

As Introduced

**128th General Assembly
Regular Session
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H. B. No. 140

Representatives Goyal, Schneider

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A B I L L

To amend section 3345.12 and to enact section 3345.36 1
of the Revised Code to permit institutions of 2
higher education to facilitate and assist with 3
entrepreneurial projects for economic development 4
and to authorize the institutions to enter into 5
agreements to induce development of, acquire 6
ownership in, and make or guarantee loans and 7
incur debt to fund the entrepreneurial projects. 8

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

Section 1. That section 3345.12 be amended and section 9
3345.36 of the Revised Code be enacted to read as follows: 10

Sec. 3345.12. (A) As used in this section and sections 11
3345.07 and 3345.11 of the Revised Code, in other sections of the 12
Revised Code that make reference to this section unless the 13
context does not permit, and in related bond proceedings unless 14
otherwise expressly provided: 15

(1) "State university or college" means each of the state 16
universities identified in section 3345.011 of the Revised Code 17
and the northeastern Ohio universities college of medicine, and 18
includes its board of trustees. 19

(2) "Institution of higher education" or "institution" means 20

a state university or college, or a community college district, 21
technical college district, university branch district, or state 22
community college, and includes the applicable board of trustees 23
or, in the case of a university branch district, any other 24
managing authority. 25

(3) "Housing and dining facilities" means buildings, 26
structures, and other improvements, and equipment, real estate, 27
and interests in real estate therefor, to be used for or in 28
connection with dormitories or other living quarters and 29
accommodations, or related dining halls or other food service and 30
preparation facilities, for students, members of the faculty, 31
officers, or employees of the institution of higher education, and 32
their spouses and families. 33

(4) "Auxiliary facilities" means buildings, structures, and 34
other improvements, and equipment, real estate, and interests in 35
real estate therefor, to be used for or in connection with student 36
activity or student service facilities, housing and dining 37
facilities, dining halls, and other food service and preparation 38
facilities, vehicular parking facilities, bookstores, athletic and 39
recreational facilities, faculty centers, auditoriums, assembly 40
and exhibition halls, hospitals, infirmaries and other medical and 41
health facilities, research, and continuing education facilities. 42

(5) "Education facilities" means buildings, structures, and 43
other improvements, and equipment, real estate, and interests in 44
real estate therefor, to be used for or in connection with, 45
classrooms or other instructional facilities, libraries, 46
administrative and office facilities, and other facilities, other 47
than auxiliary facilities, to be used directly or indirectly for 48
or in connection with the conduct of the institution of higher 49
education. 50

(6) "Facilities" means housing and dining facilities, 51
auxiliary facilities, or education facilities, and includes any 52

one, part of, or any combination of such facilities, and further 53
includes site improvements, utilities, machinery, furnishings, and 54
any separate or connected buildings, structures, improvements, 55
sites, open space and green space areas, utilities or equipment to 56
be used in, or in connection with the operation or maintenance of, 57
or supplementing or otherwise related to the services or 58
facilities to be provided by, such facilities. 59

(7) "Obligations" means bonds or notes or other evidences of 60
obligation, including interest coupons pertaining thereto, 61
authorized to be issued under this section or section 3345.07, 62
3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised 63
Code. 64

(8) "Bond service charges" means principal, including any 65
mandatory sinking fund or redemption requirements for the 66
retirement of obligations or assurances, interest, or interest 67
equivalent and other accreted amounts, and any call premium 68
required to be paid on obligations or assurances. 69

(9) "Bond proceedings" means the resolutions, trust 70
agreement, indenture, and other agreements and credit enhancement 71
facilities, and amendments and supplements to the foregoing, or 72
any one or more or combination thereof, authorizing, awarding, or 73
providing for the terms and conditions applicable to, or providing 74
for the security or liquidity of, obligations or assurances, and 75
the provisions contained in those obligations or assurances. 76

