

Ohio & the Art Modell Law: Save the Columbus Crew!

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The Tax Cuts and Jobs Act, as introduced in the House of Representatives on November 2, 2017, would have [prohibited the issuance after that date of tax-exempt bonds to finance a professional sports stadium](#). The Tax Cuts and Jobs Act, as enacted, did not contain this prohibition.

Even if it had, it would likely not have ended the financial assistance that state and local governments lavish upon top-level professional sports franchises to keep those franchises in their current cities or to induce them to relocate. Major League Baseball, Major League Soccer, the National Basketball Association, the National Football League, and the National Hockey League each hold a monopoly in the United States on the allocation of top-level professional franchises in their respective sports. As long as these monopolies exist, state and local governments will afford the leagues financial assistance to claim one of the artificially limited number of franchises, regardless of whether tax-exempt bonds can be used to finance the stadiums in which the franchises play.

Is there anything state and local governments can do to ensure that one of these franchises, after having received public benefits and financial assistance, will not relocate? Read on.



Ohio enacted the "[Art Modell Law](#)" after Mr. Modell moved the Cleveland Browns to Baltimore in 1996.^[1] Under this law, a professional sports team that plays most of its home games in a tax-supported stadium and that receives financial assistance from Ohio or a political subdivision of Ohio cannot move to a new location without either: (1) entering into an agreement with the political subdivision in which the tax-supported stadium is located that permits the

franchise to move to a new location; or (2) giving the political subdivision in which the tax-supported stadium is located not less the six months' advance notice of the intention to vacate the stadium and, during the six months after this notice, granting the political subdivision or individuals who reside in the area the opportunity to purchase the team.

The Art Modell Law is now being challenged by the owner of the Columbus Crew, a Major League Soccer franchise, who wants to move the team to Austin, Texas. On March 5, 2018, Mike DeWine, the current Ohio Attorney General and Republican nominee for Ohio Governor, [filed a suit in the Franklin County Court of Common Pleas](#) asserting that the Art Modell Law precludes the relocation of the Crew from Columbus to Austin. On May 8, [the Court imposed a 90-day stay of this suit](#), during which time the Court will oversee bona fide offers to purchase the Crew and keep the team in Columbus. The owner of the Crew appealed the Court's order on May 16.

This case is obviously far from its conclusion, but if the Art Modell Law is ultimately sustained, other states might enact what is presently a unique law in order to blunt the monopoly power that professional sports leagues wield.

[1] Technically, the NFL granted Mr. Modell a new franchise, the Baltimore Ravens, and the Cleveland Browns franchise suspended operations for three seasons. As we all know, the Browns have performed triumphantly ever since resuming operations in 1999.

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National Law Review, Volume VIII, Number 140

Source URL: <https://natlawreview.com/article/ohio-art-modell-law-save-columbus-crew>