

February 13, 2025

The Honorable Brigham M. Anderson
Lawrence County Prosecuting Attorney
111 South 4th Street
Ironton, Ohio 45638

SYLLABUS:

2025-001

A county land reutilization corporation is not a financial institution within the meaning of R.C. 505.86(F). A township, therefore, does not have the authority to borrow money from a county land reutilization corporation.



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OPINION NO. 2025-001

The Honorable Brigham M. Anderson
Lawrence County Prosecuting Attorney
111 South 4th Street
Ironton, Ohio 45638

Dear Prosecutor Anderson:

You have requested an opinion regarding the Lawrence County Land Reutilization Corporation. I have framed your question as follows:

Whether the Lawrence County Land Reutilization Corporation would be considered a financial institution from which the township may borrow money for township purposes pursuant to R.C. 505.86(F).

For the reasons that follow, I find that the Lawrence County Land Reutilization Corporation is not a financial institution from which the township may borrow money for township purposes pursuant to R.C. 505.86(F).

I

R.C. 505.86 authorizes a board of township trustees to remove, repair, or secure certain buildings or structures, and recover its costs for doing so. The statutory authority for these actions is R.C. 505.86(B), which provides:

A board of township trustees, by resolution, may provide for the removal, repair, or securance of buildings or other structures in the township that have been declared insecure, unsafe, or structurally defective by any fire department under contract with the township or by the county building department or other authority responsible under Chapter 3781. of the Revised Code for the enforcement of building regulations or the performance of building inspections in the township, or buildings or other structures that have been declared to be in a condition dangerous to life or health, or unfit for human habitation by the board of health of the general health district of which the township is a part.

The authority of the township to pay for the costs to remedy unsafe and unfit structures, including the

authority to borrow for that purpose, is provided by R.C. 505.86(F):

The total cost of removing, repairing, or securing buildings or other structures that have been declared insecure, unsafe, structurally defective, or unfit for human habitation, or of making emergency corrections of hazardous conditions, when approved by the board, shall be paid out of the township general fund from moneys not otherwise appropriated, *except that, if the costs incurred exceed five hundred dollars, the board may borrow moneys from a financial institution to pay for the costs in whole or in part.*

(Emphasis added.)

At issue is the meaning of the term financial institution as employed in R.C. 505.86(F). Financial institution is not defined in Chapter 505 of the Ohio Revised Code, pertaining to townships, nor is it defined in any of the Ohio statutes that pertain to the authority of government entities to borrow money. Although Title 11 of the Ohio Revised Code contains statutes pertaining to financial institutions, it does not define the term. Among the institutions governed by R.C. Title 11 are banks, trust companies, family trust companies,

mutual state banks, mutual holding companies, foreign banks, societies for savings, savings and loan associations, and savings banks. A county land reutilization corporation is not among the entities enumerated. The General Assembly has defined financial institution in other sections of the Revised Code. For example, financial institution is defined in R.C. 1315.21 for use in sections 1315.21 to 1315.30, relating to check-cashing businesses, as “any bank, trust company, savings bank, savings and loan association, or credit union, that is incorporated or organized under the laws of the United States or of any state thereof, or of Canada or any province thereof, and subject to regulation or supervision by such country, state, or province.”

In setting out definitions for the Revised Code chapter on development corporations, R.C. 1726.01 defines financial institutions as “any banking corporation, trust company, building and loan association, savings and loan association, or corporation, partnership, foundation, or other institution engaged in lending or investing funds for industrial or business purposes.”

The most detailed definition of a financial institution is in R.C. 5725.01, pertaining to taxation of financial institutions, which reads:

As used in sections 5725.01 to 5725.26
of the Revised Code:

(A) “Financial institution” means:

- (1) A national bank organized and existing as a national bank association pursuant to the “National Bank Act,” 12 U.S.C. 21;
- (2) A federal savings association or federal savings bank that is chartered under 12 U.S.C. 1464;
- (3) A bank, banking association, trust company, savings and loan association, savings bank, or other banking institution that is incorporated or organized under the laws of any state;
- (4) Any corporation organized under 12 U.S.C. 611 to 631;
- (5) Any agency or branch of a foreign depository as defined in 12 U.S.C. 3101;
- (6) A company licensed as a small business investment company under the “Small Business Investment Act of 1958,” 72 Stat. 689, 15 U.S.C. 661, as amended; or

- (7) A company chartered under the “Farm Credit Act of 1933,” 48 Stat. 257, 12 U.S.C. 1131(d), as amended.

