



Ohio Revised Code

Section 4981.15 Bonds not a debt of state.

Effective: November 2, 1999

Legislation: House Bill 222 - 123rd General Assembly

(A) The Ohio rail development commission, from time to time, may issue bonds in such principal amounts as the commission finds necessary to finance one or more rail service projects. Sections 9.98 to 9.983 of the Revised Code are hereby made applicable in their entirety to any bonds authorized to be issued under this chapter except as otherwise provided herein.

(B) The commission, from time to time, may issue renewal bonds, issue bonds to pay such obligations and, whenever it considers refunding expedient, refund any bonds by the issuance of bonds by the authority granted by this chapter. Except as may otherwise be expressly provided in this chapter or by the commission, every issue of its bonds or notes is an obligation of the commission payable out of the revenues and reserves created for such purposes by the commission, which are expressly pledged for such payment, without preference or priority of the first bonds issued, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues. Such pledge shall be valid and binding from the time the pledge is made and the revenues so pledged and thereafter received by the commission immediately shall be subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind, in tort, contract, or otherwise, against the commission irrespective of whether such parties have notice thereof.

(C) All such bonds shall have and are hereby declared to have all the qualities of negotiable instruments. The bonds shall be authorized by resolution of the commission, shall bear such date and shall mature at such time, in case of any such note or any renewal thereof not exceeding five years from the date of issue of such original note, and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution may provide. The bonds and notes shall bear interest at such rate or rates, including variable rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment, in such place, and be subject to such terms of redemption as otherwise set forth in this chapter as the commission may authorize. The bonds of the commission may be sold by the commission at public or private sale, at or not less than the price the commission determines. The



bonds shall be executed by a voting member of the commission, selected by the commission and approved by the speaker of the house of representatives and the president of the senate, who may use a facsimile signature. The official seal of the commission, or a facsimile, shall be affixed thereto or printed thereon and attested, manually, or by facsimile signature, by the secretary-treasurer of the commission. Coupons, if any, attached thereto shall bear the signature or facsimile signature of the chairperson of the commission. In case any officer whose signature, or a facsimile of whose signature appears on any bonds, notes, or coupons ceases to be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if the officer had remained in office until such delivery. In case the seal of the commission changes after a facsimile is imprinted on such bonds or notes, such facsimile continues to be sufficient for all purposes.

(D) Any resolution authorizing any bonds or any issue thereof may contain provisions, subject to such agreements with bondholders or noteholders as may then exist, which provisions shall be a part of the contract with the holders thereof, as to pledging all or any part of the revenues of the commission to secure the payment of the bonds of any issue thereof; the issue and disposition of revenues of the commission; the setting aside of reserve funds, sinking funds, or replacement and improvement funds and the regulation and disposition thereof; the crediting of the proceeds of the sale of bonds to and among the funds referred to and provided for in the resolution authorizing the issuance of the bonds; providing for the pledge or use of the rail development fund created by section 4981.09 of the Revised Code; the use, lease, sale, or other disposition of any assets of the commission; limitations on the purpose to which the proceeds of the sale of bonds may be applied; the agreement of the commission to do all things necessary for the authorization, issuance, and sale of such bonds which may be issued in such amounts as may be necessary for the timely retirement of such bonds; limitation on the issuance of additional bonds which may be issued and secured; the refunding of outstanding bonds; the procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated; the amount of bonds the holders of which must consent may be given; limitations on the amount of moneys to be expended by the commission for operating, administrative, or other expenses of the commission securing any bonds by a trust agreement; and any other matter, of like or different character, which in any way affects the security or protection of the bonds.

(E) In connection with each such issuance of bonds, the commission shall establish in its name an



improvement fund or funds in the name of the rail service project or projects for which the permitted loan or expenditure is to be made. The proceeds of each issue of bonds, except for any portion thereof required under the bond proceedings to be deposited in a bond service fund, bond service reserve fund, or other special fund established pursuant to the bond proceedings for such issue of bonds, shall be deposited in the designated fund, and together with any investment income thereof, shall be held in trust and applied solely to permitted bond purposes and in accordance with such bond proceedings.

