



Ohio Revised Code

Section 4582.71 Program fund loans for research and development costs.

Effective: October 16, 2009

Legislation: House Bill 1 - 128th General Assembly

(A) As used in this section:

(1) "Bond proceedings" means, with respect to obligations authorized under this section, the resolutions, certifications and agreements, including without limitation a venture capital agreement, the loan documents and any trust agreements, and any authorized credit enhancement facilities or swaps or other hedging instruments, and amendments or supplements thereto, or to any one or more or combination of them, authorizing, awarding, or providing for the terms and conditions applicable to or providing for the security or liquidity of, the particular obligations, and the provisions contained in those obligations.

(2) "Issuing authority" means a port authority that, pursuant to a venture capital agreement, issues or issued obligations to fund one or more loans to the program fund.

(3) "Loan" means an extension of credit to or in aid of the program fund in any form, including loans to lenders or the purchase of loans, including the purchase for cancellation of any loan, and evidenced in any manner including, without limitation, by a loan agreement, a promissory note, a bond, note, certificate of participation or other security, a letter of credit and reimbursement agreement or other credit facility, or a standby bond or note purchase agreement, line of credit or other liquidity facility, and including, in any event, any related swap or other hedging instrument.

(4) "Obligations" means, as applicable to the issuing authority, bonds, notes, or other forms or evidences of obligation constituting revenue bonds as that term is used in division (A)(4) of section 4582.06 of the Revised Code, or port authority revenue bonds as that term is used in section 4582.48 and division (A)(8) of section 4582.31 of the Revised Code, which obligations are issued by the issuing authority pursuant to the bond proceedings and this section.

(5) "Port authority" means a port authority organized and existing under Chapter 4582. of the Revised Code.



(6) "Research and development costs" means costs of or in support of or related to the implementation of research and development purposes including, without limitation, capital formation, direct operating costs, costs of research and facilities, including interests in real property therefor, and other support, and costs of making grants, loans, including loans to lenders or the purchase of loans, subsidies, contributions, advances or guarantees, or direct investments in, or payment, or reimbursement from available moneys for, implementing research and development purposes consistent with Section 2p of Article VIII, Ohio Constitution, and the investment policy adopted by the venture capital authority pursuant to section 150.03 of the Revised Code, and includes financing charges, amounts necessary to establish the reserves required pursuant to the bond proceedings, interest on loans including loans purchased for cancellation, interest on the obligations from their date until the time determined in the bond proceedings when interest is to be paid from sources other than the proceeds of obligations, legal expenses and other costs of or related to the issuance of obligations, estimates of costs and revenues or other expenses necessary or incident to determining the feasibility or practicability of the financing of any research and development costs with proceeds of obligations or other sources, administrative expenses related to obligations, and the application of the proceeds of obligations, including fees of the issuing authority, any trustee, and any other costs and expenses reasonably necessary or incident thereto or to the financing of research and development costs, and costs described in this division incurred prior to the issuance of obligations and paid, advanced, or borrowed by an issuing authority, the venture capital authority, the program fund or other public or private person or entity, which costs may be reimbursed from the proceeds of such obligations. "Research and development costs" does not include any otherwise qualifying costs that are in support of the purposes provided for in Section 15 of Article VIII, Ohio Constitution.

(7) "Tax credits" means the refundable tax credits authorized by section 150.07 of the Revised Code and to be issued by the venture capital authority to any lender.

(8) "Venture capital agreement" means an agreement between the venture capital authority and an issuing authority entered into under division (E) of section 150.02 of the Revised Code.

(9) "Venture capital authority" means the Ohio venture capital authority established under section 150.02 of the Revised Code.



(10) "Lender," "program fund," and "research and development purposes" have the same meanings as in section 150.01 of the Revised Code.

(B) An issuing authority may issue obligations pursuant to this section and Section 2p of Article VIII, Ohio Constitution, to make loans to the program fund to provide for research and development costs. The proceeds of the obligations shall be used to make loans to provide for research and development costs and all such proceeds shall be so used in accordance with the bond proceedings. Activities authorized by Section 2p of Article VIII, Ohio Constitution, shall be authorized purposes of port authorities to the extent necessary for a port authority to act as an issuing authority under this section.

(C) Except to any extent inconsistent with this section, all terms, provisions, and authorizations in Chapter 4582. of the Revised Code as applicable to the issuing authority, and the terms, provisions, and authorizations of sections 9.96, 9.98, 9.981, 9.982, and 9.983 of the Revised Code apply to the obligations and the bond proceedings except as otherwise provided or provided for in those obligations and bond proceedings. The obligations shall be secured by a trust agreement between the issuing authority and a trustee, and such trust agreement, and the establishment, deposit, investment and application of special funds, and the safeguarding of moneys shall be governed by the bond proceedings and by Chapter 4582. of the Revised Code, as applicable to the issuing authority. Pursuant to the trust agreement and other bond proceedings, there shall be established, in addition to any other special funds in the custody of the trustee, one or more funds into which shall be deposited the proceeds of the obligations and the revenues pledged to the payment of the obligations, including a reserve fund in an amount established in, and to be funded as provided in, the bond proceedings.

(D) The trustee, for the benefit of the issuing authority, may be authorized under the venture capital agreement to receive and claim tax credits in accordance with division (E) of section 150.07 of the Revised Code. If the trustee is so authorized, the holders of the obligations, or any book-entry interests therein, shall have no rights with respect to the tax credits except any right established under the applicable trust agreement to direct the trustee to take the actions necessary to receive and claim any available tax credits. Upon receipt of any tax credit certificate issued by the venture capital authority, the trustee shall, within the times required by law, file an appropriate tax return to



claim the applicable tax credits and, upon receipt of the proceeds of any such tax credits, shall promptly deposit the proceeds into the funds established in accordance with division (C) of this section.

(E) The obligations do not constitute a debt, or a pledge of the faith and credit, of the state, the issuing authority or any political subdivision of the state, and the holders or owners of the obligations have no right to have taxes levied by the general assembly or the taxing authority of the issuing authority or any political subdivision of the state for the payment of the principal of or interest or any premium on the obligations, but the obligations are payable solely from the revenues and funds pledged for their payment as authorized in or pursuant to this section and the bond proceedings, and the obligations shall contain on the face thereof a statement to the effect that the obligations, as to principal and interest and any premium, are not debts of the state, the issuing authority, or any political subdivision of the state, but are payable solely from the revenues and funds pledged for their payment.

(F) This section is intended to implement Section 2p of Article VIII, Ohio Constitution, including provision for procedures for incurring and issuing obligations of local public entities and agencies authorized by that section, for the purpose of making loans to the program fund to provide for research and development costs, and shall be liberally construed to effect such purposes. The powers and authorizations granted in this section may be exercised jointly or separately by one or more issuing authorities and are in addition to and supplemental to the powers and authorizations otherwise granted to port authorities under applicable provisions of Chapter 4582. of the Revised Code and shall not be construed as a limitation on any such powers or authorizations.