



## Ohio Revised Code

### Section 3345.54 Conveyance of auxiliary facilities to conduit entity.

Effective: September 10, 2012

Legislation: House Bill 487 - 129th General Assembly

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(A) As used in this section:

- (1) "Auxiliary facilities" has the same meaning as in section 3345.12 of the Revised Code.
- (2) "Conduit entity" means an organization described in section 501(c)(3) of the Internal Revenue Code qualified as a public charity under section 509(a)(2) or 509(a)(3) of the Internal Revenue Code, or any other appropriate legal entity selected by the state institution, whose corporate purpose allows it to perform the functions and obligations of a conduit entity pursuant to the terms of a financing agreement.
- (3) "Conveyed property" means auxiliary facilities conveyed by a state institution to a conduit entity pursuant to a financing agreement.
- (4) "Financing agreement" means a contract described in division (C) of this section.
- (5) "Independent funding source" means a private entity that enters into a financing agreement with a conduit entity and a state institution.
- (6) "State institution" means a state institution of higher education as defined in section 3345.011 of the Revised Code.

(B) The board of trustees of a state institution, with the approval of the chancellor of the Ohio board of regents and the controlling board, may enter into a financing agreement with a conduit entity and an independent funding source selected either through a competitive selection process or by direct negotiations, and may convey to the conduit entity title to any auxiliary facilities owned by the state institution pursuant to the terms of a financing agreement.

(C) A financing agreement under this section is a written contract entered into among a state



institution, a conduit entity, and an independent funding source that provides for:

- (1) The conveyance of auxiliary facilities owned by a state institution to the conduit entity for consideration deemed adequate by the state institution;
- (2) The lease of the conveyed property by the conduit entity to the independent funding source and leaseback of the conveyed property to the conduit entity for a term not to exceed ninety-nine years;
- (3) Such other terms and conditions that may be negotiated and agreed upon by the parties, including, but not limited to, terms regarding:
  - (a) Payment to the state institution by the conduit entity of revenues received by it from the operations of the conveyed property in excess of the payments it is required to make to the independent funding source under the lease-leaseback arrangement described in division (C)(2) of this section;
  - (b) Pledge, assignment, or creation of a lien in favor of the independent funding source by the conduit entity of any revenues derived from the conveyed property;
  - (c) Reverter or conveyance of title to the conveyed property to the state institution when the conveyed property is no longer subject to a lease with the independent funding source.
- (4) Terms and conditions required by the chancellor or the controlling board as a condition of approval of the financing agreement.
- (D) The state institution and the conduit entity may enter into such other management agreements or other contracts regarding the conveyed property the parties deem appropriate, including agreements pursuant to which the state institution may maintain or administer the conveyed property and collect and disburse revenues from the conveyed property on behalf of the conduit entity.
- (E) The parties may modify or extend the term of the financing agreement with the approval of the chancellor and the controlling board.



(F) The conveyed property shall retain its exemption from property taxes and assessments as though title to the conveyed property were held by the state institution during any part of a tax year that title is held by the state institution or the conduit entity and, if held by the conduit entity, remains subject to the lease-leaseback arrangement described in division (C)(2) of this section. However, as a condition of the continued exemption of the conveyed property during the term of the lease-leaseback arrangement the conduit entity shall apply for and maintain the exemption as provided by law.

(G) Nothing in this section is intended to abrogate, amend, limit, or replace any existing authority state institutions may have with respect to the conveyance, lease, lease-leaseback, finance, or acquisition of auxiliary facilities including, but not limited to, authority granted under sections 3345.07, 3345.11, and 3345.12 of the Revised Code.