

AN ACT

To amend sections 135.18, 135.181, and 135.353 and to enact section 135.144 of the Revised Code to reduce pledging requirements by public depositories securing repayment of public moneys; to specify debt and other obligations of certain out-of-state subdivisions as eligible to secure repayment of state or political subdivision public moneys; and to authorize investment of certain political subdivision and county public moneys in certificates of deposit issued by federally insured banks and savings and loan associations, wherever located, provided certain conditions apply.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 135.18, 135.181, and 135.353 be amended and section 135.144 of the Revised Code be enacted to read as follows:

Sec. 135.144. (A) In addition to the authority provided in section 135.14 of the Revised Code, the treasurer or governing board of a political subdivision may invest interim moneys in certificates of deposit in accordance with all of the following:

(1) The interim moneys initially are deposited with an eligible public depository described in section 135.03 of the Revised Code and selected, pursuant to section 135.12 of the Revised Code, by the governing board of a political subdivision, for interim moneys of the political subdivision.

(2) For the treasurer or governing board of the political subdivision depositing the interim moneys pursuant to division (A)(1) of this section, the eligible public depository selected pursuant to that division invests the interim moneys in certificates of deposit of one or more federally insured banks or savings and loan associations, wherever located. The full amount of principal and any accrued interest of each certificate of deposit invested in pursuant to division (A)(2) of this section shall be insured by federal deposit insurance.

(3) For the treasurer or governing board of the political subdivision depositing the interim moneys pursuant to division (A)(1) of this section, the eligible public depository selected pursuant to that division acts as custodian of the certificates of deposit described in division (A)(2) of this section.

(4) At the same time that the eligible public depository selected in accordance with division (A)(1) of this section invests the deposit received pursuant to that division in the certificates of deposit described in division (A)(2) of this section, and the certificates of deposit are issued by the bank or savings and loan association, the eligible public depository receives an amount of deposits from customers of other federally insured financial institutions, wherever located, that are equal to or greater than the amount of the interim money initially deposited pursuant to division (A)(1) of this section by the treasurer or governing board of a political subdivision.

(B) Interim moneys deposited or invested in accordance with division (A) of this section are not subject to any pledging requirements described in section 135.18 or 135.181 of the Revised Code.

Sec. 135.18. (A) The treasurer, before making the initial deposit in a public depository pursuant to an award made under sections 135.01 to 135.21 of the Revised Code, except as provided in section 135.144 of the Revised Code, shall require the institution designated as a public depository to pledge to and deposit with the treasurer, as security for the repayment of all public moneys to be deposited in the public depository during the period of designation pursuant to the award, eligible securities of aggregate market value equal to the excess of the amount of public moneys to be at the time so deposited, over and above ~~such~~ the portion or amount of such moneys as is at ~~such~~ that time insured by the federal deposit insurance corporation or by any other agency or instrumentality of the federal government. In the case of any deposit other than the initial deposit made during the period of designation, the amount of the aggregate market value of securities required to be pledged and deposited shall be equal to the difference between the amount of public moneys on deposit in such public depository plus the amount to be so deposited, minus the portion or amount of the aggregate as is at the time insured as provided in this section. The treasurer may require additional eligible securities to be deposited to provide for any depreciation which may occur in the market value of any of the securities so deposited.

(B) The following securities shall be eligible for the purposes of this section:

(1) Bonds, notes, or other obligations of the United States; or bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the faith of the United States is pledged for

the payment of principal and interest thereon, by language appearing in the instrument specifically providing such guarantee or pledge and not merely by interpretation or otherwise;

(2) Bonds, notes, debentures, letters of credit, or other obligations or securities issued by any federal government agency or instrumentality, or the export-import bank of Washington; bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the faith of the United States is pledged for the payment of principal and interest thereon, by interpretation or otherwise and not by language appearing in the instrument specifically providing such guarantee or pledge;

(3) Obligations of or fully insured or fully guaranteed by the United States or any federal government agency or instrumentality;

(4) Obligations partially insured or partially guaranteed by any federal agency or instrumentality;

(5) Obligations of or fully guaranteed by the federal national mortgage association, federal home loan mortgage corporation, federal farm credit bank, or student loan marketing association;

(6) Bonds and other obligations of this state;

(7) Bonds and other obligations of any county, township, school district, municipal corporation, or other legally constituted taxing subdivision of this state, which is not at the time of such deposit, in default in the payment of principal or interest on any of its bonds or other obligations, for which the full faith and credit of the issuing subdivision is pledged;

(8) Bonds of other states of the United States which have not during the ten years immediately preceding the time of such deposit defaulted in payments of either interest or principal on any of their bonds;

