

# As Introduced

125th General Assembly  
Regular Session  
2003-2004

S. B. No. 165

Senators Schuring, Schuler, Fedor, Dann

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## A BILL

To amend sections 165.02, 166.06, 166.07, 166.21,  
3735.68, and 5709.831 and to enact sections 9.661  
and 5709.634 of the Revised Code to create  
statutory liens to secure the performance of  
obligations by recipients of development loans and  
local property tax incentives.

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### BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That sections 165.02, 166.06, 166.07, 166.21,  
3735.68, and 5709.831 be amended and sections 9.661 and 5709.634  
of the Revised Code be enacted to read as follows:

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**Sec. 9.661.** (A) As used in this section:

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(1) "Borrower" means any person obligated to repay a  
development loan pursuant to a development loan agreement or  
obligated to repay a loan guaranteed pursuant to a loan guarantee  
agreement.

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(2) "Development inducement agreement" means an agreement  
making a grant or inducement under the authority of Section 13 of  
Article VIII, Ohio Constitution, including an inducement made  
under section 166.02 of the Revised Code or a grant made under  
section 184.02 of the Revised Code.

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(3) "Development loan" means any loan made under the 20  
authority of Section 13 of Article VIII, Ohio Constitution, 21  
including loans made under the authority of Chapter 122., 165., 22  
166., 184., or 1724. of the Revised Code. 23

(4) "Development loan agreement" means an agreement making a 24  
development loan. 25

(5) "Grantee" means any grantee or other recipient of 26  
anything of value under a development inducement agreement. 27

(6) "Guaranteed loan" means a loan guaranteed by this state, 28  
a state agency, or a political subdivision under the authority of 29  
Section 13 of Article VIII, Ohio Constitution, including any loan 30  
guarantee authorized under Chapter 166. of the Revised Code. 31

(7) "Loan guarantee agreement" means an agreement providing 32  
for the guarantee of a guaranteed loan. 33

(8) "Secured party" means the state, a state agency, or a 34  
political subdivision that enters into a development loan 35  
agreement, loan guarantee agreement, or development inducement 36  
agreement. 37

(B)(1) The obligations of a borrower under each development 38  
loan agreement or loan guarantee agreement is secured by a lien of 39  
the secured party on the borrower's real property and personal 40  
property the acquisition of which was funded in whole or in part 41  
by the proceeds of the loan and on any of the borrower's other 42  
real or personal property in this state. The lien is for the 43  
amount financed under the development loan agreement or for the 44  
amount guaranteed under the loan guarantee agreement. The lien 45  
attaches when any portion of the loan proceeds is transferred to 46  
the borrower, and the lien is perfected when so attached. The lien 47  
has priority over all other liens regardless of when acquired, 48  
including the interests of transferees of the property that are 49  
acquired after the lien attaches, but excluding claims of the 50

United States government having higher priority under federal law.  
The lien is in addition to any other security required by the  
development loan agreement or loan guarantee agreement.

(2) The obligations of a grantee under each development  
inducement agreement is secured by a lien of the secured party on  
the grantee's real property and personal property the acquisition  
of which was funded in whole or in part by the grant or other  
thing of value and on any other of the grantee's real or personal  
property in this state. The lien is for the amount of the grant or  
other thing of value granted to the grantee under the agreement.  
The lien attaches when any portion of the grant or other thing of  
value is transferred to the grantee, and the lien is perfected  
when so attached. The lien has priority over all other liens  
regardless of when acquired, including the interests of  
transferees of the property that are acquired after the lien  
attaches, but excluding claims of the United States government  
having higher priority under federal law. The lien is in addition  
to any other security required by the development inducement  
agreement.

(3) A secured party shall enforce such liens against real  
property by civil action in the court of common pleas of the  
county where the real property is located in the same manner as  
mortgage liens are enforced. A secured party shall enforce such  
liens against personal property in the manner provided for the  
enforcement of security interests under Chapter 1309. of the  
Revised Code, except to the extent the provisions of that chapter  
regarding priority, attachment, and perfection are inconsistent  
with this section.

(C) Each development loan agreement and loan guarantee  
agreement shall prohibit the borrower from selling or otherwise  
transferring to another person real property or personal property,  
the acquisition of which by the borrower was funded in whole or in

part by the development loan, before the borrower has fulfilled  
the borrower's obligations under the agreement. Each development  
inducement agreement shall prohibit the grantee from selling or  
otherwise transferring to another person real property or personal  
property, the acquisition of which by the borrower was funded in  
whole or in part by the grant or other thing of value granted  
under the development inducement agreement, before the grantee has  
fulfilled the grantee's obligations under the agreement.

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**Sec. 165.02.** Section 13 of Article VIII, Ohio Constitution,  
is in part implemented by this chapter in furtherance of the  
public purposes of the state to create or preserve jobs and  
employment opportunities and to improve the economic welfare of  
the people of the state. An issuer acting through its issuing  
authority may in accordance with Section 13 of Article VIII, Ohio  
Constitution:

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(A) Acquire by gift or purchase and hold and mortgage real  
estate and interests therein and personal property to be used as a  
project or a part thereof;

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(B) Purchase, construct, reconstruct, enlarge, improve,  
furnish, and equip and lease, sell, exchange, and otherwise  
dispose of projects or parts thereof for those of the purposes set  
forth in Section 13 of Article VIII, Ohio Constitution, that are  
specified in the first sentence of this section, including,  
without limitation thereto, the sale of projects by conditional or  
installment sale, under which title may pass prior to or after  
completion of construction of a project or payment or provision  
for payment of all principal of, premium, if any, and interest on  
the bonds, or at any other time provided in the agreement  
pertaining to such sale, and including sale under an option to  
purchase upon agreed terms which may include a price which may be  
a nominal amount or less than true value at the time of purchase;

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(C) Issue its bonds to provide funds, by loans or otherwise, 114  
for acquiring, constructing, reconstructing, enlarging, improving, 115  
furnishing, or equipping one or more projects or parts thereof; 116

(D) Make loans for the acquisition, construction, 117  
reconstruction, enlargement, improvement, furnishing, or equipping 118  
of projects or parts thereof upon such terms as the issuing 119  
authority may determine or authorize, ~~including but~~ secured ~~or~~ 120  
~~unsecured loans~~ by the lien imposed under section 9.661 of the 121  
Revised Code, and, in connection therewith, enter into loan 122  
agreements and other agreements, accept notes or other forms of 123  
obligation to evidence such indebtedness and security interests to 124  
secure such indebtedness, and take such action as may be 125  
considered by it appropriate to protect such security and 126  
safeguard against losses, including, without limitation thereto, 127  
foreclosure and the bidding upon and purchase of property upon 128  
foreclosure or other sale; 129

(E) Enter into contracts and execute all instruments 130  
necessary or appropriate to carry out the purposes of Chapter 165. 131  
of the Revised Code; 132

(F) Fix, alter, and collect rentals and other charges for the 133  
use and occupancy of a project and lease the project to others, 134  
including a contract with, or the granting of an option to the 135  
lessee to purchase the project for such price as the issuing 136  
authority in its sole discretion determines to be appropriate, 137  
after retirement or redemption, or provision therefor, of all the 138  
bonds of the issuer issued to provide funds for the project; 139

(G) Retain, contract with, or employ and fix the compensation 140  
of financial consultants, appraisers, accounting experts, 141  
architects, engineers, attorneys at law, and other employees, 142  
agents, and independent contractors as are necessary in the 143  
judgment of the issuing authority to carry out the provisions of 144

Chapter 165. of the Revised Code;	145
(H) Pledge, assign, hypothecate, or otherwise encumber as	146
security for the bonds, the rentals, revenues, and other income,	147
charges, and moneys realized from the use, lease, sale, or other	148
disposition of one or more projects or parts thereof as may be	149
designated in the bond proceedings and enter into trust agreements	150
or indentures of mortgage for the benefit of bondholders;	151
(I) Enter into appropriate arrangements with any federal or	152
state department or agency, county, township, municipal	153
corporation, or other political subdivision, taxing district, or	154
public body or agency for the planning and installation of	155
streets, roads, alleys, water supply and distribution facilities,	156
storm and sanitary sewage collection and disposal facilities, and	157
other necessary appurtenances to a project;	158
(J) Purchase fire and extended coverage and liability	159
insurance for a project, insurance protecting the issuer and its	160
officers and employees against liability for damage to property or	161
injury to or death of persons arising from the project, and any	162
other insurance the issuer may agree to provide under the bond	163
proceedings;	164
(K) Sell, lease, release, or otherwise dispose of real and	165
personal property or interests therein, or a combination thereof,	166
acquired by the issuer under authority of Chapter 165. of the	167
Revised Code and no longer needed for the purposes of such chapter	168
or of the issuer, and grant such easements and other rights in,	169
over, under, or across a project as will not interfere with its	170
use of such property. Such sale, lease, release, disposition, or	171
grant may be made without competitive bidding and in such manner	172
and for such consideration as the issuing authority in its	173
judgment deems appropriate.	174
(L) Do all other acts necessary or appropriate to carry out	175

those of the purposes of Section 13 of Article VIII, Ohio 176  
Constitution, that are specified in the first sentence of this 177  
section, and the purposes of this chapter. 178

Any instrument by which real property is acquired pursuant to 179  
this section shall identify the agency of the state that has the 180  
use and benefit of the real property as specified in section 181  
5301.012 of the Revised Code. 182

**Sec. 166.06.** (A) Subject to any limitations as to aggregate 183  
amounts thereof that may from time to time be prescribed by the 184  
general assembly and to other applicable provisions of this 185  
chapter, the director of development may, on behalf of the state, 186  
enter into contracts to guarantee the repayment or payment of not 187  
more than ninety per cent of the unpaid principal amount of loans 188  
made, including bonds, notes, or other certificates issued or 189  
given to provide funds, to pay allowable costs of eligible 190  
projects. Such guarantees shall be secured solely by and payable 191  
solely from the loan guarantee fund created by this section and 192  
unencumbered and available moneys in the facilities establishment 193  
fund in the manner and to the extent provided in such guarantee 194  
contracts consistent with this section. Such guarantees shall not 195  
constitute general obligations of the state or of any political 196  
subdivision, and moneys raised by taxation shall not be obligated 197  
or pledged for the payment of such guarantees. 198

(B) Before guaranteeing any such repayments or payments the 199  
director shall determine that: 200

(1) The project is an eligible project and is economically 201  
sound; 202

(2) The principal amount to be guaranteed does not exceed 203  
ninety per cent of the allowable costs of the eligible project as 204  
determined by the director. To assist the director in making this 205  
determination, the director may, in the director's discretion, 206

engage an independent engineer, architect, appraiser, or other 207  
professional pursuant to a contract to be paid solely from the 208  
facilities establishment fund, subject to controlling board 209  
approval. 210

(3) The principal amount to be guaranteed has a satisfactory 211  
maturity date or dates, which in no case shall be later than 212  
twenty years from the effective date of the guarantee; 213

(4) The rate of interest on the loan to be guaranteed and on 214  
any other loan made by the same parties or related persons for the 215  
eligible project is not excessive; 216

(5) The principal obligor, or primary guarantor, is 217  
responsible and is reasonably expected to be able to meet the 218  
payments under the loan, bonds, notes, or other certificates; 219

(6) The loan or documents pertaining to the bonds, notes, or 220  
other certificates to be guaranteed contains provisions for 221  
payment by the principal obligor, and is in such form and contains 222  
such terms and provisions for the protection of the lenders as are 223  
generally consistent with commercial practice, including, where 224  
applicable, provisions with respect to property insurance, 225  
repairs, alterations, payment of taxes and assessments, 226  
delinquency charges, default remedies, acceleration of maturity, 227  
prior, additional and secondary liens, and other matters as the 228  
director may approve. 229

(C) The contract of guarantee may make provision for the 230  
conditions of, time for and manner of fulfillment of the guarantee 231  
commitment, subrogation of the state to the rights of the parties 232  
guaranteed and exercise of such parties' rights by the state, 233  
giving the state the options of making payment of the principal 234  
amount guaranteed in one or more installments and, if deferred, to 235  
pay interest thereon from the loan guarantee fund and the 236  
facilities establishment fund, any other terms or conditions 237



customary to such guarantees and as the director may approve, and 238  
~~may shall~~ contain provisions for securing the guarantee in the 239  
manner consistent with this section, including the lien imposed by 240  
section 9.661 of the Revised Code, and may contain covenants on 241  
behalf of the state for the maintenance of the loan guarantee fund 242  
created by this section and of receipts to it permitted by this 243  
chapter, including covenants on behalf of the state to issue 244  
obligations under section 166.08 of the Revised Code to provide 245  
moneys to the loan guarantee fund to fulfill such guarantees and 246  
covenants authorized by division (R)(1) of section 166.08 of the 247  
Revised Code, and covenants restricting the aggregate amount of 248  
guarantees that may be contracted under this section and 249  
obligations that may be issued under section 166.08 of the Revised 250  
Code, and terms pertinent to either, to better secure the parties 251  
guaranteed. 252

(D) The "loan guarantee fund" of the economic development 253  
program is hereby created as a special revenue fund and a trust 254  
fund which shall be in the custody of the treasurer of state but 255  
shall be separate and apart from and not a part of the state 256  
treasury to consist of all grants, gifts, and contributions of 257  
moneys or rights to moneys lawfully designated for or deposited in 258  
such fund, all moneys and rights to moneys lawfully appropriated 259  
and transferred to such fund, including moneys received from the 260  
issuance of obligations under section 166.08 of the Revised Code, 261  
and moneys deposited to such fund pursuant to division (F) of this 262  
section; provided that the loan guarantee fund shall not be 263  
comprised, in any part, of moneys raised by taxation. 264

(E) The director may fix service charges for making a 265  
guarantee. Such charges shall be payable at such times and place 266  
and in such amounts and manner as may be prescribed by the 267  
director. 268

(F) The treasurer of state shall serve as agent for the 269

director in the making of deposits and withdrawals and maintenance 270  
of records pertaining to the loan guarantee fund. Prior to the 271  
director's entry into a contract providing for the making of a 272  
guarantee payable from the loan guarantee fund, the treasurer of 273  
state shall cause to be transferred from the facilities 274  
establishment fund to the loan guarantee fund an amount sufficient 275  
to make the aggregate balance therein, taking into account the 276  
proposed loan guarantee, equal to the loan guarantee reserve 277  
requirement. Thereafter, the treasurer of state shall cause the 278  
balance in the loan guarantee fund to be at least equal to the 279  
loan guarantee reserve requirement. Funds from the loan guarantee 280  
fund shall be disbursed under a guarantee made pursuant to this 281  
section to satisfy a guaranteed repayment or payment which is in 282  
default. The treasurer of state shall first withdraw and transfer 283  
moneys then on deposit in the loan guarantee fund. Whenever these 284  
moneys are inadequate to meet the requirements of a guarantee, the 285  
treasurer of state shall, without need of appropriation or further 286  
action by the director, provide for a withdrawal and transfer to 287  
the loan guarantee fund and then to the guaranteed party of moneys 288  
in such amount as is necessary to meet the guarantee from 289  
unencumbered and available moneys in the facilities establishment 290  
fund. Such disbursements shall be made in the manner and at the 291  
times provided in such guarantees. Within ninety days following a 292  
disbursement of moneys from the loan guarantee fund, the treasurer 293  
of state, without need of appropriation or further action by the 294  
director, shall provide for a withdrawal and transfer to the loan 295  
guarantee fund from unencumbered and available moneys in the 296  
facilities establishment fund, including moneys from the repayment 297  
of loans made from that fund, of an amount sufficient to cause the 298  
balance in the loan guarantee fund to be at least equal to the 299  
loan guarantee reserve requirement. 300

(G) Any guaranteed parties under this section, except to the 301  
extent that their rights are restricted by the guarantee 302

documents, may by any suitable form of legal proceedings, protect 303  
and enforce any rights under the laws of this state or granted by 304  
such guarantee or guarantee documents. Such rights include the 305  
right to compel the performance of all duties of the director and 306  
the treasurer of state required by this section or the guarantee 307  
or guarantee documents; and in the event of default with respect 308  
to the payment of any guarantees, to apply to a court having 309  
jurisdiction of the cause to appoint a receiver to receive and 310  
administer the moneys pledged to such guarantee with full power to 311  
pay, and to provide for payment of, such guarantee, and with such 312  
powers, subject to the direction of the court, as are accorded 313  
receivers in general equity cases, excluding any power to pledge 314  
or apply additional revenues or receipts or other income or moneys 315  
of the state or governmental agencies of the state to the payment 316  
of such guarantee. Each duty of the director and the treasurer of 317  
state and their officers and employees, and of each governmental 318  
agency and its officers, members, or employees, required or 319  
undertaken pursuant to this section or a guarantee made under 320  
authority of this section, is hereby established as a duty of the 321  
director and the treasurer of state, and of each such officer, 322  
member, or employee having authority to perform such duty, 323  
specifically enjoined by the law resulting from an office, trust, 324  
or station within the meaning of section 2731.01 of the Revised 325  
Code. The persons who are at the time the director and treasurer 326  
of state, or their officers or employees, are not liable in their 327  
personal capacities on any guarantees or contracts to make 328  
guarantees by the director. 329

(H) The determinations of the director under divisions (B) 330  
and (C) of this section shall be conclusive for purposes of the 331  
validity of a guarantee evidenced by a contract signed by the 332  
director, and such guarantee shall be incontestable as to moneys 333  
advanced under loans to which such guarantees are by their terms 334  
applicable. 335

**Sec. 166.07.** (A) The director of development, with the 336  
approval of the controlling board and subject to the other 337  
applicable provisions of this chapter, may lend moneys in the 338  
facilities establishment fund to persons for the purpose of paying 339  
allowable costs of an eligible project if the director determines 340  
that: 341

(1) The project is an eligible project and is economically 342  
sound; 343

(2) The borrower is unable to finance the necessary allowable 344  
costs through ordinary financial channels upon comparable terms; 345

(3) The amount to be lent from the facilities establishment 346  
fund will not exceed seventy-five per cent of the total allowable 347  
costs of the eligible project, except that if any part of the 348  
amount to be lent from the facilities establishment fund is 349  
derived from the issuance and sale of project financing 350  
obligations the amount to be lent will not exceed ninety per cent 351  
of the total allowable costs of the eligible project; 352

(4) The eligible project could not be achieved in the local 353  
area in which it is to be located if the portion of the project to 354  
be financed by the loan instead were to be financed by a loan 355  
guaranteed under section 166.06 of the Revised Code; 356

(5) The repayment of the loan from the facilities 357  
establishment fund will be adequately secured by ~~a mortgage, the~~ 358  
~~lien, imposed by section 9.661 of the Revised Code and may be~~ 359  
further secured by any assignment, or pledge, at such level of 360  
priority as the director may require; 361

(6) The borrower will hold at least a ten per cent equity 362  
interest in the eligible project at the time the loan is made. 363

(B) The determinations of the director under division (A) of 364  
this section shall be conclusive for purposes of the validity of a 365

loan commitment evidenced by a loan agreement signed by the 366  
director. 367

(C) Fees, charges, rates of interest, times of payment of 368  
interest and principal, and other terms, conditions, and 369  
provisions of and security for loans made from the facilities 370  
establishment fund pursuant to this section shall be such as the 371  
director determines to be appropriate and in furtherance of the 372  
purpose for which the loans are made. The moneys used in making 373  
such loans shall be disbursed from the facilities establishment 374  
fund upon order of the director. The director shall give special 375  
consideration in setting the required job creation ratios and 376  
interest rates for loans that are for voluntary actions. 377

(D) The director may take actions necessary or appropriate to 378  
collect or otherwise deal with any loan made under this section, 379  
and shall take any action required by section 9.661 of the Revised 380  
Code. 381

(E) The director may fix service charges for the making of a 382  
loan. Such charges shall be payable at such times and place and in 383  
such amounts and manner as may be prescribed by the director. 384

**Sec. 166.21.** (A) The director of development, with the 385  
approval of the controlling board and subject to other applicable 386  
provisions of this chapter, may lend moneys in the research and 387  
development loan fund to persons for the purpose of paying 388  
allowable costs of eligible research and development projects, if 389  
the director determines that all of the following conditions are 390  
met: 391

(1) The project is an eligible research and development 392  
project and is economically sound; 393

(2) The amount to be lent from the research and development 394  
loan fund will not exceed seventy-five per cent of the total costs 395

of the eligible research and development project;

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(3) The repayment of the loan from the research and  
development loan fund will be secured by ~~a mortgage, the lien~~  
imposed by section 9.661 of the Revised Code and may be further  
secured by any assignment, pledge, or other interest in property  
or other assets of the borrower at such level of priority and  
value as the director considers necessary, provided that, in  
making such a determination, the director shall take into account  
the value of any rights granted by the borrower to the director to  
control the use of any assets of the borrower under the  
circumstances described in the loan documents.

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(B) The determinations of the director under division (A) of  
this section shall be conclusive for purposes of the validity of a  
loan commitment evidenced by a loan agreement signed by the  
director.

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(C) Fees, charges, rates of interest, times of payment of  
interest and principal, and other terms and conditions of, and  
security for, loans made from the research and development loan  
fund shall be such as the director determines to be appropriate  
and in furtherance of the purpose for which the loans are made.  
The moneys used in making loans shall be disbursed from the fund  
upon order of the director. Unless otherwise specified in any  
indenture or other instrument securing obligations under division  
(D) of section 166.08 of the Revised Code, any payments of  
principal and interest from loans made from the fund shall be paid  
to the fund and used for the purpose of making loans under this  
section.

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(D)(1) As used in this division, "qualified research and  
development loan payments" means payments of principal and  
interest on a loan made from the research and development loan  
fund.

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(2) Each year, the director may, upon request, issue a 427  
certificate to a borrower of moneys from the research and 428  
development loan fund indicating the amount of the qualified 429  
research and development loan payments made by or on behalf of the 430  
borrower during the calendar year immediately preceding the tax 431  
year, as defined in section 5733.04 of the Revised Code, or 432  
taxable year, as defined in section 5747.01 of the Revised Code, 433  
for which the certificate is issued. In addition to indicating the 434  
amount of qualified research and development loan payments, the 435  
certificate shall include a determination of the director that as 436  
of the thirty-first day of December of the calendar year for which 437  
the certificate is issued, the borrower is not in default under 438  
the loan agreement, lease, or other instrument governing repayment 439  
of the loan, including compliance with the job creation and 440  
retention commitments that are part of the qualified research and 441  
development project. The director shall not issue a certificate in 442  
an amount that exceeds one hundred fifty thousand dollars. 443

(E) The director may take actions necessary or appropriate to 444  
collect or otherwise deal with any loan made under this section, 445  
and shall take any action required by section 9.661 of the Revised 446  
Code. 447

(F) The director may fix service charges for the making of a 448  
loan. The charges shall be payable at such times and place and in 449  
such amounts and manner as may be prescribed by the director. 450

(G)(1) There shall be credited to the research and 451  
development loan fund moneys received by this state from the 452  
repayment of loans, including interest thereon, made from the 453  
fund, and moneys received from the sale, lease, or other 454  
disposition of property acquired or constructed with moneys in the 455  
fund derived from the proceeds of the sale of obligations under 456  
section 166.08 of the Revised Code. Moneys in the fund shall be 457  
applied as provided in this chapter pursuant to appropriations 458

made by the general assembly. 459

(2) In addition to the requirements in division (G)(1) of 460  
this section, moneys referred to in that division may be deposited 461  
to the credit of separate accounts established by the director of 462  
development within the research and development loan fund or in 463  
the bond service fund and pledged to the security of obligations, 464  
applied to the payment of bond service charges without need for 465  
appropriation, released from any such pledge and transferred to 466  
the research and development loan fund, all as and to the extent 467  
provided in the bond proceedings pursuant to written directions of 468  
the director of development. Accounts may be established by the 469  
director in the research and development loan fund for particular 470  
projects or otherwise. The director may withdraw from the fund or, 471  
subject to provisions of the applicable bond proceedings, from any 472  
special funds established pursuant to the bond proceedings, or 473  
from any accounts in such funds, any amounts of investment income 474  
required to be rebated and paid to the federal government in order 475  
to maintain the exemption from federal income taxation of interest 476  
on obligations issued under this chapter, which withdrawal and 477  
payment may be made without the necessity for appropriation. 478

**Sec. 3735.68.** (A) The performance of any obligation of the 479  
owner of commercial or industrial property under an agreement 480  
entered into under section 3735.671 of the Revised Code is secured 481  
by a lien on the property so exempted. The lien is for the amount 482  
of taxes that would have been charged against the property if the 483  
property had not been so exempted, less any taxes paid on such 484  
property. The lien has the same priority as the lien for taxes on 485  
property. The county or municipal corporation that enters into the 486  
agreement shall enforce the lien in the same manner as mortgage 487  
liens are enforced. 488

(B) Any agreement entered into under section 3735.671 of the 489



Revised Code shall prohibit the owner of commercial or industrial 490  
property exempted under the agreement from selling or otherwise 491  
transferring the property to any person before the owner fulfills 492  
the owner's obligations under the agreement. 493

(C) The housing officer shall make annual inspections of the 494  
properties within the community reinvestment area upon which are 495  
located structures or remodeling for which an exemption has been 496  
granted under section 3735.67 of the Revised Code. If the housing 497  
officer finds that the property has not been properly maintained 498  
or repaired due to the neglect of the owner, the housing officer 499  
may revoke the exemption at any time after the first year of 500  
exemption. If the owner of commercial or industrial property 501  
exempted from taxation under section 3735.67 of the Revised Code 502  
has materially failed to fulfill its obligations under the written 503  
agreement entered into under section 3735.671 of the Revised Code, 504  
or if the owner is determined to have violated division (E) of 505  
that section, the legislative authority, subject to the terms of 506  
the agreement, may revoke the exemption at any time after the 507  
first year of exemption. The housing officer or legislative 508  
authority shall notify the county auditor and the owner of the 509  
property that the tax exemption no longer applies. If the housing 510  
officer or legislative authority revokes a tax exemption, the 511  
housing officer shall send a report of the revocation to the 512  
community reinvestment area housing council and to the tax 513  
incentive review council established pursuant to section 3735.69 514  
or 5709.85 of the Revised Code, containing a statement of the 515  
findings as to the maintenance and repair of the property, failure 516  
to fulfill obligations under the written agreement, or violation 517  
of division (E) of section 3735.671 of the Revised Code, and the 518  
reason for revoking the exemption. 519