(10) "Costs of facilities" means the costs of acquiring, 77
constructing, reconstructing, rehabilitating, remodeling, 78
renovating, enlarging, improving, equipping, or furnishing 79
facilities, and the financing thereof, including the cost of 80
clearance and preparation of the site and of any land to be used 81
in connection with facilities, the cost of any indemnity and 82
surety bonds and premiums on insurance, all related direct 83
administrative expenses and allocable portions of direct costs of 84

the institution of higher education or state agency, cost of 85
engineering, architectural services, design, plans, specifications 86
and surveys, estimates of cost, legal fees, fees and expenses of 87
trustees, depositories, bond registrars, and paying agents for the 88
obligations, cost of issuance of the obligations and financing 89
costs and fees and expenses of financial advisers and consultants 90
in connection therewith, interest on the obligations from the date 91
thereof to the time when interest is to be covered by available 92
receipts or other sources other than proceeds of the obligations, 93
amounts necessary to establish reserves as required by the bond 94
proceedings, costs of audits, the reimbursements of all moneys 95
advanced or applied by or borrowed from the institution or others, 96
from whatever source provided, including any temporary advances 97
from state appropriations, for the payment of any item or items of 98
cost of facilities, and all other expenses necessary or incident 99
to planning or determining feasibility or practicability with 100
respect to facilities, and such other expenses as may be necessary 101
or incident to the acquisition, construction, reconstruction, 102
rehabilitation, remodeling, renovation, enlargement, improvement, 103
equipment, and furnishing of facilities, the financing thereof and 104
the placing of them in use and operation, including any one, part 105
of, or combination of such classes of costs and expenses. 106

(11) "Available receipts" means all moneys received by the 107
institution of higher education, including income, revenues, and 108
receipts from the operation, ownership, or control of facilities 109
or entrepreneurial projects, grants, gifts, donations, and pledges 110
and receipts therefrom, receipts from fees and charges, and the 111
proceeds of the sale of obligations or assurances, including 112
proceeds of obligations or assurances issued to refund obligations 113
or assurances previously issued, but excluding any special fee, 114
and receipts therefrom, charged pursuant to division (D) of 115
section 154.21 of the Revised Code. 116

(12) "Credit enhancement facilities" has the meaning given in 117
division (H) of section 133.01 of the Revised Code. 118

(13) "Financing costs" has the meaning given in division (K) 119
of section 133.01 of the Revised Code. 120

(14) "Interest" or "interest equivalent" has the meaning 121
given in division (R) of section 133.01 of the Revised Code. 122

(15) "Assurances" means bonds, notes, or other evidence of 123
indebtedness, including interest coupons pertaining thereto, 124
authorized to be issued under section 3345.36 of the Revised Code. 125

(16) "Entrepreneurial project" has the same meaning as in 126
section 3345.36 of the Revised Code. 127

(17) "Costs of entrepreneurial projects" means any costs 128
related to the establishment or development of entrepreneurial 129
projects pursuant to a resolution adopted under section 3345.36 of 130
the Revised Code. 131

(B) Obligations issued under section 3345.07 or 3345.11 of 132
the Revised Code by a state university or college shall be 133
authorized by resolution of its board of trustees. Obligations 134
issued by any other institution of higher education shall be 135
authorized by resolution of its board of trustees, or managing 136
directors in the case of certain university branch districts, as 137
applicable. Sections 9.96 and 9.98 to 9.983 of the Revised Code 138
apply to obligations and assurances. Obligations and assurances 139
may be issued to pay costs of facilities or entrepreneurial 140
projects even if the institution anticipates the possibility of a 141
future state appropriation to pay all or a portion of such costs. 142

(C) Obligations and assurances shall be secured by a pledge 143
of and lien on all or such part of the available receipts of the 144
institution of higher education as it provides for in the bond 145
proceedings, excluding moneys raised by taxation and state 146
appropriations. Such pledge and lien may be made prior to all 147

other expenses, claims, or payments, excepting any pledge of such 148
available receipts previously made to the contrary and except as 149
provided by any existing restrictions on the use thereof, or such 150
pledge and lien may be made subordinate to such other expenses, 151
claims, or payments, as provided in the bond proceedings. 152
Obligations or assurances may be additionally secured by covenants 153
of the institution to make, fix, adjust, collect, and apply such 154
charges, rates, fees, rentals, and other items of available 155
receipts as will produce pledged available receipts sufficient to 156
meet bond service charges, reserve, and other requirements 157
provided for in the bond proceedings. Notwithstanding this and any 158
other sections of the Revised Code, the holders or owners of the 159
obligations or assurances shall not be given the right and shall 160
have no right to have excises or taxes levied by the general 161
assembly for the payment of bond service charges thereon, and each 162
such obligation or assurance shall bear on its face a statement to 163
that effect and to the effect that the right to such payment is 164
limited to the available receipts and special funds pledged to 165
such purpose under the bond proceedings. 166

All pledged available receipts and funds and the proceeds of 167
obligations or assurances are trust funds and, subject to the 168
provisions of this section and the applicable bond proceedings, 169
shall be held, deposited, invested, reinvested, disbursed, 170
applied, and used to such extent, in such manner, at such times, 171
and for such purposes, as are provided in the bond proceedings. 172

(D) The bond proceedings for obligations or assurances shall 173
provide for the purpose thereof and the principal amount or 174
maximum principal amount, and provide for or authorize the manner 175
of determining the principal maturity or maturities, the sale 176
price including any permitted discount, the interest rate or 177
rates, which may be a variable rate or rates, or the maximum 178
interest rate, the date of the obligations or assurances and the 179

date or dates of payment of interest thereon, their denominations, 180
the manner of sale thereof, and the establishment within or 181
without the state of a place or places of payment of bond service 182
charges. The bond proceedings also shall provide for a pledge of 183
and lien on available receipts of the institution of higher 184
education as provided in division (C) of this section, and a 185
pledge of and lien on such fund or funds provided in the bond 186
proceedings arising from available receipts, which pledges and 187
liens may provide for parity with obligations or assurances 188
theretofore or thereafter issued by the institution. The available 189
receipts so pledged and thereafter received by the institution and 190
the funds so pledged are immediately subject to the lien of such 191
pledge without any physical delivery thereof or further act, and 192
the lien of any such pledge is valid and binding against all 193
parties having claims of any kind against the institution, 194
irrespective of whether such parties have notice thereof, and 195
shall create a perfected security interest for all purposes of 196
Chapter 1309. of the Revised Code, without the necessity for 197
separation or delivery of funds or for the filing or recording of 198
the bond proceedings by which such pledge is created or any 199
certificate, statement, or other document with respect thereto; 200
and the pledge of such available receipts and funds shall be 201
effective and the money therefrom and thereof may be applied to 202
the purposes for which pledged without necessity for any act of 203
appropriation. 204

(E) The bond proceedings may contain additional provisions 205
customary or appropriate to the financing or to the obligations or 206
assurances or to particular obligations and assurances, including: 207

(1) The acquisition, construction, reconstruction, equipment, 209
furnishing, improvement, operation, alteration, enlargement, 210
maintenance, insurance, and repair of facilities or 211

entrepreneurial projects, and the duties of the institution of higher education with reference thereto;

(2) The terms of the obligations or assurances, including provisions for their redemption prior to maturity at the option of the institution of higher education at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(3) Limitations on the purposes to which the proceeds of the obligations or assurances may be applied;

(4) The rates or rentals or other charges for the use of or right to use the facilities or entrepreneurial projects financed by the obligations or assurances, or other properties the revenues or receipts from which are pledged to the obligations or assurances, and rules for assuring any applicable use and occupancy thereof, including limitations upon the right to modify such rates, rentals, other charges, or regulations;

(5) The use and expenditure of the pledged available receipts in such manner and to such extent as shall be determined, which may include provision for the payment of the expenses of operation, maintenance, and repair of facilities or entrepreneurial projects so that such expenses, or part thereof, shall be paid or provided as a charge prior or subsequent to the payment of bond service charges and any other payments required to be made by the bond proceedings;

(6) Limitations on the issuance of additional obligations or assurances;

(7) The terms of any trust agreement or indenture securing the obligations or assurances or under which the same may be issued;

(8) The deposit, investment, and application of funds, and the safeguarding of funds on hand or on deposit without regard to

Chapter 131. or 135. of the Revised Code, and any bank or trust 243
company or other financial institution that acts as depository of 244
any moneys under the bond proceedings shall furnish such 245
indemnifying bonds or pledge such securities as required by the 246
bond proceedings or otherwise by the institution of higher 247
education; 248

