section. All notes shall contain on their face a statement to the effect that the notes, as to note service charges, are not debts or obligations of the state and are not debts of any political subdivision of the state, but are payable solely from the funds pledged for their payment. The utilization and pledge of the library fund receipts and tax receipts and proceeds of notes, renewal anticipation notes, or refunding notes for the payment of note service charges is determined by the general assembly to create a special obligation which is not a bonded indebtedness subject to Section 11 of Article XII, Ohio Constitution, or, alternatively, to satisfy any applicable requirement of that Section 11.

(F) The notes shall bear such date or dates, shall be executed in the manner, and shall mature at such time or times, in the case of any anticipation notes not exceeding ten years from the date of issue of the original anticipation notes and in the case of any notes that are not anticipation notes or of any refunding notes, not exceeding forty years from the date of the original issue of notes, or other obligations for the purpose, all as the authorizing proceedings may provide. The notes shall bear



interest at such rates, or at variable rate or rates changing from time to time, in accordance with provisions provided in the authorizing proceedings, be in such denominations and form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places, and be subject to such terms of redemption, as the board may authorize or provide. The notes may be sold at public or private sale, and at, or at not less than, the price or prices as the board determines. If any officer whose signature or a facsimile of whose signature appears on any notes or coupons ceases to be such officer before delivery of the notes or anticipation notes, the signature or facsimile shall nevertheless be sufficient for all purposes as if that officer had remained in office until delivery of the notes. Whether or not the notes are of such form and character as to be negotiable instruments under Title XIII of the Revised Code, the notes shall have all the qualities and incidents of negotiable instruments, subject only to any provisions for registration. Neither the members of the board nor any person executing the notes shall be liable personally on the notes or be subject to any personal liability or accountability by reason of their issuance.

(G) Notwithstanding any other provision of this section, sections 9.98 to 9.983, 133.02, 133.70, and 5709.76, and division (A) of section 133.03 of the Revised Code apply to the notes. Notes issued under this section need not comply with any other law applicable to notes or bonds but the authorizing proceedings may provide that divisions (B) through (E) of section 133.25 of the Revised Code apply to the notes or anticipation notes.

(H) Any authorizing proceedings may contain provisions, subject to any agreements with holders as may then exist, which shall be a part of the contract with the holders, as to the pledging of any or all of the board's anticipated library fund receipts and receipts from a tax levied under section 5705.23 of the Revised Code to secure the payment of the notes; the use and disposition of the library fund and tax receipts of the boards; the crediting of the proceeds of the sale of notes to and among the funds referred to or provided for in the authorizing proceedings; limitations on the purpose to which the proceeds of the notes may be applied and the pledging of portions of such proceeds to secure the payment of the notes or of anticipation notes; the agreement of the board to do all things necessary for the authorization, issuance, and sale of those notes anticipated in such amounts as may be necessary for the timely payment of note service charges on any anticipation notes; limitations on the issuance of additional notes; the terms upon which additional notes may be issued and secured; the refunding of refunded obligations; the procedure by which the terms of any contract with holders may be amended, and the manner in which any required consent to amend may be given; securing



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any notes by a trust agreement or other agreement which may provide for notes or refunding notes to be further secured by a mortgage on the property financed with the proceeds of the notes, anticipation notes, or refunded obligations refunded by refunding notes; and any other matters, of like or different character, that in any way affect the security or protection of the notes or anticipation notes.