(9) Shares of no-load money market mutual funds consisting exclusively of obligations described in division (B)(1) or (2) of this section and repurchase agreements secured by such obligations;

(10) A surety bond issued by a corporate surety licensed by the state and authorized to issue surety bonds in this state pursuant to Chapter 3929. of the Revised Code, and qualified to provide surety bonds to the federal government pursuant to 96 Stat. 1047 (1982), 31 U.S.C.A. 9304;

(11) Bonds or other obligations of any county, municipal corporation, or other legally constituted taxing subdivision of another state of the United States, or of any instrumentality of such county, municipal corporation, or other taxing subdivision, for which the full faith and credit of the issuer is pledged and, at the time of purchase of the bonds or other obligations, rated in one of the two highest categories by at least one nationally recognized standard rating service.

(C) If the public depository fails to pay over any part of the public deposit made therein as provided by law, the treasurer shall sell at public sale any of the bonds or other securities deposited with the treasurer pursuant to this section or section 131.09 of the Revised Code, or shall draw on any letter of credit to the extent of ~~such~~ the failure to pay. Thirty days' notice of ~~such~~ the sale shall be given in a newspaper of general circulation at Columbus, in the case of the treasurer of state, and at the county seat of the county in which the office of the treasurer is located, in the case of any other treasurer. When a sale of bonds or other securities has been so made and upon payment to the treasurer of the purchase money, the treasurer shall transfer such bonds or securities whereupon the absolute ownership of such bonds or securities shall pass to the purchasers. Any surplus remaining after deducting the amount due the state or subdivision and expenses of sale shall be paid to the public depository.

(D) An institution designated as a public depository may, by written notice to the treasurer, designate a qualified trustee and deposit the eligible securities required by this section with the trustee for safekeeping for the account of the treasurer and the institution as a public depository, as their respective rights to and interests in such securities under this section may appear and be asserted by written notice to or demand upon the trustee. In ~~such~~ which case, the treasurer shall accept the written receipt of the trustee describing the securities ~~which~~ that have been deposited with the trustee by the public depository, a copy of which shall also be delivered to the public depository. Thereupon all ~~such~~ securities so deposited with the trustee are deemed to be pledged with the treasurer and to be deposited with the treasurer, for all the purposes of this section.

(E) The governing board may make provisions for the exchange and release of securities and the substitution of other eligible securities therefor except where the public depository has deposited eligible securities with a trustee for safekeeping as provided in this section.

(F) When the public depository has deposited eligible securities described in division (B)(1) of this section with a trustee for safekeeping, the public depository may at any time substitute or exchange eligible securities described in division (B)(1) of this section having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged, without specific authorization from any governing board, boards, or treasurer of any such substitution or exchange.

(G) When the public depository has deposited eligible securities described in divisions (B)(2) to (9) of this section with a trustee for

safekeeping, the public depository may at any time substitute or exchange eligible securities having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged without specific authorization of any governing board, boards, or treasurer of any such substitution or exchange only if:

(1) The treasurer has authorized the public depository to make such substitution or exchange on a continuing basis during a specified period without prior approval of each substitution or exchange. ~~Such~~ The authorization may be effected by the treasurer sending to the trustee a written notice stating that substitution may be effected on a continuing basis during a specified period which shall not extend beyond the end of the period of designation during which the notice is given. The trustee may rely upon ~~such~~ this notice and upon the period of authorization stated therein and upon the period of designation stated therein.

(2) No continuing authorization for substitution has been given by the treasurer, the public depository notifies the treasurer and the trustee of an intended substitution or exchange, and the treasurer fails to object to the trustee as to the eligibility or market value of the securities being substituted within ten calendar days after the date appearing on the notice of proposed substitution. The notice to the treasurer and to the trustee shall be given in writing and delivered personally or by certified or registered mail with a return receipt requested. The trustee may assume in any case that the notice has been delivered to the treasurer. In order for objections of the treasurer to be effective, receipt of the objections must be acknowledged in writing by the trustee.

(3) The treasurer gives written authorization for a substitution or exchange of specific securities.

(H) The public depository shall notify any governing board, boards, or treasurer of any substitution or exchange under division (G)(1) or (2) of this section. Upon request from the treasurer, the trustee shall furnish a statement of the securities pledged against such public deposits.

