

As Introduced

**128th General Assembly
Regular Session
2009-2010**

H. B. No. 317

Representatives Heard, Ujvagi

**Cosponsors: Representatives Williams, S., Williams, B., Yuko, Hagan,
Huffman, Mallory, Weddington, Gerberry, Goodwin, Harwood, Luckie,
Lehner, Letson, Boyd, Yates, Stewart, Foley, Garland, Harris**

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A B I L L

To amend sections 122.60, 122.71, 135.03, 135.032, 1
135.04, 135.06, 135.08, 135.10, 135.14, 135.144, 2
135.18, 135.32, 135.321, 135.33, 135.35, 135.353, 3
135.37, 135.51, 135.52, 135.53, 1733.04, 1733.041, 4
1733.24, 1733.30, 1733.31, 2909.32, and 2909.33 of 5
the Revised Code to authorize credit unions to be 6
eligible public depositories, to make credit union 7
loans eligible for certain economic development 8
assistance programs, and to permit certain public 9
investments to be made through a credit union. 10
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 122.60, 122.71, 135.03, 135.032, 12
135.04, 135.06, 135.08, 135.10, 135.14, 135.144, 135.18, 135.32, 13
135.321, 135.33, 135.35, 135.353, 135.37, 135.51, 135.52, 135.53, 14
1733.04, 1733.041, 1733.24, 1733.30, 1733.31, 2909.32, and 2909.33 15
of the Revised Code be amended to read as follows: 16

Sec. 122.60. As used in sections 122.60 to 122.605 of the 17

Revised Code:	18
(A) "Capital access loan" means a loan made by a participating financial institution to an eligible business that may be secured by a deposit of money from the fund into the participating financial institution's program reserve account.	19 20 21 22
(B) "Department" means the department of development.	23
(C) "Eligible business" means a for-profit business entity, or a nonprofit entity, that had total annual sales in its most recently completed fiscal year of less than ten million dollars and that has a principal place of for-profit business or nonprofit entity activity within the state, the operation of which, alone or in conjunction with other facilities, will create new jobs or preserve existing jobs and employment opportunities and will improve the economic welfare of the people of the state. As used in this division, "new jobs" does not include existing jobs transferred from another facility within the state, and "existing jobs" means only existing jobs at facilities within the same municipal corporation or township in which the project, activity, or enterprise that is the subject of a capital access loan is located.	24 25 26 27 28 29 30 31 32 33 34 35 36 37
(D) "Financial institution" means any bank, trust company, savings bank, or savings and loan association, <u>or credit union</u> that is chartered by and has a significant presence in the state, or any national bank, federal savings and loan association, or federal savings bank, <u>or federal credit union</u> that has a significant presence in the state.	38 39 40 41 42 43
(E) "Fund" means the capital access loan program fund.	44
(F) "Participating financial institution" means a financial institution that has a valid, current participation agreement with the department.	45 46 47

(G) "Participation agreement" means the agreement between a financial institution and the department under which a financial institution may participate in the program.

(H) "Passive real estate ownership" means the ownership of real estate for the sole purpose of deriving income from it by speculation, trade, or rental.

(I) "Program" means the capital access loan program created under section 122.602 of the Revised Code.

(J) "Program reserve account" means a dedicated account at each participating financial institution that is the property of the state and may be used by the participating financial institution only for the purpose of recovering a claim under section 122.604 of the Revised Code arising from a default on a loan made by the participating financial institution under the program.

Sec. 122.71. As used in sections 122.71 to 122.83 of the Revised Code:

(A) "Financial institution" means any banking corporation, trust company, insurance company, savings and loan association, building and loan association, credit union, or corporation, partnership, federal lending agency, foundation, or other institution engaged in lending or investing funds for industrial or business purposes.

(B) "Project" means any real or personal property connected with or being a part of an industrial, distribution, commercial, or research facility to be acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, with the aid provided under sections 122.71 to 122.83 of the Revised Code, for industrial, commercial, distribution, and research development of the state.

(C) "Mortgage" means the lien imposed on a project by a mortgage on real property, or by financing statements on personal property, or a combination of a mortgage and financing statements when a project consists of both real and personal property.

(D) "Mortgagor" means the principal user of a project or the person, corporation, partnership, or association unconditionally guaranteeing performance by the principal user of its obligations under the mortgage.

(E)(1) "Minority business enterprise" means an individual who is a United States citizen and owns and controls a business, or a partnership, corporation, or joint venture of any kind that is owned and controlled by United States citizens, which citizen or citizens are residents of this state and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians.

(2) "Owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if a corporation, is owned by persons who belong to one or more of the groups set forth in division (E)(1) of this section, and that those owners have control over the management and day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership. In order to qualify as a minority business enterprise, a business shall have been owned and controlled by those persons at least one year prior to being awarded a contract pursuant to this section.

(F) "Community improvement corporation" means a corporation organized under Chapter 1724. of the Revised Code.

(G) "Ohio development corporation" means a corporation organized under Chapter 1726. of the Revised Code.

(H) "Minority contractors business assistance organization"

means an entity engaged in the provision of management and 109
technical business assistance to minority business enterprise 110
entrepreneurs. 111

(I) "Minority business supplier development council" means a 112
nonprofit organization established as an affiliate of the national 113
minority supplier development council. 114

(J) "Regional economic development entity" means an entity 115
that is under contract with the director of development to 116
administer a loan program under this chapter in a particular area 117
of the state. 118

(K) "Community development corporation" means a corporation 119
organized under Chapter 1702. of the Revised Code that consists of 120
residents of the community and business and civic leaders and that 121
has as a principal purpose one or more of the following: the 122
revitalization and development of a low- to moderate-income 123
neighborhood or community; the creation of jobs for low- to 124
moderate-income residents; the development of commercial 125
facilities and services; providing training, technical assistance, 126
and financial assistance to small businesses; and planning, 127
developing, or managing low-income housing or other community 128
development activities. 129

Sec. 135.03. (A) Any national bank, any bank doing business 130
under authority granted by the superintendent of financial 131
institutions, or any bank doing business under authority granted 132
by the regulatory authority of another state of the United States, 133
located in this state, is eligible to become a public depository, 134
subject to sections 135.01 to 135.21 of the Revised Code. No bank 135
shall receive or have on deposit at any one time public moneys, 136
including public moneys as defined in section 135.31 of the 137
Revised Code, in an aggregate amount in excess of thirty per cent 138
of its total assets, as shown in its latest report to the 139

comptroller of the currency, the superintendent of financial 140
institutions, the federal deposit insurance corporation, or the 141
board of governors of the federal reserve system. 142

(B) Any federal savings association, any savings and loan 143
association or savings bank doing business under authority granted 144
by the superintendent of financial institutions, or any savings 145
and loan association or savings bank doing business under 146
authority granted by the regulatory authority of another state of 147
the United States, located in this state, and authorized to accept 148
deposits is eligible to become a public depository, subject to 149
sections 135.01 to 135.21 of the Revised Code. No savings 150
association, savings and loan association, or savings bank shall 151
receive or have on deposit at any one time public moneys, 152
including public moneys as defined in section 135.31 of the 153
Revised Code, in an aggregate amount in excess of thirty per cent 154
of its total assets, as shown in its latest report to the office 155
of thrift supervision, the superintendent of financial 156
institutions, the federal deposit insurance corporation, or the 157
board of governors of the federal reserve system. 158

(C) Any federal credit union located in this state, any 159
credit union located in this state and licensed pursuant to 160
section 1733.39 of the Revised Code, or any credit union as 161
defined in section 1733.01 of the Revised Code, subject to 162
inspection by the superintendent of financial institutions, is 163
eligible to become a public depository, subject to sections 135.01 164
to 135.21 of the Revised Code. No credit union shall receive or 165
have on deposit at any one time public moneys, including public 166
moneys as defined in section 135.31 of the Revised Code, in an 167
aggregate amount in excess of thirty per cent of its total assets, 168
as shown in its latest report to the superintendent of financial 169
institutions or the national credit union administration. 170

Sec. 135.032. No bank ~~or~~, savings and loan association, or credit union is eligible to become a public depository or to receive any new public deposits pursuant to sections 135.01 to 135.21 of the Revised Code, if:

(A) In the case of a bank, the bank or any of its directors, officers, employees, or controlling shareholders is currently a party to an active final or temporary cease-and-desist order issued under section 1121.32 of the Revised Code;

(B) In the case of an association, the association or any of its directors, officers, employees, or controlling persons is currently a party to an active final or summary cease-and-desist order issued under section 1155.02 of the Revised Code;

(C) In the case of a credit union, the credit union or any of its regulated individuals, as defined in section 1733.01 of the Revised Code, is currently a party to an active final or temporary cease-and-desist order issued under section 1733.324 of the Revised Code.

Sec. 135.04. (A) Any institution mentioned in section 135.03 of the Revised Code is eligible to become a public depository of the active deposits, inactive deposits, and interim deposits of public moneys of the state subject to the requirements of sections 135.01 to 135.21 of the Revised Code.

(B) To facilitate the clearance of state warrants to the state treasury, the state board of deposit may delegate the authority to the treasurer of state to establish warrant clearance accounts in any institution mentioned in section 135.03 of the Revised Code located in areas where the volume of warrant clearances justifies the establishment of an account as determined by the treasurer of state. The balances maintained in such warrant clearance accounts shall be at sufficient levels to cover the

activity generated by such accounts on an individual basis. Any 202
financial institution in the state that has a warrant clearance 203
account established by the treasurer of state shall, not more than 204
ten days after the close of each quarter, prepare and transmit to 205
the treasurer of state an analysis statement of such account for 206
the quarter then ended. Such statement shall contain such 207
information as determined by the state board of deposit, and this 208
information shall be used in whole or in part by the treasurer of 209
state in determining the level of balances to be maintained in 210
such accounts. 211

(C) Each governing board shall award the active deposits of 212
public moneys subject to its control to the eligible institutions 213
in accordance with this section, except that no such public 214
depository shall thereby be required to take or permitted to 215
receive and have at any one time a greater amount of active 216
deposits of such public moneys than that specified in the 217
application of such depository. When, by reason of such limitation 218
or otherwise, the amount of active public moneys deposited or to 219
be deposited in a public depository, pursuant to an award made 220
under this section, is reduced or withdrawn, as the case requires, 221
the amount of such reduction or the sum so withdrawn shall be 222
deposited in another eligible institution applying therefor, or if 223
there is no such eligible institution, then the amount so withheld 224
or withdrawn shall be awarded or deposited for the remainder of 225
the period of designation in accordance with sections 135.01 to 226
135.21 of the Revised Code. 227

(D) Any institution mentioned in section 135.03 of the 228
Revised Code is eligible to become a public depository of the 229
inactive and interim deposits of public moneys of a subdivision. 230
In case the aggregate amount of inactive or interim deposits 231
applied for by such eligible institutions is less than the 232
aggregate maximum amount of such inactive or interim deposits as 233

estimated to be deposited pursuant to sections 135.01 to 135.21 of 234
the Revised Code, the governing board of the subdivision may 235
designate as a public depository of the inactive or interim 236
deposits of the public moneys thereof, one or more institutions of 237
a kind mentioned in section 135.03 of the Revised Code, subject to 238
the requirements of sections 135.01 to 135.21 of the Revised Code. 239

(E) Any institution mentioned in section 135.03 of the 240
Revised Code is eligible to become a public depository of the 241
active deposits of public moneys of a subdivision. In case the 242
aggregate amount of active deposits of the public moneys of the 243
subdivision applied for by such eligible institutions is less than 244
the aggregate maximum amount to be deposited as such, as estimated 245
by the governing board, said board may designate as a public 246
depository of the active deposits of the public moneys of the 247
subdivision, one or more institutions of the kind mentioned in 248
section 135.03 of the Revised Code, subject to the requirements of 249
sections 135.01 to 135.21 of the Revised Code. 250

(F)(1) The governing board of the state or of a subdivision 251
may designate one or more minority banks or minority credit unions 252
as public depositories of its inactive, interim, or active 253
deposits of public moneys designated as federal funds. Except for 254
section 135.18 or 135.181 of the Revised Code, Chapter 135. of the 255
Revised Code does not apply to the application for, or the award 256
of, such deposits. As used in this division, "minority bank" or 257
"minority credit union" means, as applicable, a bank or credit 258
union operating in this state that is owned or controlled by one 259
or more socially or economically disadvantaged persons. Such 260
disadvantage may arise from cultural, ethnic, or racial 261
background, chronic economic circumstances, or other similar 262
cause. Such persons include, but are not limited to, 263
Afro-Americans, Puerto Ricans, Spanish-speaking Americans, and 264
American Indians. 265

