



Ohio Revised Code

Section 3345.12 State university additional definitions - issuance of obligations.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A) As used in this section and sections 3345.07 and 3345.11 of the Revised Code, in other sections of the Revised Code that make reference to this section unless the context does not permit, and in related bond proceedings unless otherwise expressly provided:

- (1) "State university or college" means each of the state universities identified in section 3345.011 of the Revised Code and the northeast Ohio medical university, and includes its board of trustees.
- (2) "Institution of higher education" or "institution" means a state university or college, or a community college district, technical college district, university branch district, or state community college, and includes the applicable board of trustees or, in the case of a university branch district, any other managing authority.
- (3) "Housing and dining facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with dormitories or other living quarters and accommodations, or related dining halls or other food service and preparation facilities, for students, members of the faculty, officers, or employees of the institution of higher education, and their spouses and families.
- (4) "Auxiliary facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with student activity or student service facilities, housing and dining facilities, dining halls, and other food service and preparation facilities, vehicular parking facilities, bookstores, athletic and recreational facilities, faculty centers, auditoriums, assembly and exhibition halls, hospitals, infirmaries and other medical and health facilities, research, and continuing education facilities.
- (5) "Education facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with, classrooms or other instructional facilities, libraries, administrative and office facilities, and other facilities, other than



auxiliary facilities, to be used directly or indirectly for or in connection with the conduct of the institution of higher education.

(6) "Facilities" means housing and dining facilities, auxiliary facilities, or education facilities, and includes any one, part of, or any combination of such facilities, and further includes site improvements, utilities, machinery, furnishings, and any separate or connected buildings, structures, improvements, sites, open space and green space areas, utilities or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, such facilities.

(7) "Obligations" means bonds or notes or other evidences of obligation, including interest coupons pertaining thereto, authorized to be issued under this section or section 3345.07, 3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code.

(8) "Bond service charges" means principal, including any mandatory sinking fund or redemption requirements for the retirement of obligations or assurances, interest, or interest equivalent and other accreted amounts, and any call premium required to be paid on obligations or assurances.

(9) "Bond proceedings" means the resolutions, trust agreement, indenture, and other agreements and credit enhancement facilities, and amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing, awarding, or providing for the terms and conditions applicable to, or providing for the security or liquidity of, obligations or assurances, and the provisions contained in those obligations or assurances.

(10) "Costs of facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the institution of higher education or state agency, cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, legal fees, fees and expenses of trustees, depositories, bond registrars, and paying agents for the obligations, cost of issuance of the obligations and financing costs and fees and expenses of financial advisers and consultants in connection therewith,



interest on the obligations from the date thereof to the time when interest is to be covered by available receipts or other sources other than proceeds of the obligations, amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursements of all moneys advanced or applied by or borrowed from the institution or others, from whatever source provided, including any temporary advances from state appropriations, for the payment of any item or items of cost of facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of facilities, the financing thereof and the placing of them in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(11) "Available receipts" means all moneys received by the institution of higher education, including income, revenues, and receipts from the operation, ownership, or control of facilities or entrepreneurial projects, grants, gifts, donations, and pledges and receipts therefrom, receipts from fees and charges, and the proceeds of the sale of obligations or assurances, including proceeds of obligations or assurances issued to refund obligations or assurances previously issued, but excluding any special fee, and receipts therefrom, charged pursuant to division (D) of section 154.21 of the Revised Code.

(12) "Credit enhancement facilities" has the meaning given in division (H) of section 133.01 of the Revised Code.

(13) "Financing costs" has the meaning given in division (K) of section 133.01 of the Revised Code.

(14) "Interest" or "interest equivalent" has the meaning given in division (R) of section 133.01 of the Revised Code.

(15) "Assurances" means bonds, notes, or other evidence of indebtedness, including interest coupons pertaining thereto, authorized to be issued under section 3345.36 of the Revised Code.

(16) "Entrepreneurial project" has the same meaning as in section 3345.36 of the Revised Code.