Certain entities are expressly excluded from the R.C. 5725.01 definition: “Corporations or institutions organized under the ‘Federal Farm Loan Act’ and amendments thereto, insurance companies, and credit unions shall not be considered financial institutions or dealers in intangibles within the meaning of such sections.”

For purposes of the state’s probate and juvenile courts, R.C. 2113.031 cross references the definition of financial institution found in R.C. 5725.01 and adds, “‘Financial institution’ also includes a credit union and a fiduciary that is not a trust company but that does trust business.”

With that background on the meaning of “financial institution,” I turn next to the crux of the question here: is a county land reutilization corporation a financial institution?

A county land reutilization corporation is defined in R.C. 1724.01 as a specific kind of community improvement corporation. As authorized by R.C. 1724.04, each has a board of directors as specified in R.C. 1724.03, is granted the powers set out in R.C. 1724.02, and is

utilized for these purposes described in R.C. 1724.01(B)(2):

(a) Facilitating the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property within the county for whose benefit the corporation is being organized, but not limited to the purposes described in division (B)(2) of this section;

(b) Efficiently holding and managing vacant, abandoned, or tax-foreclosed real property pending its reclamation, rehabilitation, and reutilization;

(c) Assisting governmental entities and other nonprofit or for-profit persons to assemble, clear, and clear the title of property described in this division in a coordinated manner; or

(d) Promoting economic and housing development in the county or region.

The powers granted to a county land reutilization corporation include, in relevant part, the authority:

To make loans to any person, firm, partnership, corporation, joint stock company, association, or trust, and to establish and regulate the terms and conditions with respect to any such loans; provided that an economic development corporation shall not approve any application for a loan unless and until the person applying for said loan shows that the person has applied for the loan through ordinary banking or commercial channels and that the loan has been refused by at least one bank or other financial institution. Nothing in this division shall preclude a county land reutilization corporation from making revolving loans to community development corporations, private entities, or any person for the purposes contained in the corporation's plan under section 1724.10 of the Revised Code.

R.C. 1724.02(A)(2).

II

The general rule is that “[s]tatutes relating to the same matter or subject, although passed at different times and making no reference to each other, are *in pari materia* and should be read together to ascertain and effectuate if possible the legislative intent.” *State ex rel. Pratt v. Weygandt*, 164 Ohio St. 463, 466 (1956). 2024 Ohio Atty.Gen.Ops. No. 2024-001, Slip Op. at 11; 2-6. The rule is premised on the assumption that the General Assembly is aware of the meaning previously ascribed to words when enacting new legislation. *Brenneman v. R.M.I. Co.*, 70 Ohio St.3d 460, 464 (1994) (citations omitted), *clarified*, 71 Ohio St. 3d 1211 (1994). *Accord Carter v. Div. of Water, City of Youngstown*, 146 Ohio St. 203, 209 (1946).

The General Assembly initially adopted the definition of financial institution relating to check cashing businesses in 1991 by amending R.C. 1310.21 (currently R.C. 1315.21(C)). Sub.H.B. No. 332, 144 Ohio Laws, Part III, 4820, 4831 (effective Oct. 6, 1992). The definition of financial institutions for tax purposes, R.C. 5725.01, was enacted in 1997. Am.Sub.H.B. No. 215, 147 Ohio Laws, Part I, 877, 1693-1694 (effective June 30, 1997). The term is similarly defined in R.C. 122.39 which was last revised in 2012. The term financial institution first appears in R.C. 505.86, relating to managing vacant, abandoned, or tax-foreclosed real property with the enactment of 2015 Am.Sub.H.B. No. 64,

effective Sept. 29, 2015, but, as noted above, the term is without a definition. All of the above referenced statutes pertain to financial institutions and include similar entities within their definitions. This provides a generally shared characterization by the General Assembly of what entities are within the meaning of financial institution as it is used in the Revised Code.

In addition, R.C. 1.42 prescribes that “[w]ords and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.” It is reasonable and appropriate to conclude that the term financial institutions, as used in R.C. 505.86, does not include more entities or types of entities than the term includes in R.C. 1315.21 and 5725.01. Because a county land reutilization corporation is not included in any of the statutory definitions of financial institution, and is not itself defined as such, the negative-implication canon of statutory interpretation, *expressio unius est exclusio alterius* (“the expression of one thing implies the exclusion of another”), applies here to exclude a county land reutilization corporation as a financial institution from which a township may borrow money.

In analyzing a township’s authority to borrow money from a county land reutilization corporation, one is guided by the principle that a board of township trustees is a creation of statute and “has only those powers that are necessarily implied thereby.” *See In re Petition*

for Incorporation of the Village of Holiday City, 70 Ohio St.3d 365, 369 (1994) (it is a “well-settled principle that township trustees can exercise only those powers granted by the General Assembly”); 2024 Ohio Atty.Gen.Ops. No. 2024-002, Slip Op. at 3-4; 2-9; Ohio Atty.Gen.Ops. No. 2008-018, at 2-199. In financial transactions, township trustees are afforded only limited powers and when acting on behalf of their respective political subdivisions “can only engage in transactions that are authorized by statute.” *City of Shaker Heights ex rel. Cannon v. DeFranco*, 2012-Ohio-3965, ¶14; *See also Southeast Baseball & Softball Assn. v. Deerfield Twp.*, 2021-Ohio-2887, ¶80; *State ex rel. Locher v. Menning*, 95 Ohio St. 97, 99 (1916); *State ex rel. Clarke v. Cook*, 103 Ohio St. 465, 467 (1921). “[T]he authority to act in financial transactions must be clear and distinctly granted, and, if such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed.” *Shaker* at ¶14, citing *Locher*, 95 Ohio St. 97, 99. Public money, in other words, may be disbursed “only by clear authority of law.” *State ex rel. Smith v. Maharry*, 97 Ohio St. 272, (1918), paragraph one of the syllabus; *see also* 2014 Ohio Atty.Gen.Ops. No. 2014-003, Slip Op. at 1; 2-16; 2006 Ohio Atty.Gen.Ops. No. 2006-001, at 2-4.

It does not appear that a county land reutilization corporation in general, or the Lawrence County Reutilization Corporation in particular, is clearly and distinctly

a financial institution as that term is commonly defined by either the General Assembly or by the common, ordinary meaning of the term.

Of the seven categories of enumerated entities referenced in R.C. 5725.01 as financial institutions, none encompass a county land reutilization corporation. Six of the categories define institutions organized under the United States Code: 12 U.S.C. 21 (a national bank), 12 U.S.C. 611 to 631 (corporations to do foreign banking), 12 U.S.C. 3101 (foreign depository agency or branch), 12 U.S.C. 1131(d) (company chartered under Farm Credit Act of 1933) (repealed), 12 U.S.C. 1464 (federal savings association or saving bank), and 15 U.S.C. 661 (licensed small business investment company). The seventh set of entities listed in R.C. 5725.01(A)(3) are entities “incorporated or organized under the laws of any state” and are limited to a “bank, banking association, trust company, savings and loan association, savings bank, or other banking institution.”

Although a county land reutilization corporation has a general mandate to assist government entities and other nonprofit or for-profit persons to assemble, clear, and clear the title of property described in sections 5722.02 to 5722.15 of the Revised Code in a coordinated manner, and it has the authority to make specified loans to certain entities, no provision of statute expressly defines or designates it as a bank, trust

company, savings and loan association, or similar institution.

A land reutilization corporation also lacks any of the safeguards and attributes enumerated in the statutes that define and govern financial institutions. For example, R.C. Title 11 creates the Division of Financial Institutions with rule making and administrative power to provide protection for the interests of depositors, creditors, shareholders, members and the general public. Another example is R.C. Ch. 1127, which contains an exhaustive list of crimes and prohibited activities relating to the regulated persons and entities, including falsification, forgery and counterfeiting. Where, as here, a township seeks to incur a financial obligation, any doubt must be resolved against finding that the township has authority to borrow money from an entity that is not clearly defined as a financial institution.

Conclusion

Accordingly, it is my opinion, and you are hereby advised that:

A county land reutilization corporation is not a financial institution within the meaning of R.C. 505.86(F). A township, therefore, does not have the authority

to borrow money from a county land re-
utilization corporation.

Respectfully,

A handwritten signature in blue ink that reads "Dave Yost". The signature is written in a cursive style with a large, looping initial "D" and a long, sweeping tail on the "y".

DAVE YOST
Ohio Attorney General