

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 403**

**Representative Dovilla**

**Cosponsors: Representatives Antonio, Arndt, Brown, Grossman, Hambley, Hill,  
Sheehy**

---

**A BILL**

To enact sections 9.58, 9.581, 9.582, 9.583, and 1  
9.584 of the Revised Code relative to the 2  
financing of capital improvement projects in 3  
this state by another state or a political 4  
subdivision of another state. 5

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

**Section 1.** That sections 9.58, 9.581, 9.582, 9.583, and 6  
9.584 of the Revised Code be enacted to read as follows: 7

**Sec. 9.58.** As used in sections 9.58 to 9.584 of the 8  
Revised Code: 9

(A) "Eligible project" means any capital improvement 10  
project located in this state that is designed to enhance, aid, 11  
provide, or promote transportation, economic development, 12  
housing, health care, recreation, education, government 13  
operations, culture, research, or purposes or activities 14  
authorized by Section 13 or 16 of Article VIII, Ohio 15  
Constitution. 16

(B) "Foreign entity" means a state of the United States 17

other than this state, or a political subdivision or 18  
governmental entity created by, or pursuant to the laws of, a 19  
state of the United States other than this state. The term does 20  
not include a foreign nation. 21

(C) "Governmental agency" means a department, division, or 22  
other unit of state government of this state or a municipal 23  
corporation, county, township, port authority, transportation 24  
improvement district, water or sewer district, solid waste 25  
management district, school district or other public school, 26  
health district, park district, soil and water conservation 27  
district, water conservancy district, regional transit 28  
authority, airport authority, or other political subdivision or 29  
public corporation, district, agency, authority, or commission 30  
created pursuant to the laws of this state or pursuant to an 31  
interstate compact or agreement authorized under the laws of 32  
this state. 33

**Sec. 9.581.** (A) A foreign entity shall not directly or 34  
indirectly provide financing for an eligible project, through 35  
bonded indebtedness or otherwise, unless the foreign entity does 36  
both of the following: 37

(1) Within two business days after the foreign entity 38  
initially contacts or is contacted by the person or governmental 39  
agency proposing the project, the foreign entity notifies either 40  
of the following, as applicable, of its interest in the project: 41

(a) If the project will be located within the territory of 42  
a port authority, the port authority; 43

(b) If the project will not be located within the 44  
territory of a port authority, the county within which the 45  
project will be located. 46

(2) Upon entering into a financing agreement, the foreign entity provides written confirmation to the port authority or county, as applicable, that an agreement has been reached and that all of the following conditions are met: 47  
48  
49  
50

(a) The interest or interest equivalent payable on the financing is intended to be excluded from gross income for federal income tax purposes. 51  
52  
53

(b) The financing for the project does not require public approval under section 147(f) of Title 26 of the United States Code and is not a current refunding of a project that required such public approval. 54  
55  
56  
57

(c) The laws of the foreign entity do not prohibit this state or a political subdivision or governmental entity created by, or pursuant to the laws of, this state from providing similar financing for a capital improvement project located in that foreign entity or place more onerous conditions or restrictions on providing that financing than those set forth in division (A) of this section. 58  
59  
60  
61  
62  
63  
64

(B) Division (A) of this section does not apply if, in addition to financing the project in this state, the foreign entity is currently financing a similar project for the same person in another state. 65  
66  
67  
68

Sec. 9.582. A governmental agency shall not directly or indirectly utilize a foreign entity to provide financing for an eligible project, through the issuance of bonded indebtedness or otherwise, unless the foreign entity complies with section 9.581 of the Revised Code. 69  
70  
71  
72  
73

Sec. 9.583. If a foreign entity provides financing for an eligible project without complying with section 9.581 of the 74  
75

Revised Code, the foreign entity shall pay to the appropriate 76  
port authority or county an amount equal to seventy-five per 77  
cent of all fees charged by the foreign entity to provide the 78  
financing, as and when those fees accrue, or, if greater in the 79  
aggregate, an amount equal to all fees the port authority or 80  
county would have charged to provide the financing based on a 81  
predetermined fee schedule, as and when those fees would become 82  
due under that schedule. 83

**Sec. 9.584.** If a foreign entity provides financing for an 84  
eligible project without complying with section 9.581 of the 85  
Revised Code, the director of development services or the 86  
appropriate port authority or county may bring an action for 87  
injunctive relief pursuant to Chapter 2727. of the Revised Code 88  
against the foreign entity. Upon proof by clear and convincing 89  
evidence of a failure to comply with section 9.581 of the 90  
Revised Code, the director, port authority, or county shall be 91  
entitled to such injunctive relief. Any injunction granted 92  
pursuant to this section shall have statewide effect. 93