(17) "Costs of entrepreneurial projects" means any costs related to the establishment or development of entrepreneurial projects pursuant to a resolution adopted under section 3345.36 of the Revised Code.

(B) Obligations issued under section 3345.07 or 3345.11 of the Revised Code by a state university or college shall be authorized by resolution of its board of trustees. Obligations issued by any other institution of higher education shall be authorized by resolution of its board of trustees, or managing directors in the case of certain university branch districts, as applicable. Sections 9.96 and 9.98 to 9.983 of the Revised Code apply to obligations and assurances. Obligations and assurances may be issued to pay costs of facilities or entrepreneurial projects even if the institution anticipates the possibility of a future state appropriation to pay all or a portion of such costs.

(C) Obligations and assurances shall be secured by a pledge of and lien on all or such part of the available receipts of the institution of higher education as it provides for in the bond proceedings, excluding moneys raised by taxation and state appropriations except as permitted by section 3333.59 of the Revised Code. Such pledge and lien may be made prior to all other expenses, claims, or payments, excepting any pledge of such available receipts previously made to the contrary and except as provided by any existing restrictions on the use thereof, or such pledge and lien may be made subordinate to such other expenses, claims, or payments, as provided in the bond proceedings. Obligations or assurances may be additionally secured by covenants of the institution to make, fix, adjust, collect, and apply such charges, rates, fees, rentals, and other items of available receipts as will produce pledged available receipts sufficient to meet bond service charges, reserve, and other requirements provided for in the bond proceedings. Notwithstanding this and any other sections of the Revised Code, the holders or owners of the obligations or assurances shall not be given the right and shall have no right to have excises or taxes levied by the general assembly for the payment of bond service charges thereon, and each such obligation or assurance shall bear on its face a statement to that effect and to the effect that the right to such payment is limited to the available receipts and special funds pledged to such purpose under the bond proceedings.

All pledged available receipts and funds and the proceeds of obligations or assurances are trust funds and, subject to the provisions of this section and the applicable bond proceedings, shall be held, deposited, invested, reinvested, disbursed, applied, and used to such extent, in such manner, at such times, and for such purposes, as are provided in the bond proceedings.



(D) The bond proceedings for obligations or assurances shall provide for the purpose thereof and the principal amount or maximum principal amount, and provide for or authorize the manner of determining the principal maturity or maturities, the sale price including any permitted discount, the interest rate or rates, which may be a variable rate or rates, or the maximum interest rate, the date of the obligations or assurances and the date or dates of payment of interest thereon, their denominations, the manner of sale thereof, and the establishment within or without the state of a place or places of payment of bond service charges. The bond proceedings also shall provide for a pledge of and lien on available receipts of the institution of higher education as provided in division (C) of this section, and a pledge of and lien on such fund or funds provided in the bond proceedings arising from available receipts, which pledges and liens may provide for parity with obligations or assurances theretofore or thereafter issued by the institution. The available receipts so pledged and thereafter received by the institution and the funds so pledged are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the institution, 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 available receipts and funds shall be effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation.

(E) The bond proceedings may contain additional provisions customary or appropriate to the financing or to the obligations or assurances or to particular obligations and assurances, including:

(1) The acquisition, construction, reconstruction, equipment, furnishing, improvement, operation, alteration, enlargement, maintenance, insurance, and repair of facilities or entrepreneurial projects, and the duties of the institution of higher education with reference thereto;

(2) The terms of the obligations or assurances, including provisions for their redemption prior to maturity at the option of the institution of higher education at such price or prices and under such terms and conditions as are provided in the bond proceedings;



