

As Introduced

**126th General Assembly
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H. B. No. 313

**Representatives J. Stewart, Seitz, Webster, McGregor, T. Patton, Schneider,
Wagoner**

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A B I L L

To amend sections 135.18, 135.181, and 135.353 and to 1
enact section 135.144 of the Revised Code to 2
reduce pledging requirements by public 3
depositories securing repayment of public moneys; 4
to specify debt and other obligations of certain 5
out-of-state subdivisions as eligible to secure 6
repayment of state or political subdivision public 7
moneys; and to authorize investment of certain 8
state, political subdivision, and county public 9
moneys in certificates of deposit issued by 10
federally insured banks and savings and loan 11
associations, wherever located, provided certain 12
conditions apply. 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 135.18, 135.181, and 135.353 be 14
amended and section 135.144 of the Revised Code be enacted to read 15
as follows: 16

Sec. 135.144. (A) In addition to the authority provided in 17
sections 135.14 and 135.143 of the Revised Code, the treasurer of 18
state or the treasurer or governing board of a political 19

subdivision may invest interim moneys in certificates of deposit 20
in accordance with all of the following: 21

(1) The interim moneys initially are deposited with an 22
eligible public depository described in section 135.03 of the 23
Revised Code and selected, pursuant to section 135.12 of the 24
Revised Code, by the state board of deposit, for interim moneys of 25
the state, or by the governing board of a political subdivision, 26
for interim moneys of the political subdivision. 27

(2) For the treasurer of state or the treasurer or governing 28
board of the political subdivision depositing the interim moneys 29
pursuant to division (A)(1) of this section, the eligible public 30
depository selected pursuant to that division invests the interim 31
moneys in certificates of deposit of one or more federally insured 32
banks or savings and loan associations, wherever located. The full 33
amount of principal and any accrued interest of each certificate 34
of deposit invested in pursuant to division (A)(2) of this section 35
shall be insured by federal deposit insurance. 36

(3) For the treasurer of state or the treasurer or governing 37
board of the political subdivision depositing the interim moneys 38
pursuant to division (A)(1) of this section, the eligible public 39
depository selected pursuant to that division acts as custodian of 40
the certificates of deposit described in division (A)(2) of this 41
section. 42

(4) At the same time that the eligible public depository 43
selected in accordance with division (A)(1) of this section 44
invests the deposit received pursuant to that division in the 45
certificates of deposit described in division (A)(2) of this 46
section, and the certificates of deposit are issued by the bank or 47
savings and loan association, the eligible public depository 48
receives an amount of deposits from customers of other federally 49
insured financial institutions, wherever located, that are equal 50

to or greater than the amount of the interim money initially 51
deposited pursuant to division (A)(1) of this section by the 52
treasurer of state or by the treasurer or governing board of a 53
political subdivision. 54

(B) Interim moneys deposited or invested in accordance with 55
division (A) of this section are not subject to any pledging 56
requirements described in section 135.18 or 135.181 of the Revised 57
Code. 58

Sec. 135.18. (A) The treasurer, before making the initial 59
deposit in a public depository pursuant to an award made under 60
sections 135.01 to 135.21 of the Revised Code, except as provided 61
in section 135.144 of the Revised Code, shall require the 62
institution designated as a public depository to pledge to and 63
deposit with the treasurer, as security for the repayment of all 64
public moneys to be deposited in the public depository during the 65
period of designation pursuant to the award, eligible securities 66
of aggregate market value equal to the excess of the amount of 67
public moneys to be at the time so deposited, over and above ~~such~~ 68
the portion or amount of such moneys as is at ~~such~~ that time 69
insured by the federal deposit insurance corporation or by any 70
other agency or instrumentality of the federal government. In the 71
case of any deposit other than the initial deposit made during the 72
period of designation, the amount of the aggregate market value of 73
securities required to be pledged and deposited shall be equal to 74
the difference between the amount of public moneys on deposit in 75
such public depository plus the amount to be so deposited, minus 76
the portion or amount of the aggregate as is at the time insured 77
as provided in this section. The treasurer may require additional 78
eligible securities to be deposited to provide for any 79
depreciation which may occur in the market value of any of the 80
securities so deposited. 81

(B) The following securities shall be eligible for the 82
purposes of this section: 83

(1) Bonds, notes, or other obligations of the United States; 84
or bonds, notes, or other obligations guaranteed as to principal 85
and interest by the United States or those for which the faith of 86
the United States is pledged for the payment of principal and 87
interest thereon, by language appearing in the instrument 88
specifically providing such guarantee or pledge and not merely by 89
interpretation or otherwise; 90

(2) Bonds, notes, debentures, letters of credit, or other 91
obligations or securities issued by any federal government agency 92
or instrumentality, or the export-import bank of Washington; 93
bonds, notes, or other obligations guaranteed as to principal and 94
interest by the United States or those for which the faith of the 95
United States is pledged for the payment of principal and interest 96
thereon, by interpretation or otherwise and not by language 97
appearing in the instrument specifically providing such guarantee 98
or pledge; 99

(3) Obligations of or fully insured or fully guaranteed by 100
the United States or any federal government agency or 101
instrumentality; 102

(4) Obligations partially insured or partially guaranteed by 103
any federal agency or instrumentality; 104

(5) Obligations of or fully guaranteed by the federal 105
national mortgage association, federal home loan mortgage 106
corporation, federal farm credit bank, or student loan marketing 107
association; 108

(6) Bonds and other obligations of this state; 109

(7) Bonds and other obligations of any county, township, 110
school district, municipal corporation, or other legally 111

constituted taxing subdivision of this state, which is not at the 112
time of such deposit, in default in the payment of principal or 113
interest on any of its bonds or other obligations, for which the 114
full faith and credit of the issuing subdivision is pledged; 115

(8) Bonds of other states of the United States which have not 116
during the ten years immediately preceding the time of such 117
deposit defaulted in payments of either interest or principal on 118
any of their bonds; 119

(9) Shares of no-load money market mutual funds consisting 120
exclusively of obligations described in division (B)(1) or (2) of 121
this section and repurchase agreements secured by such 122
obligations; 123

(10) A surety bond issued by a corporate surety licensed by 124
the state and authorized to issue surety bonds in this state 125
pursuant to Chapter 3929. of the Revised Code, and qualified to 126
provide surety bonds to the federal government pursuant to 96 127
Stat. 1047 (1982), 31 U.S.C.A. 9304; 128

(11) Bonds or other obligations of any county, municipal 129
corporation, or other legally constituted taxing subdivision of 130
another state of the United States, or of any instrumentality of 131
such county, municipal corporation, or other taxing subdivision, 132
for which the full faith and credit of the issuer is pledged and, 133
at the time of purchase of the bonds or other obligations, rated 134
in one of the two highest categories by at least one nationally 135
recognized standard rating service. 136

(C) If the public depository fails to pay over any part of 137
the public deposit made therein as provided by law, the treasurer 138
shall sell at public sale any of the bonds or other securities 139
deposited with the treasurer pursuant to this section or section 140
131.09 of the Revised Code, or shall draw on any letter of credit 141
to the extent of ~~such~~ the failure to pay. Thirty days' notice of 142

~~such~~ the sale shall be given in a newspaper of general circulation 143
at Columbus, in the case of the treasurer of state, and at the 144
county seat of the county in which the office of the treasurer is 145
located, in the case of any other treasurer. When a sale of bonds 146
or other securities has been so made and upon payment to the 147
treasurer of the purchase money, the treasurer shall transfer such 148
bonds or securities whereupon the absolute ownership of such bonds 149
or securities shall pass to the purchasers. Any surplus remaining 150
after deducting the amount due the state or subdivision and 151
expenses of sale shall be paid to the public depository. 152