(I) Any federal reserve bank or branch thereof located in this state or federal home loan bank, without compliance with Chapter 1111. of the Revised Code and without becoming subject to any other law of this state relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in section 135.03 of the Revised Code that holds a certificate of qualification issued by the superintendent of financial institutions or any institution complying with sections 1111.04, 1111.05,

and 1111.06 of the Revised Code, is qualified to act as trustee for the safekeeping of securities, other than those belonging to itself, under this section. Upon application to the superintendent in writing by ~~any such~~ an institution, the superintendent shall investigate the applicant and ascertain whether or not it has been authorized to execute and accept trusts in this state and has safe and adequate vaults and efficient supervision thereof for the storage and safekeeping within this state of ~~such~~ securities. If the superintendent finds that the applicant has been so authorized and ~~does have~~ has such vaults and supervision thereof, the superintendent shall approve the application and issue a certificate to that effect, the original or any certified copy of which shall be conclusive evidence that the institution therein named is qualified to act as trustee for the purposes of this section with respect to securities other than those belonging to itself.

Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee ~~shall have~~ has no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, without limitation, a substitution or exchange of securities.

Any charges or compensation of a designated trustee for acting as such under this section shall be paid by the public depository and in no event shall be chargeable to the state or the subdivision or to the treasurer or to any officer of the state or subdivision. The charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the rights to and interests in ~~such~~ the securities of the state or the subdivision or of the treasurer. The treasurer and the treasurer's bonders or surety shall be relieved from any liability to the state or the subdivision or to the public depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.

Sec. 135.181. (A) As used in this section:

(1) "Public depository" means that term as defined in section 135.01 of the Revised Code, but also means an institution which receives or holds any public deposits as defined in section 135.31 of the Revised Code.

(2) "Public deposits," "public moneys," and "treasurer" mean those terms as defined in section 135.01 of the Revised Code, but also have the same meanings as are set forth in section 135.31 of the Revised Code.

(3) "Subdivision" means that term as defined in section 135.01 of the Revised Code, but also includes a county.

(B) In lieu of the pledging requirements prescribed in sections 135.18 and 135.37 of the Revised Code, an institution designated as a public

depository at its option may pledge a single pool of eligible securities to secure the repayment of all public moneys deposited in the institution and not otherwise secured pursuant to law, provided that at all times the total market value of the securities so pledged is at least equal to one hundred five per cent of the total amount of all public deposits to be secured by the pooled securities, ~~including the portion of such deposits that are not~~ covered by any federal deposit insurance. Each ~~such~~ institution shall carry in its accounting records at all times a general ledger or other appropriate account of the total amount of all public deposits to be secured by the pool, as determined at the opening of business each day, and the total market value of securities pledged to secure such deposits.

(C) The securities described in division (B) of section 135.18 of the Revised Code shall be eligible as collateral for the purposes of division (B) of this section, provided no such securities pledged as collateral are at any time in default as to either principal or interest.

(D) The state and each subdivision shall have an undivided security interest in the pool of securities pledged by a public depository pursuant to division (B) of this section in the proportion that the total amount of the state's or subdivision's public moneys secured by the pool bears to the total amount of public deposits so secured.

(E) An institution designated as a public depository shall designate a qualified trustee and deposit with the trustee for safekeeping the eligible securities pledged pursuant to division (B) of this section. The institution shall give written notice of the qualified trustee to any treasurer or treasurers depositing public moneys for which such securities are pledged. The treasurer shall accept the written receipt of the trustee describing the pool of securities so deposited by the depository, a copy of which also shall be delivered to the depository.

(F) Any federal reserve bank or branch thereof located in this state or federal home loan bank, without compliance with Chapter 1111. of the Revised Code and without becoming subject to any other law of this state relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in section 135.03 or 135.32 of the Revised Code which holds a certificate of qualification issued by the superintendent of financial institutions or any institution complying with sections 1111.04, 1111.05, and 1111.06 of the Revised Code is qualified to act as trustee for the safekeeping of securities under this section, other than those belonging to itself or to an affiliate as defined in division (A) of section 1101.01 of the Revised Code. Upon application to the superintendent in writing by ~~any~~

~~such an~~ institution, the superintendent shall investigate the applicant and ascertain whether or not it has been authorized to execute and accept trusts in this state and has safe and adequate vaults and efficient supervision thereof for the storage and safekeeping of ~~such~~ securities. If the superintendent finds that the applicant has been so authorized and ~~does have~~ has such vaults and supervision thereof, the superintendent shall approve the application and issue a certificate to that effect, the original or any certified copy of which shall be conclusive evidence that the institution named therein is qualified to act as trustee for the purposes of this section with respect to securities other than those belonging to itself or to an affiliate.

(G) The public depository at any time may substitute, exchange, or release eligible securities deposited with a qualified trustee pursuant to this section, provided that such substitution, exchange, or release does not reduce the total market value of the securities to an amount that is less than one hundred five per cent of the total amount of public deposits as determined pursuant to division (B) of this section.