(F) The right of holders of bonds issued by the commission to payment of debt service on such bonds shall be limited to the pledged receipts and special funds pledged thereto pursuant to the bond proceedings and any moneys available for such payment under any credit facility issued with respect to such bonds. The holders of such bonds shall have no right to have moneys raised by ad valorem taxation obligated or pledged, and moneys raised by ad valorem taxation shall not be obligated or pledged for the payment of debt service on bonds issued by the commission, except to the extent, if any, that the general assembly or legislative authority of qualifying subdivisions and local or regional transportation authorities that borrows moneys derived from the proceeds of such bonds pledge any moneys they raise by ad valorem taxation to the repayment of such borrowings and the moneys so raised and paid to the commission are obligated or pledged to the payment of debt service on the bonds pursuant to the bond proceedings.

(G) The bond proceedings adopted by the commission authorizing the issuance of bonds shall provide for the general purpose thereof and shall specify, or shall authorize one or more officers of the board of directors to determine, subject to limitations set forth in the bond proceedings: the aggregate principal amount of the bonds; the form and manner of execution and authentication of the bonds; the principal maturity or maturities; whether the bonds are to bear interest at a fixed rate or rates or under a floating rate interest structure; if a fixed rate or fixed rates of interest are to be borne by the bonds, the interest rate or rates; if the bonds are to bear interest under a floating rate interest structure, the manner in which the floating rate is to be determined for each interest-rate period, the length of each interest-rate period, and the extent to which and manner in which the interest-rate period may be changed from time to time; the put arrangement or arrangements, if any, to be available to holders of the bonds; and the paying agents, remarketing agents, indexing agents, or other agents, if any, to be engaged in connection with the issuance of the bonds. The bond proceedings, either expressly or by reference to other bond proceedings thereby approved or



otherwise applicable, also shall specify: the pledged receipts and the special fund or funds to be pledged to secure the payment of the debt service on the bonds; whether the pledged receipts are pledged on a basis prior or subordinate to other expenses, claims, or payments and whether other bonds have been or may be issued by the commission secured by the pledged receipts on a basis prior to or on a parity with the bonds; the credit facility or facilities, if any, to be obtained with respect to the bonds; and the rights and remedies that may be exercised by the holders of the bonds or by a trustee on their behalf upon the occurrence of an event constituting an event of default under the bond proceedings, which rights and remedies shall include, except to the extent restricted by the bond proceedings, any rights and remedies available under the laws of the state for the enforcement of the payments required under and any other agreements made in, the bond proceedings. The bond proceedings, either expressly or by reference to other bond proceedings thereby approved or otherwise applicable, also may provide for: the mandatory or optional redemption of the bonds prior to their stated maturity; limitations on the issuance of additional bonds by the commission; the investment of moneys in the improvement fund and any special funds, without regard to Chapter 131. or 135. of the Revised Code, but subject to any provisions of Chapter 4981. of the Revised Code, and the bond proceedings with respect thereto; a maximum rate of interest that bonds with a floating rate interest structure may bear, without regard to section 9.95 of the Revised Code; any restrictions not inconsistent with this chapter on the amount and terms of and security for the repayment for loans made to qualifying subdivisions, local or regional transportation authorities, or other persons from the improvement fund; and any other term, condition, or provision of or with respect to the bonds which may be included in the bond proceedings.

(H) The revenues and any special funds pledged to the payment of debt service on bonds pursuant to the bond proceedings for such bonds and thereafter received by the commission or by an agent on behalf of the commission are immediately subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge is valid and binding against all parties having claims of any kind against the commission or against any person, qualifying subdivision, or local or regional transportation authority or municipal corporation that is an absolute obligor with respect to such bonds, irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created, or any certificate, statement, or other document with respect thereto; and the pledge of such pledged receipts and special funds is effective and the moneys therefrom and



thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge, and every covenant and agreement made in the bond proceedings with respect thereto, may therein be extended to the benefit of the owners and holders of the bonds authorized to be issued under this section and to any trustee or paying agent for such owners and holders for further security of the payment of the debt service on such bonds.

(I) Each duty of the commission and of its members, directors, or officers and each duty of any other governmental agency and its officials, members, or employees undertaken pursuant to the bond proceedings or in any participation agreement is hereby established as a duty of the commission or of such qualifying subdivision or local or regional transportation authority or governmental agency and of each such member, officer, official, or employee having authority to perform such duty, specifically enjoined by law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the members, directors, officers, or employees of the commission are not liable in their personal capacities on any bonds issued by the commission or under any of the bond proceedings with respect thereto.

(J) Bonds issued under this section are lawful investments of banks, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement funds or other funds of the state and of political subdivisions and taxing districts of the state, the commissioners of the sinking fund of the state, the industrial commission, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted by any state agency with respect to investments by them, and are also acceptable as security for the deposit of public moneys. For the purpose of causing bonds issued by the commission to be eligible for investment of interim moneys of the state or any subdivision of the state under section 135.14 of the Revised Code, but solely for that purpose, bonds issued by the commission shall be deemed to be bonds or other obligations of this state for purposes of division (B)(4) of section 135.14 of the Revised Code.

(K) The bonds issued by the commission, the transfer thereof, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.



(L) Any bonds which recite that they are issued pursuant to this section, which comply on their face with such section, which are issued for one or more permitted bond purposes, and for which the commission has been paid in full, shall in any action or proceeding involving their validity be conclusively deemed to have been issued, sold, executed, and delivered in conformity with law and shall be incontestable unless such action or proceeding is begun prior to the delivery of such bonds to the original purchaser or purchasers thereof.

(M) In the event that the sum of all reserves pledged to the payment of such bonds shall be less than the minimum reserve requirements established in any resolution or resolutions authorizing the issuance of such bonds, the chairperson of the commission shall certify, on or before the first day of December of each year, the amount of such deficiency to the governor for inclusion, if the governor shall so elect, of the amount of such deficiency in the budget to be submitted to the next session of the general assembly for appropriation to the commission to be pledged for payment of such bonds or notes. The general assembly shall not be required to make any appropriations so requested, and the amount of such deficiencies do not constitute a debt or liability of the state.

(N) All property of the commission is exempt from levy and sale by virtue of an execution and no execution or other judicial process may issue against the property. A judgment against the commission may not be a charge or lien upon its property. However, nothing in this section applies to or limits the rights of the holder of bonds or notes to pursue a remedy for the enforcement of a pledge or lien given by the bank on its revenues or other money.

(O) No action to contest the validity of any bonds of the commission to be sold at public sale may be brought after the fifteenth day following the first publication of notice of the sale of the bonds. No action to contest the validity of any bond sale under this chapter may be brought after the fifth day following the bond sale.

(P) If bonds are sold at private sale, the commission may publish notice of the execution of the contract of sale of the bonds one time in a newspaper published and of general circulation in the city of Columbus. If notice is published as permitted in this division, no action to contest the validity of such bonds or notes sold at private sale may be brought after the fifteenth day following the publication of notice of the execution of the contract of sale pertaining to the bonds.



(Q) If an action challenging the bonds of the commission is not brought within the time prescribed by division (O) or (P) of this section, whichever is applicable, all bonds of the commission shall be conclusively presumed to be fully authorized and issued under the laws of the state, and a person or a qualified entity is estopped from questioning their authorization, sale, issuance, execution, or delivery by the commission.

(R) Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, special, or local, the provisions of this chapter shall be controlling.