(D) An institution designated as a public depository may, by 153
written notice to the treasurer, designate a qualified trustee and 154
deposit the eligible securities required by this section with the 155
trustee for safekeeping for the account of the treasurer and the 156
institution as a public depository, as their respective rights to 157
and interests in such securities under this section may appear and 158
be asserted by written notice to or demand upon the trustee. In 159
~~such~~ which case, the treasurer shall accept the written receipt of 160
the trustee describing the securities ~~which~~ that have been 161
deposited with the trustee by the public depository, a copy of 162
which shall also be delivered to the public depository. Thereupon 163
all ~~such~~ securities so deposited with the trustee are deemed to be 164
pledged with the treasurer and to be deposited with the treasurer, 165
for all the purposes of this section. 166

(E) The governing board may make provisions for the exchange 167
and release of securities and the substitution of other eligible 168
securities therefor except where the public depository has 169
deposited eligible securities with a trustee for safekeeping as 170
provided in this section. 171

(F) When the public depository has deposited eligible 172
securities described in division (B)(1) of this section with a 173
trustee for safekeeping, the public depository may at any time 174

substitute or exchange eligible securities described in division 175
(B)(1) of this section having a current market value equal to or 176
greater than the current market value of the securities then on 177
deposit and for which they are to be substituted or exchanged, 178
without specific authorization from any governing board, boards, 179
or treasurer of any such substitution or exchange. 180

(G) When the public depository has deposited eligible 181
securities described in divisions (B)(2) to (9) of this section 182
with a trustee for safekeeping, the public depository may at any 183
time substitute or exchange eligible securities having a current 184
market value equal to or greater than the current market value of 185
the securities then on deposit and for which they are to be 186
substituted or exchanged without specific authorization of any 187
governing board, boards, or treasurer of any such substitution or 188
exchange only if: 189

(1) The treasurer has authorized the public depository to 190
make such substitution or exchange on a continuing basis during a 191
specified period without prior approval of each substitution or 192
exchange. ~~Such~~ The authorization may be effected by the treasurer 193
sending to the trustee a written notice stating that substitution 194
may be effected on a continuing basis during a specified period 195
which shall not extend beyond the end of the period of designation 196
during which the notice is given. The trustee may rely upon ~~such~~ 197
this notice and upon the period of authorization stated therein 198
and upon the period of designation stated therein. 199

(2) No continuing authorization for substitution has been 200
given by the treasurer, the public depository notifies the 201
treasurer and the trustee of an intended substitution or exchange, 202
and the treasurer fails to object to the trustee as to the 203
eligibility or market value of the securities being substituted 204
within ten calendar days after the date appearing on the notice of 205
proposed substitution. The notice to the treasurer and to the 206

trustee shall be given in writing and delivered personally or by 207
certified or registered mail with a return receipt requested. The 208
trustee may assume in any case that the notice has been delivered 209
to the treasurer. In order for objections of the treasurer to be 210
effective, receipt of the objections must be acknowledged in 211
writing by the trustee. 212

(3) The treasurer gives written authorization for a 213
substitution or exchange of specific securities. 214

(H) The public depository shall notify any governing board, 215
boards, or treasurer of any substitution or exchange under 216
division (G)(1) or (2) of this section. Upon request from the 217
treasurer, the trustee shall furnish a statement of the securities 218
pledged against such public deposits. 219

(I) Any federal reserve bank or branch thereof located in 220
this state or federal home loan bank, without compliance with 221
Chapter 1111. of the Revised Code and without becoming subject to 222
any other law of this state relative to the exercise by 223
corporations of trust powers generally, is qualified to act as 224
trustee for the safekeeping of securities, under this section. Any 225
institution mentioned in section 135.03 of the Revised Code that 226
holds a certificate of qualification issued by the superintendent 227
of financial institutions or any institution complying with 228
sections 1111.04, 1111.05, and 1111.06 of the Revised Code, is 229
qualified to act as trustee for the safekeeping of securities, 230
other than those belonging to itself, under this section. Upon 231
application to the superintendent in writing by ~~any such an~~ 232
institution, the superintendent shall investigate the applicant 233
and ascertain whether or not it has been authorized to execute and 234
accept trusts in this state and has safe and adequate vaults and 235
efficient supervision thereof for the storage and safekeeping 236
within this state of ~~such~~ securities. If the superintendent finds 237
that the applicant has been so authorized and ~~does have~~ has such 238

vaults and supervision thereof, the superintendent shall approve 239
the application and issue a certificate to that effect, the 240
original or any certified copy of which shall be conclusive 241
evidence that the institution therein named is qualified to act as 242
trustee for the purposes of this section with respect to 243
securities other than those belonging to itself. 244

Notwithstanding the fact that a public depository is required 245
to pledge eligible securities in certain amounts to secure 246
deposits of public moneys, a trustee ~~shall have~~ has no duty or 247
obligation to determine the eligibility, market value, or face 248
value of any securities deposited with the trustee by a public 249
depository. This applies in all situations including, without 250
limitation, a substitution or exchange of securities. 251

Any charges or compensation of a designated trustee for 252
acting as such under this section shall be paid by the public 253
depository and in no event shall be chargeable to the state or the 254
subdivision or to the treasurer or to any officer of the state or 255
subdivision. The charges or compensation shall not be a lien or 256
charge upon the securities deposited for safekeeping prior or 257
superior to the rights to and interests in ~~such~~ the securities of 258
the state or the subdivision or of the treasurer. The treasurer 259
and the treasurer's bonders or surety shall be relieved from any 260
liability to the state or the subdivision or to the public 261
depository for the loss or destruction of any securities deposited 262
with a qualified trustee pursuant to this section. 263

Sec. 135.181. (A) As used in this section: 264

(1) "Public depository" means that term as defined in section 265
135.01 of the Revised Code, but also means an institution which 266
receives or holds any public deposits as defined in section 135.31 267
of the Revised Code. 268

(2) "Public deposits," "public moneys," and "treasurer" mean 269

those terms as defined in section 135.01 of the Revised Code, but 270
also have the same meanings as are set forth in section 135.31 of 271
the Revised Code. 272

(3) "Subdivision" means that term as defined in section 273
135.01 of the Revised Code, but also includes a county. 274

(B) In lieu of the pledging requirements prescribed in 275
sections 135.18 and 135.37 of the Revised Code, an institution 276
designated as a public depository at its option may pledge a 277
single pool of eligible securities to secure the repayment of all 278
public moneys deposited in the institution and not otherwise 279
secured pursuant to law, provided that at all times the total 280
market value of the securities so pledged is at least equal to one 281
hundred five per cent of the total amount of all public deposits 282
to be secured by the pooled securities, ~~including the portion of~~ 283
~~such deposits~~ that are not covered by any federal deposit 284
insurance. Each ~~such~~ institution shall carry in its accounting 285
records at all times a general ledger or other appropriate account 286
of the total amount of all public deposits to be secured by the 287
pool, as determined at the opening of business each day, and the 288
total market value of securities pledged to secure such deposits. 289

(C) The securities described in division (B) of section 290
135.18 of the Revised Code shall be eligible as collateral for the 291
purposes of division (B) of this section, provided no such 292
securities pledged as collateral are at any time in default as to 293
either principal or interest. 294

(D) The state and each subdivision shall have an undivided 295
security interest in the pool of securities pledged by a public 296
depository pursuant to division (B) of this section in the 297
proportion that the total amount of the state's or subdivision's 298
public moneys secured by the pool bears to the total amount of 299
public deposits so secured. 300

(E) An institution designated as a public depository shall 301
designate a qualified trustee and deposit with the trustee for 302
safekeeping the eligible securities pledged pursuant to division 303
(B) of this section. The institution shall give written notice of 304
the qualified trustee to any treasurer or treasurers depositing 305
public moneys for which such securities are pledged. The treasurer 306
shall accept the written receipt of the trustee describing the 307
pool of securities so deposited by the depository, a copy of which 308
also shall be delivered to the depository. 309

(F) Any federal reserve bank or branch thereof located in 310
this state or federal home loan bank, without compliance with 311
Chapter 1111. of the Revised Code and without becoming subject to 312
any other law of this state relative to the exercise by 313
corporations of trust powers generally, is qualified to act as 314
trustee for the safekeeping of securities, under this section. Any 315
institution mentioned in section 135.03 or 135.32 of the Revised 316
Code which holds a certificate of qualification issued by the 317
superintendent of financial institutions or any institution 318
complying with sections 1111.04, 1111.05, and 1111.06 of the 319
Revised Code is qualified to act as trustee for the safekeeping of 320
securities under this section, other than those belonging to 321
itself or to an affiliate as defined in division (A) of section 322
1101.01 of the Revised Code. Upon application to the 323
superintendent in writing by ~~any such~~ an institution, the 324
superintendent shall investigate the applicant and ascertain 325
whether or not it has been authorized to execute and accept trusts 326
in this state and has safe and adequate vaults and efficient 327
supervision thereof for the storage and safekeeping of ~~such~~ 328
securities. If the superintendent finds that the applicant has 329
been so authorized and ~~does have~~ has such vaults and supervision 330
thereof, the superintendent shall approve the application and 331
issue a certificate to that effect, the original or any certified 332

copy of which shall be conclusive evidence that the institution 333
named therein is qualified to act as trustee for the purposes of 334
this section with respect to securities other than those belonging 335
to itself or to an affiliate. 336

(G) The public depository at any time may substitute, 337
exchange, or release eligible securities deposited with a 338
qualified trustee pursuant to this section, provided that such 339
substitution, exchange, or release does not reduce the total 340
market value of the securities to an amount that is less than ~~one~~ 341
~~hundred five per cent of the total amount of public deposits as~~ 342
~~determined pursuant to~~ required by division (B) of this section. 343

(H) Notwithstanding the fact that a public depository is 344
required to pledge eligible securities in certain amounts to 345
secure deposits of public moneys, a trustee ~~shall have~~ has no duty 346
or obligation to determine the eligibility, market value, or face 347
value of any securities deposited with the trustee by a public 348
depository. This applies in all situations including, but not 349
limited to, a substitution or exchange of securities, but 350
excluding those situations effectuated by division (I) of this 351
section in which the trustee is required to determine face and 352
market value. 353

(I) If the public depository fails to pay over any part of 354
the public deposits made therein as provided by law and secured 355
pursuant to division (B) of this section, the treasurer shall give 356
written notice of this failure to the qualified trustee holding 357
the pool of securities pledged against public moneys deposited in 358
the depository, and at the same time shall send a copy of this 359
notice to the depository. Upon receipt of ~~such~~ this notice, the 360
trustee shall transfer to the treasurer for public sale ~~such of,~~ 361
the pooled securities ~~as may be~~ that are necessary to produce an 362
amount equal to the deposits made by the treasurer and not paid 363
over, less the portion of ~~such~~ the deposits covered by any federal 364

deposit insurance, plus any accrued interest due on ~~such~~ the 365
deposits; however, the amount shall not exceed the state's or 366
subdivision's proportional security interest in the market value 367
of the pool as of the date of the depository's failure to pay over 368
the deposits, as ~~such~~ that interest and value are determined by 369
the trustee. The treasurer shall sell at public sale any of the 370
bonds or other securities so transferred. Thirty days' notice of 371
~~such~~ the sale shall be given in a newspaper of general circulation 372
at Columbus, in the case of the treasurer of state, and at the 373
county seat of the county in which the office of the treasurer is 374
located, in the case of any other treasurer. When a sale of bonds 375
or other securities has been so made and upon payment to the 376
treasurer of the purchase money, the treasurer shall transfer such 377
bonds or securities whereupon the absolute ownership of such bonds 378
or securities shall pass to the purchasers. Any surplus after 379
deducting the amount due the state or subdivision and expenses of 380
sale shall be paid to the public depository. 381