(D) If the agreement entered into under section 3735.671 of 520  
the Revised Code so provides, the legislative authority of a 521

municipal corporation or county may require the owner of property 522  
whose exemption has been revoked to reimburse the taxing 523  
authorities within whose taxing jurisdiction the exempted property 524  
is located for the amount of real property taxes that would have 525  
been payable to those authorities had the property not been 526  
exempted from taxation. 527

Sec. 5709.634. (A) The performance of any obligation of an 528  
enterprise under an agreement entered into under section 5709.61, 529  
5709.62, or 5709.632 of the Revised Code is secured by a lien on 530  
the property exempted under the agreement. The lien is for the 531  
amount of taxes that would have been charged and payable against 532  
the property if the property had not been so exempted, less any 533  
taxes paid on such property. The lien has the same priority as the 534  
lien for taxes on property. The county, township, or municipal 535  
corporation that entered into the agreement shall enforce the lien 536  
on exempted real property in the same manner as mortgage liens are 537  
enforced and shall enforce the lien on tangible personal property 538  
in the manner provided by law for liens for taxes on tangible 539  
personal property. 540

(B) Any agreement entered into under section 5709.61, 541  
5709.62, or 5709.632 of the Revised Code shall prohibit the 542  
enterprise from selling or otherwise transferring property 543  
exempted under the agreement to any person before the enterprise 544  
fulfills the enterprise's obligations under the agreement. 545

Sec. 5709.831. (A) As used in this section: 546

(1) "Exempted property" means real property exempted from 547  
taxation under section 5709.40, 5709.41, 5709.73, or 5709.78 of 548  
the Revised Code. 549

(2) "Exemption agreement" means any agreement or set of 550  
agreements between an owner of exempted property and a political 551

subdivision under which the owner of exempted property is required  
to undertake an obligation, including remittance of payments in  
lieu of taxes, as a condition for the political subdivision to  
grant an exemption from taxation under section 5709.40, 5709.41,  
5709.73, or 5709.78 of the Revised Code.

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(3) "Political subdivision" means the county, township, or  
municipal corporation granting an exemption from taxation under  
section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code.

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(B) The performance of any obligation of the owner of  
exempted property under any exemption agreement is secured by a  
lien on the exempted property. The lien is for the amount of taxes  
that would be charged and payable against the exempted property if  
the property had not been so exempted, less any taxes paid on such  
property and any reimbursement paid under division (C) of this  
section. The lien has the same priority as the lien for taxes on  
real property. The political subdivision shall enforce the lien in  
the same manner as mortgage liens are enforced.

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(C) Any exemption agreement shall prohibit the owner of  
exempted property subject to the agreement from selling or  
otherwise transferring the property to any person before the owner  
fulfills the owner's obligations under the agreement.

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(D) The legislative authority of a ~~municipal corporation,~~  
~~township, or county~~ political subdivision that grants an exemption  
from taxation for an improvement under section 5709.40, 5709.41,  
5709.73, or 5709.78 of the Revised Code may require the owner of  
the improvement to reimburse the local taxing authorities within  
whose taxing jurisdiction the exempted improvement is located for  
the amount of real property taxes that would have been payable to  
the taxing authorities had the improvement not been exempted from  
taxation. If the legislative authority requires the owner of the  
exempted improvements to make payments in lieu of taxes, the

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legislative authority may require such reimbursement only to the 583  
extent that the owner failed to make those payments as required. 584

**Section 2.** That existing sections 165.02, 166.06, 166.07, 585  
166.21, 3735.68, and 5709.831 of the Revised Code are hereby 586  
repealed. 587