- (3) Limitations on the purposes to which the proceeds of the obligations or assurances may be applied;
- (4) The rates or rentals or other charges for the use of or right to use the facilities or entrepreneurial projects financed by the obligations or assurances, or other properties the revenues or receipts from which are pledged to the obligations or assurances, and rules for assuring any applicable use and occupancy thereof, including limitations upon the right to modify such rates, rentals, other charges, or regulations;
- (5) The use and expenditure of the pledged available receipts in such manner and to such extent as shall be determined, which may include provision for the payment of the expenses of operation, maintenance, and repair of facilities or entrepreneurial projects so that such expenses, or part thereof, shall be paid or provided as a charge prior or subsequent to the payment of bond service charges and any other payments required to be made by the bond proceedings;
- (6) Limitations on the issuance of additional obligations or assurances;
- (7) The terms of any trust agreement or indenture securing the obligations or assurances or under which the same may be issued;
- (8) The deposit, investment, and application of funds, and the safeguarding of funds on hand or on deposit without regard to Chapter 131. or 135. of the Revised Code, and any bank or trust company or other financial institution that acts as depository of any moneys under the bond proceedings shall furnish such indemnifying bonds or pledge such securities as required by the bond proceedings or otherwise by the institution of higher education;
- (9) The binding effect of any or every provision of the bond proceedings upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;
- (10) Any provision that may be made in a trust agreement or indenture;



(11) Any other or additional agreements with respect to the facilities of the institution of higher education or its entrepreneurial projects, their operation, the available receipts and funds pledged, and insurance of facilities or entrepreneurial projects and of the institution, its officers and employees.

(F) Such obligations or assurances may have the seal of the institution of higher education or a facsimile thereof affixed thereto or printed thereon and shall be executed by such officers as are designated in the bond proceedings, which execution may be by facsimile signatures. Any obligations or assurances may be executed by an officer who, on the date of execution, is the proper officer although on the date of such obligations or assurances such person was not the proper officer. In case any officer whose signature or a facsimile of whose signature appears on any such obligation or assurance ceases to be such officer before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the person had remained such officer until such delivery; and in case the seal of the institution has been changed after a facsimile of the seal has been imprinted on such obligations or assurances, such facsimile seal continues to be sufficient as to such obligations or assurances and obligations or assurances issued in substitution or exchange therefor.

(G) All such obligations or assurances are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations or assurances may be issued in coupon or in registered form, or both. Provision may be made for the registration of any obligations or assurances with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations or assurances so registered, and for the conversion or reconversion into obligations or assurances with coupons attached thereto of any obligations or assurances registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(H) Pending preparation of definitive obligations or assurances, the institution of higher education may issue interim receipts or certificates which shall be exchanged for such definitive obligations or assurances.

(I) Such obligations or assurances may be secured additionally by a trust agreement or indenture between the institution of higher education and a corporate trustee, which may be any trust



company or bank having the powers of a trust company within or without this state but authorized to exercise trust powers within this state. Any such agreement or indenture may contain the resolution authorizing the issuance of the obligations or assurances, any provisions that may be contained in the bond proceedings as authorized by this section, and other provisions which are customary or appropriate in an agreement or indenture of such type, including:

(1) Maintenance of each pledge, trust agreement, and indenture, or other instrument comprising part of the bond proceedings until the institution of higher education has fully paid the bond service charges on the obligations or assurances secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the institution of higher education made as a part of the contract under which the obligations or assurances were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

(3) The rights and remedies of the holders of obligations or assurances and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations or assurances;

(4) The replacement of any obligations or assurances that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the institution of higher education agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(J) Each duty of the institution of higher education and its officers or employees, undertaken pursuant to the bond proceedings or any related agreement or lease made under authority of law, is hereby established as a duty of such institution, and of each such officer or employee having authority to perform such duty, specially 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 of the board of trustees or the managing directors of the institution or its officers or employees are not liable in their personal capacities on such obligations or assurances, or lease, or other agreement of the institution.



(K) The authority to issue obligations or assurances includes authority to:

(1) Issue obligations or assurances in the form of bond anticipation notes and to renew them from time to time by the issuance of new notes. Such notes are payable solely from the available receipts and funds that may be pledged to the payment of such bonds, or from the proceeds of such bonds or renewal notes, or both, as the institution of higher education provides in its resolution authorizing such notes. Such notes may be additionally secured by covenants of the institution to the effect that it will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amount, and either exchange such bonds or renewal notes therefor or apply the proceeds thereof to the extent necessary, to make full payment of the bond service charges on such notes at the time or times contemplated, as provided in such resolution. Subject to the provisions of this division, all references to obligations or assurances in this section apply to such anticipation notes.

(2) Issue obligations or assurances to refund, including funding and retirement of, obligations or assurances previously issued to pay costs of facilities or entrepreneurial projects. Such obligations or assurances may be issued in amounts sufficient for payment of the principal amount of the obligations or assurances to be so refunded, any redemption premiums thereon, principal maturities of any obligations or assurances maturing prior to the redemption of any other obligations or assurances on a parity therewith to be so refunded, interest accrued or to accrue to the maturity date or dates of redemption of such obligations or assurances, and any expenses incurred or to be incurred in connection with such refunding or the issuance of the obligations or assurances.

(L) Obligations and assurances are lawful investments for banks, societies for savings, 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 or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund, the administrator of workers' compensation in accordance with the investment policy approved by the bureau of workers' compensation board of directors pursuant to section 4121.12 of the Revised Code, 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 pursuant thereto by any state agency with respect to investments by



them, and are also acceptable as security for the deposit of public moneys.

(M) All facilities or entrepreneurial projects purchased, acquired, constructed, or owned by an institution of higher education, or financed in whole or in part by obligations or assurances issued by an institution, and used for the purposes of the institution or other publicly owned and controlled college or university, is public property used exclusively for a public purpose, and such property and the income therefrom is exempt from all taxation and assessment within this state, including ad valorem and excise taxes. The obligations or assurances, the transfer thereof, and the income therefrom, including any profit made on the sale thereof, are at all times free from taxation within the state. The transfer of tangible personal property by lease under authority of this section or section 3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code is not a sale as used in Chapter 5739. of the Revised Code.

(N) The authority granted by this section is cumulative with the authority granted to institutions of higher education under Chapter 154. of the Revised Code, and nothing in this section impairs or limits the authority granted by Chapter 154. of the Revised Code. In any lease, agreement, or commitment made by an institution of higher education under Chapter 154. of the Revised Code, it may agree to restrict or subordinate any pledge it may thereafter make under authority of this section.

(O) Title to lands acquired under this section and sections 3345.07 and 3345.11 of the Revised Code by a state university or college shall be taken in the name of the state.

(P) Except where costs of facilities or entrepreneurial projects are to be paid in whole or in part from funds appropriated by the general assembly, section 125.81 of the Revised Code and the requirement for certification with respect thereto under section 153.04 of the Revised Code do not apply to such facilities or entrepreneurial projects.

(Q) A state university or college may sell or lease lands or interests in land owned by it or by the state for its use, or facilities authorized to be acquired or constructed by it under section 3345.07 or 3345.11 of the Revised Code, to permit the purchasers or lessees thereof to acquire, construct, equip, furnish, reconstruct, alter, enlarge, remodel, renovate, rehabilitate, improve, maintain, repair, or maintain and operate thereon and to provide by lease or otherwise to such institution, facilities



authorized in section 3345.07 or 3345.11 of the Revised Code or entrepreneurial projects authorized under section 3345.36 of the Revised Code. Such land or interests therein shall be sold for such appraised value, or leased, and on such terms as the board of trustees determines. All deeds or other instruments relating to such sales or leases shall be executed by such officer of the state university or college as the board of trustees designates. The state university or college shall hold, invest, or use the proceeds of such sales or leases for the same purposes for which proceeds of borrowings may be used under sections 3345.07 and 3345.11 of the Revised Code or, if the proceeds relate to the sale or lease of entrepreneurial projects, for purposes of section 3345.36 of the Revised Code.

(R) An institution of higher education may pledge available receipts, to the extent permitted by division (C) of this section with respect to obligations, to secure the payments to be made by it under any lease, lease with option to purchase, or lease-purchase agreement authorized under this section or section 3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code.