



Ohio Revised Code

Section 3366.04 Issuance of obligations.

Effective: June 8, 2000

Legislation: Senate Bill 161 - 123rd General Assembly

(A) The issuing authority may issue obligations under this section to provide money to make proceeds loans to the designated administrator for the purpose of acquiring education loans, or needed for capitalized interest, for funding reserves, and for paying costs and expenses incurred in connection with the issuance, carrying, securing, paying, redeeming, or retirement of the obligations or any obligations refunded thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement facility as defined in division (H) of section 133.01 of the Revised Code, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section. The proceeds thereof shall, as provided in the bond proceedings, be loaned, or otherwise made available as a proceeds loan, to the designated administrator. The issuing authority may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary to carry out the provisions of this section. The costs of such services are allowable costs payable from the proceeds of such obligations.

(B) The holders or owners of obligations shall have no right to have taxes levied by the general assembly, or any moneys other than pledged receipts obligated or pledged, and any moneys other than pledged receipts shall not be obligated or pledged, for the payment of bond service charges. The obligations are not debts of the state, bond service charges are payable solely from the revenues and funds pledged as pledged receipts for their payment, and the right of such holders and owners to payment of bond service charges is limited to pledged receipts as provided in the bond proceedings, and each such obligation shall bear on its face a statement to that effect. No money, including money from the general revenue fund, shall be appropriated, obligated, or used to pay bond service charges or the costs incurred in the administration of this chapter, other than pledged receipts.

(C) Obligations shall be authorized by order of the issuing authority at the request of the designated



administrator and with the approval of the director of development, and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner for determining the principal maturity or maturities, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest thereon, their denomination, and the establishment within or outside this state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code apply to obligations issued under this section. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose to be served. The bond proceedings shall also provide, subject to the provisions of any other applicable bond proceedings, for the pledge of, and the granting of a security interest in, all, or such part as the issuing authority may determine, of the pledged receipts to the payment of bond service charges, which pledge may be made and security interest granted, subject to the provisions of any applicable prior bond proceedings, either prior to or on a parity with or subordinate to other expenses, claims, or payments, and may be made or granted to secure obligations senior or subordinate to, or on a parity with, obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The pledged receipts so pledged or subject to a security interest and thereafter received by the issuing authority or the designated administrator on behalf of the issuing authority or otherwise received are immediately subject to such pledge and security interest without any physical delivery thereof or further act, and such pledge and security interest are valid, binding, and enforceable against all parties having claims of any kind against the state or any governmental agency, or against the designated administrator, whether or not 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 or possession of the pledged receipts, or for the filing or recording of the bond proceedings by which such pledge and security interest are created or any certificate, statement, or other document with respect thereto; and the pledge of such pledged receipts and the security interest are effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge made and security interest granted, and every covenant and agreement made with respect thereto in the bond proceedings may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further security of the payment of the bond service charges.

(D) The bond proceedings may contain additional provisions as to:



- (1) The redemption of obligations prior to maturity at such price or prices and under such terms and conditions as are provided in the bond proceedings;
 - (2) Other terms of the obligations;
 - (3) Limitations on the issuance of additional obligations;
 - (4) The terms of any trust agreement or indenture securing the obligations or under which the same may be issued;
 - (5) The investment of the proceeds of obligations and amounts on deposit in the special funds;
 - (6) Any or every provision of the bond proceedings being binding 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;
 - (7) Any provision that may be made in a trust agreement or indenture;
 - (8) Provisions for the use of the proceeds of repayment of education loans to acquire additional education loans;
 - (9) Any other or additional agreements with the holders of the obligations, the trustee therefor, or the designated administrator, relating to the obligations or the security therefor, including the assignment of security obtained or to be obtained for education loans.
- (E) The obligations and any coupons pertaining to obligations shall be in the form specified in the bond proceedings and shall be signed by or bear the facsimile signature of the issuing authority. Any obligations or coupons may be executed by the person who, on the date of execution, is the proper issuing authority although on the date of such bonds or coupons such person was not the issuing authority. In case the issuing authority whose signature or a facsimile of whose signature appears on any such obligation or coupon ceases to be the issuing authority before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if that official had



remained the issuing authority until such delivery.

(F) All obligations 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 may be issued in coupon or in registered form, or both, as the issuing authority determines. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(G) Obligations may be sold at public sale or at private sale, as determined by the issuing authority in the bond proceedings.

(H) Pending preparation of definitive obligations, the issuing authority may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(I) In the discretion of the issuing authority, obligations may be secured additionally by a trust agreement or indenture between the issuing authority and a corporate trustee and, if so provided for in the bond proceedings, any other necessary or appropriate party. Any such trustee shall be a trust company, bank, or national banking association authorized to exercise trust powers within the state. Any such agreement or indenture may contain the order authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions which are customary or appropriate in an agreement or indenture of such type, including, but not limited to:

(1) Maintenance of each pledge, security interest, and trust agreement, indenture, or other instrument comprising part of the bond proceedings until the bond service charges on the obligations secured thereby have been fully paid, or provision therefor has been made in accordance with the bond proceedings;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the issuing authority made as a part of the contract under which the obligations 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 and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations;

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

(5) Such other provisions as the trustee and the issuing authority agree upon, including limitations, conditions, or qualifications relating to the education loans that may be made or acquired pursuant to the trust agreement or indenture.