(9) The binding effect of any or every provision of the bond 249
proceedings upon such officer, board, commission, authority, 250
agency, department, or other person or body as may from time to 251
time have the authority under law to take such actions as may be 252
necessary to perform all or any part of the duty required by such 253
provision; 254

(10) Any provision that may be made in a trust agreement or 255
indenture; 256

(11) Any other or additional agreements with respect to the 257
facilities of the institution of higher education or its 258
entrepreneurial projects, their operation, the available receipts 259
and funds pledged, and insurance of facilities or entrepreneurial 260
projects and of the institution, its officers and employees. 261

(F) Such obligations or assurances may have the seal of the 262
institution of higher education or a facsimile thereof affixed 263
thereto or printed thereon and shall be executed by such officers 264
as are designated in the bond proceedings, which execution may be 265
by facsimile signatures. Any obligations or assurances may be 266
executed by an officer who, on the date of execution, is the 267
proper officer although on the date of such obligations or 268
assurances such person was not the proper officer. In case any 269
officer whose signature or a facsimile of whose signature appears 270
on any such obligation or assurance ceases to be such officer 271
before delivery thereof, such signature or facsimile is 272
nevertheless valid and sufficient for all purposes as if the 273
person had remained such officer until such delivery; and in case 274

the seal of the institution has been changed after a facsimile of 275
the seal has been imprinted on such obligations or assurances, 276
such facsimile seal continues to be sufficient as to such 277
obligations or assurances and obligations or assurances issued in 278
substitution or exchange therefor. 279

(G) All such obligations or assurances are negotiable 280
instruments and securities under Chapter 1308. of the Revised 281
Code, subject to the provisions of the bond proceedings as to 282
registration. The obligations or assurances may be issued in 283
coupon or in registered form, or both. Provision may be made for 284
the registration of any obligations or assurances with coupons 285
attached thereto as to principal alone or as to both principal and 286
interest, their exchange for obligations or assurances so 287
registered, and for the conversion or reconversion into 288
obligations or assurances with coupons attached thereto of any 289
obligations or assurances registered as to both principal and 290
interest, and for reasonable charges for such registration, 291
exchange, conversion, and reconversion. 292

(H) Pending preparation of definitive obligations or 293
assurances, the institution of higher education may issue interim 294
receipts or certificates which shall be exchanged for such 295
definitive obligations or assurances. 296

(I) Such obligations or assurances may be secured 297
additionally by a trust agreement or indenture between the 298
institution of higher education and a corporate trustee, which may 299
be any trust company or bank having the powers of a trust company 300
within or without this state but authorized to exercise trust 301
powers within this state. Any such agreement or indenture may 302
contain the resolution authorizing the issuance of the obligations 303
or assurances, any provisions that may be contained in the bond 304
proceedings as authorized by this section, and other provisions 305
which are customary or appropriate in an agreement or indenture of 306

such type, including: 307

(1) Maintenance of each pledge, trust agreement, and 308
indenture, or other instrument comprising part of the bond 309
proceedings until the institution of higher education has fully 310
paid the bond service charges on the obligations or assurances 311
secured thereby, or provision therefor has been made; 312

(2) In the event of default in any payments required to be 313
made by the bond proceedings, or any other agreement of the 314
institution of higher education made as a part of the contract 315
under which the obligations or assurances were issued, enforcement 316
of such payments or agreement by mandamus, the appointment of a 317
receiver, suit in equity, action at law, or any combination of the 318
foregoing; 319

(3) The rights and remedies of the holders of obligations or 320
assurances and of the trustee, and provisions for protecting and 321
enforcing them, including limitations on rights of individual 322
holders of obligations or assurances; 323

(4) The replacement of any obligations or assurances that 324
become mutilated or are destroyed, lost, or stolen; 325

(5) Such other provisions as the trustee and the institution 326
of higher education agree upon, including limitations, conditions, 327
or qualifications relating to any of the foregoing. 328

(J) Each duty of the institution of higher education and its 329
officers or employees, undertaken pursuant to the bond proceedings 330
or any related agreement or lease made under authority of law, is 331
hereby established as a duty of such institution, and of each such 332
officer or employee having authority to perform such duty, 333
specially enjoined by law resulting from an office, trust, or 334
station within the meaning of section 2731.01 of the Revised Code. 335
The persons who are at the time the members of the board of 336
trustees or the managing directors of the institution or its 337

officers or employees are not liable in their personal capacities 338
on such obligations or assurances, or lease, or other agreement of 339
the institution. 340

