



## Ohio Revised Code

### Section 164.12 Preventing adverse effects on federal income tax.

Effective: March 29, 1988

Legislation: House Bill 704 - 117th General Assembly

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Notwithstanding any other provisions of law, the issuer, state agencies, and local subdivisions may covenant and agree to do or cause or require to be done all things necessary for, and not to do or permit or authorize to be done anything that would adversely affect, the exclusion of interest on the obligations from gross income for federal income tax purposes under the Internal Revenue Code, or the classification or qualification of the obligations or the interest on the obligations for, or their exemption from, other treatment under the Internal Revenue Code, including but not limited to compliance with the provisions for payment of certain investment earnings to the United States in accordance with section 148(f) of the Internal Revenue Code. Those sections and covenants and compliance therewith shall be valid, incontestable, final, and conclusive to the extent that they support that exclusion from gross income or support those classifications or qualifications. This authorization in this paragraph is solely for the purpose of satisfying those federal conditions or requirements, and is in addition to and not a limitation upon other authorization granted by or pursuant to law or the Ohio Constitution, and does not preclude or exclude any actions or covenants by the issuer, state agencies, local public entities, or officer to satisfy the federal conditions or requirements for the purpose. Subject to the terms of those covenants, compliance with covenants referred to in this section by the issuer, state agencies, local subdivisions, and those officers are acts specially enjoined by law as duties resulting from their office, trust, and station for purposes of section 2731.01 of the Revised Code. The issuer, state agencies, local subdivisions, and those officers, employees and agents responsible in the circumstances, shall do all things necessary or appropriate to comply with such covenants and shall take all actions to account for, calculate, report, make available, and pay moneys pursuant to section 148(f) of the Internal Revenue Code to the extent required to comply with such covenants. For those purposes:

(A) Moneys from the funds to which any such investment earnings are credited, and if there be any insufficiency therein then any fund generally available for the general purposes of the responsible agency, are appropriated and shall be deemed to be appropriated for all purposes to the payment of such amounts pursuant to such covenant. Subject to the provisions of the bond proceedings and notwithstanding any statutory or administrative limitations on the use or transfer of those funds or



receipts, the appropriate official may withdraw or transfer from the fund or funds, or direct the deposit from receipts, designated for the purpose, and deposit in or credit to the fund or account established for the purpose, which establishment is hereby authorized, any amounts computed at the time to represent the portion of investment income required to be rebated and paid to the United States in order to maintain the exclusion from gross income for federal income tax purposes of interest on those obligations pursuant to section 148(f) of the Internal Revenue Code.

(B) The issuer may invest or provide for the investment of any proceeds or gross proceeds, as defined in the Internal Revenue Code, of the obligations in tax-exempt bonds of any person authorized to issue of tax-exempt bonds under the Internal Revenue Code, and in any regulated investment company the investment in which is treated as an investment in tax-exempt bonds for purposes of, and in any special series of obligations of the United States made available for purposes of compliance with, the provisions of section 148 of the Internal Revenue Code. The authority to invest proceeds under this section is in addition to and not restricted or conditioned by any other authority to invest moneys.

Nothing in sections 164.08 to 164.12 of the Revised Code or other provisions of law requires compliance with provisions of federal tax law or regulations to exclude interest on the obligations from gross income for federal income tax purposes or otherwise have the obligations or interest on the obligations treated in any particular way under federal tax laws, except to the extent, if any, that the issuer covenants to do so, and the validity of the obligations shall not be adversely affected by the absence of that compliance or of compliance with any related covenants made pursuant to those sections.

(C) As used in this section, "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended.