

Austine School Provisions Governing Obligation to Repay State Capital Appropriations

Statute/Session Law	1910 Acts and Resolves No. 74, Sec. 5	1994 Acts and Resolves No. 233, Sec. 50 (adding 16 V.S.A. § 3823)	16 V.S.A. § 3823(b) and (c) (as amended by 2003 Acts and Resolves No. 63, Sec. 42)
Relevant Language	<p><i>“The appropriation provided for in section one is made upon condition that the amount thereof shall be used exclusively for the purposes stated in this act, and if said institution shall cease to exist, the real and personal estate of said corporation shall be held as security to the state for the amount so appropriated and may be sold under the direction of the legislature for the purpose of reimbursing the state for the amount herein appropriated...”</i></p>	<p><i>“The Austine School of Brattleboro, a nonprofit school for the deaf, may from time to time receive state capital appropriations for improvements to the school, subject to the requirements established by Act No. 74 of the Acts of 1910 that the school property shall not be sold without the approval of the general assembly, and that if the school property is sold all state capital funds appropriated for use by the school shall be repaid to the state, without interest, from proceeds of the sale.”</i></p>	<p><i>(b) All state capital appropriations made to or for the benefit of the Austine School for the Deaf prior to or subsequent to the effective date of this section shall create a first priority lien in favor of the state unless expressly waived by the general assembly; provided that this first priority lien shall be subordinate, in an amount not to exceed \$3,000,000.00, to the interest of any lender to whom the Vermont Center for the Deaf and Hard of Hearing has pledged its real property as collateral pursuant to subsection (a) of this section.</i></p> <p><i>(c) If the Vermont Center for the Deaf and Hard of Hearing sells any or all of its real property, then, subject to the subordination provisions of subsection (b) of this section, all state capital appropriations made to or for the benefit of the Austine School shall be repaid to the state, without interest, from any remaining proceeds of the sale.</i></p>

Rebecca Wasserman
Office of Legislative Council
March 12, 2014

Austine School History of State Capital Appropriations

Act Number	Amount	Law governing repayment obligation
1910 Acts and Resolves No. 74	\$50,000	1910 Acts and Resolves No. 74, Sec. 5
1963 Acts and Resolves No. 184	\$235,000	1910 Acts and Resolves No. 74, Sec. 5
1967 Acts and Resolves No. 239	\$1,100,000	1910 Acts and Resolves No. 74, Sec. 5
1993 Acts and Resolves No. 59	\$600,000	1910 Acts and Resolves No. 74, Sec. 5
1994 Acts and Resolves No. 233	\$300,000	1994 Acts and Resolves No. 233, Sec. 50
1995 Acts and Resolves No. 62	\$200,000	1994 Acts and Resolves No. 233, Sec. 50
1996 Acts and Resolves No. 185	\$25,000	1994 Acts and Resolves No. 233, Sec. 50
1997 Acts and Resolves No. 62	\$40,000	1994 Acts and Resolves No. 233, Sec. 50
1999 Acts and Resolves No. 29	\$75,000	1994 Acts and Resolves No. 233, Sec. 50
2000 Acts and Resolves No. 148	\$75,000	1994 Acts and Resolves No. 233, Sec. 50
2001 Acts and Resolves No. 61	\$650,000	1994 Acts and Resolves No. 233, Sec. 50
2002 Acts and Resolves No. 149	\$575,000	1994 Acts and Resolves No. 233, Sec. 50
2004 Acts and Resolves No. 121	\$375,000	16 V.S.A. § 3823(b) and (c)
2007 Acts and Resolves No. 52	\$50,000	16 V.S.A. § 3823(b) and (c)
2008 Acts and Resolves No. 200	\$50,000	16 V.S.A. § 3823(b) and (c)
2009 Acts and Resolves No. 43	\$227,937	16 V.S.A. § 3823(b) and (c)
2010 Acts and Resolves No. 161	\$540,104	16 V.S.A. § 3823(b) and (c)
2011 Acts and Resolves No. 40	\$500,000	16 V.S.A. § 3823(b) and (c)

Total: \$5,668,041

Austine School
Potential Issues Surrounding Repayment Obligation

1. Does the School's repayment obligation apply to appropriations made prior to language change in 1994 Acts and Resolves No. 233?
 - a. Condition to repay in 1910 Acts and Resolves No. 74 only applied if the institution ceased to exist.
 - b. Unclear whether 16 V.S.A. § 3823(c) applies to all State capital appropriations made prior to 2003.
2. Is first priority lien created in 16 V.S.A. § 3823(b) enforceable?
3. Has the State perfected any liens on the property?
4. Are there any other liens on the property?
 - a. If yes, would the other lien holders have proper notice of the State's first priority lien?