

Through recent Bulletin 2024-002, dated January 31, 2024, the Ohio Auditor of State (AOS) clarifies when governmental entities are permitted to assume debt through the form of “standard installment loans from private financial institutions,” noting that the AOS has noticed increased numbers of audit clients entering such loans without proper statutory authority.

The bulletin underscores the principle that the authority of a governmental entity to spend money and incur debt is strictly construed under Ohio law. Thus, a governmental entity is prohibited from obtaining a standard installment loan from a private financial institution, unless the entity is clearly authorized under legal authority to borrow money from private lenders for its intended purposes and to issue evidence of the debt. Although Ohio Revised Code (O.R.C.) Chapter 133, the “Uniform Public Securities Law,” provides statutory authority in some instances, the AOS cautions, “Nearly all the security issuances authorized by and subject to O.R.C. Chapter 133 are detailed/complex and any governmental entity seeking to borrow money from a private financial institution utilizing any provision of O.R.C Chapter 133 as a statutory authority should consult its legal counsel before taking action.”

In the bulletin, the AOS also provides guidance on accounting for proceeds/revenues of installment loans on the entity’s books and records, as well as noting noncompliance in the entity’s year-end financial statements.

Please contact one of our lawyers for more guidance and information.

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