(J) Any holder of obligations or a trustee under the bond proceedings, except to the extent that rights are restricted by the bond proceedings, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights include the right to compel the performance of all duties of the issuing authority or the director of development required by this chapter or the bond proceedings; to enjoin unlawful activities; and, in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the issuing authority or the director of development in the bond proceedings, to apply to a court having jurisdiction to appoint a receiver to receive and administer the pledged receipts pledged to the payment of the bond service charges on such obligations or which are the subject of the covenant or agreement, with full power to pay and to provide for payment of bond service charges on such obligations and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge revenues or receipts or other income or moneys, other than pledged receipts, and excluding any power to take possession of, or cause the sale or otherwise dispose of, any property other than the pledged receipts.

Each duty of the issuing authority, of each governmental agency including the director of development, of the designated administrator, and of any of the officers, members, or employees of any of the foregoing, undertaken pursuant to the bond proceedings or any agreement made under authority of this chapter, and each duty in every agreement by or with the issuing authority under this chapter, each governmental agency including the director of development, and the designated administrator, is hereby established as a duty of the issuing authority, the governmental agency, or



the designated administrator, respectively, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

The person who is at the time the issuing authority or the director of development, or the officers or employees of either of them, are not liable in their personal capacities on any obligations or any agreements of or with the issuing authority or the director of development.

(K) The issuing authority may issue obligations for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of any obligations previously issued. Such obligations may be issued in amounts sufficient for payment of the principal amount of the prior obligations, any redemption premiums thereon, principal maturities of any such obligations maturing prior to the redemption of the remaining obligations on a parity therewith, interest accrued or to accrue to the maturity dates or dates of redemption of such obligations, and expenses incurred or to be incurred in connection with such issuance and such refunding, funding, and retirement. Subject to the bond proceedings therefor, the portion of proceeds of the sale of obligations issued under this division to be applied to bond service charges on the prior obligations shall be credited to an appropriate account held by the trustee for such prior or new obligations or to the appropriate account in the bond service fund for such obligations. Obligations authorized under this division shall be deemed to be issued for those purposes for which such prior obligations were issued and are subject to the provisions of this section pertaining to other obligations, except as otherwise provided in this section.

(L) The authority to issue obligations under this section includes authority to issue obligations in the form of bond anticipation notes and to renew the same from time to time by the issuance of new notes. The holders of such notes or interest coupons pertaining thereto shall have a right to be paid solely from the pledged receipts and special funds that may be pledged to the payment of the bonds anticipated, or from the proceeds of such anticipated bonds or renewal notes, or both, as the issuing authority provides in the order authorizing such notes. Such notes may be additionally secured by covenants of the issuing authority and the director of development to the effect that the issuing authority and the director of development will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amounts, and apply the proceeds thereof to the extent necessary, to make full payment of the principal of and interest on such notes at the time or times



contemplated, as provided in such order. For this purpose, the issuing authority shall issue bonds or renewal notes in such principal amount and upon such terms as may be necessary to provide funds to pay, when required, the principal of and interest and any premium on such notes. Subject to this division, all provisions for and references to obligations in this section are applicable to notes authorized under this division.

The issuing authority in the bond proceedings authorizing the issuance of bond anticipation notes shall set forth for such bonds an estimated interest rate and a schedule of principal payments for such bonds and the annual maturity dates thereof, but this provision does not modify any authority in this section to pledge receipts to, to grant a security interest in those receipts for the purpose of securing, and to covenant to issue bonds to fund, the payment of principal of and interest and any premium on such notes, or to provide in the bond proceedings authorizing the issuance of the anticipated bonds interest rates and a schedule of principal payments for such bonds and the annual maturity dates thereof which differ from the estimates in the bond proceedings authorizing the issuance of such bond anticipation notes.

(M) Obligations issued under this section are lawful investments for banks; savings banks; savings and loan associations; credit union share guarantee corporations; 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 the state and of subdivisions and taxing districts of the state; the commissioners of the sinking fund of the state; the administrator of workers' compensation, subject to the approval of the workers' compensation board; 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 to those provisions by any agency of the state with respect to investments by them, and are also eligible as security for the repayment of the deposit of public moneys.

(N) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges on obligations pertinent to such accounts and bond service fund and for other accounts therein within the general purposes of such fund. Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the several special funds established



pursuant to this section shall be invested and disbursed as provided in the bond proceedings.

(O) The issuing authority shall pledge and grant a security interest in all, or such portion as the issuing authority determines, of the pledged receipts to the payment of bond service charges on obligations, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to pledged receipts as authorized by this chapter, which provisions are controlling notwithstanding any other provisions of law pertaining thereto.

(P) The obligations, the transfer thereof, and the interest, accreted amount, and other income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation, direct or indirect, within this state.