(K) The authority to issue obligations or assurances includes 341
authority to: 342

(1) Issue obligations or assurances in the form of bond 343
anticipation notes and to renew them from time to time by the 344
issuance of new notes. Such notes are payable solely from the 345
available receipts and funds that may be pledged to the payment of 346
such bonds, or from the proceeds of such bonds or renewal notes, 347
or both, as the institution of higher education provides in its 348
resolution authorizing such notes. Such notes may be additionally 349
secured by covenants of the institution to the effect that it will 350
do such or all things necessary for the issuance of such bonds or 351
renewal notes in appropriate amount, and either exchange such 352
bonds or renewal notes therefor or apply the proceeds thereof to 353
the extent necessary, to make full payment of the bond service 354
charges on such notes at the time or times contemplated, as 355
provided in such resolution. Subject to the provisions of this 356
division, all references to obligations or assurances in this 357
section apply to such anticipation notes. 358

(2) Issue obligations or assurances to refund, including 359
funding and retirement of, obligations or assurances previously 360
issued to pay costs of facilities or entrepreneurial projects. 361
Such obligations or assurances may be issued in amounts sufficient 362
for payment of the principal amount of the obligations or 363
assurances to be so refunded, any redemption premiums thereon, 364
principal maturities of any obligations or assurances maturing 365
prior to the redemption of any other obligations or assurances on 366
a parity therewith to be so refunded, interest accrued or to 367
accrue to the maturity date or dates of redemption of such 368
obligations or assurances, and any expenses incurred or to be 369

incurred in connection with such refunding or the issuance of the 370
obligations or assurances. 371

(L) Obligations and assurances are lawful investments for 372
banks, societies for savings, savings and loan associations, 373
deposit guarantee associations, trust companies, trustees, 374
fiduciaries, insurance companies, including domestic for life and 375
domestic not for life, trustees or other officers having charge of 376
sinking and bond retirement or other special funds of political 377
subdivisions and taxing districts of this state, the commissioners 378
of the sinking fund, the administrator of workers' compensation in 379
accordance with the investment policy approved by the bureau of 380
workers' compensation board of directors pursuant to section 381
4121.12 of the Revised Code, the state teachers retirement system, 382
the public employees retirement system, the school employees 383
retirement system, and the Ohio police and fire pension fund, 384
notwithstanding any other provisions of the Revised Code or rules 385
adopted pursuant thereto by any state agency with respect to 386
investments by them, and are also acceptable as security for the 387
deposit of public moneys. 388

(M) All facilities or entrepreneurial projects purchased, 389
acquired, constructed, or owned by an institution of higher 390
education, or financed in whole or in part by obligations or 391
assurances issued by an institution, and used for the purposes of 392
the institution or other publicly owned and controlled college or 393
university, is public property used exclusively for a public 394
purpose, and such property and the income therefrom is exempt from 395
all taxation and assessment within this state, including ad 396
valorem and excise taxes. The obligations or assurances, the 397
transfer thereof, and the income therefrom, including any profit 398
made on the sale thereof, are at all times free from taxation 399
within the state. The transfer of tangible personal property by 400
lease under authority of this section or section 3345.07, 3345.11, 401

3345.36, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code is not a sale as used in Chapter 5739. of the Revised Code.

(N) The authority granted by this section is cumulative with the authority granted to institutions of higher education under Chapter 154. of the Revised Code, and nothing in this section impairs or limits the authority granted by Chapter 154. of the Revised Code. In any lease, agreement, or commitment made by an institution of higher education under Chapter 154. of the Revised Code, it may agree to restrict or subordinate any pledge it may thereafter make under authority of this section.

(O) Title to lands acquired under this section and sections 3345.07 and 3345.11 of the Revised Code by a state university or college shall be taken in the name of the state.

(P) Except where costs of facilities or entrepreneurial projects are to be paid in whole or in part from funds appropriated by the general assembly, section 125.81 of the Revised Code and the requirement for certification with respect thereto under section 153.04 of the Revised Code do not apply to such facilities or entrepreneurial projects.