(J) Any charges or compensation of a designated trustee for 382
acting as such under this section shall be paid by the public 383
depository and in no event shall be chargeable to the state or 384
subdivision or to the treasurer or to any officer of the state or 385
subdivision. The charges or compensation shall not be a lien or 386
charge upon the securities deposited for safekeeping prior or 387
superior to the rights to and interests in ~~such~~ the securities of 388
the state or subdivision or of the treasurer. The treasurer and 389
the treasurer's bonders or surety shall be relieved from any 390
liability to the state or subdivision or to the public depository 391
for the loss or destruction of any securities deposited with a 392
qualified trustee pursuant to this section. 393

(K) In lieu of placing its unqualified endorsement on each 394
security, a public depository pledging securities pursuant to 395
division (B) of this section that are not negotiable without its 396

endorsement or assignment may furnish to the qualified trustee 397
holding the securities an appropriate resolution and irrevocable 398
power of attorney authorizing the trustee to assign the 399
securities. The resolution and power of attorney shall conform to 400
~~such~~ terms and conditions ~~as~~ the trustee prescribes. 401

(L) Upon request of a treasurer no more often than four times 402
per year, a public depository shall report the amount of public 403
moneys deposited by the treasurer and secured pursuant to division 404
(B) of this section, and the total market value of the pool of 405
securities pledged to secure public moneys held by the depository, 406
including those deposited by the treasurer. Upon request of a 407
treasurer no more often than four times per year, a qualified 408
trustee shall report the total market value of the pool of 409
securities deposited with it by the depository and shall provide 410
an itemized list of the securities in the pool. These reports 411
shall be made as of the date the treasurer specifies. 412

Sec. 135.353. In addition to the investments specified in 413
section 135.35 of the Revised Code, the investing authority of a 414
county may ~~invest~~ do both of the following: 415

(A) Invest inactive or public moneys in linked deposits as 416
authorized by resolution adopted pursuant to section 135.80 or 417
135.801 of the Revised Code; 418

(B) Invest inactive moneys in certificates of deposit in 419
accordance with all of the following: 420

(1) The inactive moneys initially are deposited with an 421
eligible public depository described in section 135.32 of the 422
Revised Code and selected by the investing authority. 423

(2) For the investing authority depositing the inactive 424
moneys pursuant to division (B)(1) of this section, the eligible 425
public depository selected pursuant to that division invests the 426

inactive moneys in certificates of deposit of one or more 427
federally insured banks or savings and loan associations, wherever 428
located. The full amount of principal and any accrued interest of 429
each certificate of deposit invested in pursuant to division 430
(B)(2) of this section shall be insured by federal deposit 431
insurance. 432

(3) For the investing authority depositing the inactive 433
moneys pursuant to division (B)(1) of this section, the eligible 434
public depository selected pursuant to that division acts as 435
custodian of the certificates of deposit described in division 436
(B)(2) of this section. 437

(4) At the same time that the eligible public depository 438
selected in accordance with division (B)(1) of this section 439
invests the deposit received pursuant to that division in the 440
certificates of deposit described in division (B)(2) of this 441
section, and the certificates of deposit are issued by the bank or 442
savings and loan association, the eligible public depository 443
receives an amount of deposits from customers of other federally 444
insured financial institutions, wherever located, that are equal 445
to or greater than the amount initially deposited by the investing 446
authority pursuant to division (B)(1) of this section. 447

(C) Inactive moneys deposited or invested in accordance with 448
division (B) of this section are not subject to any pledging 449
requirements described in section 135.181 or 135.37 of the Revised 450
Code. 451

Section 2. That existing sections 135.18, 135.181, and 452
135.353 of the Revised Code are hereby repealed. 453