(H) Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee ~~shall have~~ has no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, but not limited to, a substitution or exchange of securities, but excluding those situations effectuated by division (I) of this section in which the trustee is required to determine face and market value.

(I) If the public depository fails to pay over any part of the public deposits made therein as provided by law and secured pursuant to division (B) of this section, the treasurer shall give written notice of this failure to the qualified trustee holding the pool of securities pledged against public moneys deposited in the depository, and at the same time shall send a copy of this notice to the depository. Upon receipt of ~~such this~~ this notice, the trustee shall transfer to the treasurer for public sale ~~such of,~~ the pooled securities ~~as may be that are~~ as may be that are necessary to produce an amount equal to the deposits made by the treasurer and not paid over, less the portion of ~~such the~~ the deposits covered by any federal deposit insurance, plus any accrued interest due on ~~such the~~ the deposits; however, the amount shall not exceed the state's or subdivision's proportional security interest in the market value of the pool as of the date of the depository's failure to pay over the deposits, as ~~such that~~ that interest and value are determined by the trustee. The treasurer shall sell at public sale any of the bonds or other securities so transferred. Thirty days' notice of ~~such the~~ the sale shall be given in a newspaper of general circulation at

Columbus, in the case of the treasurer of state, and at the county seat of the county in which the office of the treasurer is located, in the case of any other treasurer. When a sale of bonds or other securities has been so made and upon payment to the treasurer of the purchase money, the treasurer shall transfer such bonds or securities whereupon the absolute ownership of such bonds or securities shall pass to the purchasers. Any surplus after deducting the amount due the state or subdivision and expenses of sale shall be paid to the public depository.

(J) Any charges or compensation of a designated trustee for acting as such under this section shall be paid by the public depository and in no event shall be chargeable to the state or subdivision or to the treasurer or to any officer of the state or subdivision. The charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the rights to and interests in ~~such~~ the securities of the state or subdivision or of the treasurer. The treasurer and the treasurer's bonders or surety shall be relieved from any liability to the state or subdivision or to the public depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.

(K) In lieu of placing its unqualified endorsement on each security, a public depository pledging securities pursuant to division (B) of this section that are not negotiable without its endorsement or assignment may furnish to the qualified trustee holding the securities an appropriate resolution and irrevocable power of attorney authorizing the trustee to assign the securities. The resolution and power of attorney shall conform to ~~such~~ terms and conditions ~~as~~ the trustee prescribes.

(L) Upon request of a treasurer no more often than four times per year, a public depository shall report the amount of public moneys deposited by the treasurer and secured pursuant to division (B) of this section, and the total market value of the pool of securities pledged to secure public moneys held by the depository, including those deposited by the treasurer. Upon request of a treasurer no more often than four times per year, a qualified trustee shall report the total market value of the pool of securities deposited with it by the depository and shall provide an itemized list of the securities in the pool. These reports shall be made as of the date the treasurer specifies.

Sec. 135.353. In addition to the investments specified in section 135.35 of the Revised Code, the investing authority of a county may ~~invest~~ do both of the following:

(A) Invest inactive or public moneys in linked deposits as authorized by resolution adopted pursuant to section 135.80 or 135.801 of the Revised Code;

(B) Invest inactive moneys in certificates of deposit in accordance with all of the following:

(1) The inactive moneys initially are deposited with an eligible public depository described in section 135.32 of the Revised Code and selected by the investing authority.

(2) For the investing authority depositing the inactive moneys pursuant to division (B)(1) of this section, the eligible public depository selected pursuant to that division invests the inactive moneys in certificates of deposit of one or more federally insured banks or savings and loan associations, wherever located. The full amount of principal and any accrued interest of each certificate of deposit invested in pursuant to division (B)(2) of this section shall be insured by federal deposit insurance.

(3) For the investing authority depositing the inactive moneys pursuant to division (B)(1) of this section, the eligible public depository selected pursuant to that division acts as custodian of the certificates of deposit described in division (B)(2) of this section.

(4) At the same time that the eligible public depository selected in accordance with division (B)(1) of this section invests the deposit received pursuant to that division in the certificates of deposit described in division (B)(2) of this section, and the certificates of deposit are issued by the bank or savings and loan association, the eligible public depository receives an amount of deposits from customers of other federally insured financial institutions, wherever located, that are equal to or greater than the amount initially deposited by the investing authority pursuant to division (B)(1) of this section.

(C) Inactive moneys deposited or invested in accordance with division (B) of this section are not subject to any pledging requirements described in section 135.181 or 135.37 of the Revised Code.

SECTION 2. That existing sections 135.18, 135.181, and 135.353 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____