(Q) A state university or college may sell or lease lands or interests in land owned by it or by the state for its use, or facilities authorized to be acquired or constructed by it under section 3345.07 or 3345.11 of the Revised Code, to permit the purchasers or lessees thereof to acquire, construct, equip, furnish, reconstruct, alter, enlarge, remodel, renovate, rehabilitate, improve, maintain, repair, or maintain and operate thereon and to provide by lease or otherwise to such institution, facilities authorized in section 3345.07 or 3345.11 of the Revised Code or entrepreneurial projects authorized under section 3345.36 of the Revised Code. Such land or interests therein shall be sold for such appraised value, or leased, and on such terms as the board of trustees determines. All deeds or other instruments

relating to such sales or leases shall be executed by such officer 434
of the state university or college as the board of trustees 435
designates. The state university or college shall hold, invest, or 436
use the proceeds of such sales or leases for the same purposes for 437
which proceeds of borrowings may be used under sections 3345.07 438
and 3345.11 of the Revised Code or, if the proceeds relate to the 439
sale or lease of entrepreneurial projects, for purposes of section 440
3345.36 of the Revised Code. 441

(R) An institution of higher education may pledge available 442
receipts, to the extent permitted by division (C) of this section 443
with respect to obligations, to secure the payments to be made by 444
it under any lease, lease with option to purchase, or 445
lease-purchase agreement authorized under this section or section 446
3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, or 447
3358.10 of the Revised Code. 448

Sec. 3345.36. (A) For purposes of this section: 449

(1) "Entrepreneurial project" means an effort to develop or 450
commercialize technology through research or technology transfer 451
or investment of real or personal property, or both, including 452
undivided and other interests therein, acquired by gift or 453
purchase, constructed, reconstructed, enlarged, improved, 454
furnished, or equipped, or any combination thereof, by an 455
institution of higher education or by others. 456

(2) "Governmental agency" has the same meaning as in section 457
166.01 of the Revised Code. 458

(3) "Person" means individuals or entities engaged in 459
industry, commerce, distribution, or research. 460

(4) "Institution of higher education" has the same meaning as 461
in section 3345.12 of the Revised Code. 462

(5) "Stock or other ownership" means equity or other 463

ownership rights held or received in return for the grant of 464
rights to intellectual property developed by an institution of 465
higher education. "Stock or other ownership" excludes equity or 466
other ownership rights held or received in return for the 467
investment of money. 468

(B) To create or preserve jobs and employment opportunities 469
and to improve the economic welfare of the people of the state 470
pursuant to Section 13 of Article VIII, Ohio Constitution, it is 471
hereby declared to be the public policy of the state for 472
institutions of higher education to facilitate and assist with 473
establishing and developing entrepreneurial projects or to assist 474
and cooperate with any governmental agency in achieving such 475
purpose. An entrepreneurial project is hereby determined to 476
qualify as property, structures, equipment, and facilities 477
described in Section 13 of Article VIII, Ohio Constitution. 478

In furtherance of such public policy, and pursuant to Section 479
13 of Article VIII, Ohio Constitution, a board of trustees of an 480
institution of higher education may do any of the following by 481
resolution: 482

(1) Enter into an agreement with persons and with 483
governmental agencies to induce such persons to acquire, 484
construct, reconstruct, rehabilitate, renovate, enlarge, improve, 485
equip, furnish, or otherwise develop entrepreneurial projects; 486

(2) Acquire stock or other ownership in an entrepreneurial 487
project or a legal entity formed in connection with an 488
entrepreneurial project; 489

(3) Make or guarantee loans and borrow money and issue bonds, 490
notes, or other evidence of indebtedness to provide moneys for the 491
acquisition, construction, enlargement, improvement, equipment, 492
maintenance, repair, or operation of entrepreneurial projects, 493
provided that such bonds, notes, or other evidence of indebtedness 494

shall not constitute debt for which the full faith and credit of 495
the state or an instrumentality or political subdivision of the 496
state may be pledged and moneys raised by taxation shall not be 497
obligated or pledged for their repayment. 498

Section 2. That existing section 3345.12 of the Revised Code 499
is hereby repealed. 500