(2) In enacting this division, the general assembly finds	266
that:	267
(a) Certain commercial banks <u>and credit unions</u> are owned or	268
controlled by minority Americans;	269
(b) Minority banks <u>and minority credit unions</u> are an	270
important source of banking services in their communities;	271
(c) Minority banks <u>and minority credit unions</u> have been	272
unsuccessful in competing under Chapter 135. of the Revised Code	273
for the award of federal funds;	274
(d) This division contains safeguards for the protection of	275
the general public and the banking industry, since it provides the	276
governing board of the state or political subdivision with	277
permissive authority in the award of deposits; limits the	278
authority of the governing board to the award of federal funds;	279
and subjects minority banks <u>and minority credit unions</u> to certain	280
limitations of Chapter 135. of the Revised Code, including the	281
requirement that, as in the case of every financial institution	282
subject to Chapter 135. of the Revised Code, a minority bank <u>or</u>	283
<u>minority credit union</u> pledge certain securities for repayment of	284
the deposits.	285
(3) The purpose of this division is to recognize that the	286
state has a substantial and compelling interest in encouraging the	287
establishment, development, and stability of minority banks <u>and</u>	288
<u>minority credit unions</u> by facilitating their access to the award	289
of federal funds, while ensuring the protection of the general	290
public and the banking industry.	291
(G) The governing board of a subdivision shall award the	292
first twenty-five thousand dollars of the active deposits of	293
public moneys subject to its control to the eligible institution	294
or institutions applying or qualifying therefor on the basis of	295
the operating needs of the subdivision and shall award the active	296

deposits of public moneys subject to its control in excess of 297
twenty-five thousand dollars to the eligible institution or 298
institutions applying or qualifying therefor. 299

Sec. 135.06. Each eligible institution desiring to be a 300
public depository of the inactive deposits of the public moneys of 301
the state or of the inactive deposits of the public moneys of the 302
subdivision shall, not more than thirty days prior to the date 303
fixed by section 135.12 of the Revised Code for the designation of 304
such public depositories, make application therefor in writing to 305
the proper governing board. Such application shall specify the 306
maximum amount of such public moneys which the applicant desires 307
to receive and have on deposit as an inactive deposit at any one 308
time during the period covered by the designation, provided that 309
it shall not apply for more than thirty per cent of its total 310
assets as revealed by its latest report to the superintendent of 311
financial institutions, the comptroller of the currency, the 312
office of thrift supervision, the federal deposit insurance 313
corporation, ~~or~~ the board of governors of the federal reserve 314
system, or the national credit union administration, and the rate 315
of interest which the applicant will pay thereon, subject to the 316
limitations of sections 135.01 to 135.21 of the Revised Code. Each 317
application shall be accompanied by a financial statement of the 318
applicant, under oath of its cashier, treasurer, or other officer, 319
in such detail as to show the capital funds of the applicant, as 320
of the date of its latest report to the superintendent of 321
financial institutions, the comptroller of the currency, the 322
office of thrift supervision, the federal deposit insurance 323
corporation, ~~or~~ the board of governors of the federal reserve 324
system, or the national credit union administration, and adjusted 325
to show any changes therein made prior to the date of the 326
application. Such application may be combined with an application 327
for designation as a public depository of active deposits, interim 328

deposits, or both. 329

Sec. 135.08. Each eligible institution desiring to be a 330
public depository of interim deposits of the public moneys of the 331
state or of the interim deposits of the public moneys of the 332
subdivision shall, not more than thirty days prior to the date 333
fixed by section 135.12 of the Revised Code for the designation of 334
public depositories, make application therefor in writing to the 335
proper governing board. Such application shall specify the maximum 336
amount of such public moneys which the applicant desires to 337
receive and have on deposit as interim deposits at any one time 338
during the period covered by the designation, provided that it 339
shall not apply for more than thirty per cent of its total assets 340
as revealed by its latest report to the superintendent of 341
financial institutions, the comptroller of the currency, the 342
office of thrift supervision, the federal deposit insurance 343
corporation, ~~or~~ the board of governors of the federal reserve 344
system, or the national credit union administration, and the rate 345
of interest which the applicant will pay thereon, subject to the 346
limitations of sections 135.01 to 135.21 of the Revised Code. 347

Each application shall be accompanied by a financial 348
statement of the applicant, under oath of its cashier, treasurer, 349
or other officer, in such detail as to show the capital funds of 350
the applicant, as of the date of its latest report to the 351
superintendent of financial institutions, the comptroller of the 352
currency, the office of thrift supervision, the federal deposit 353
insurance corporation, ~~or~~ the board of governors of the federal 354
reserve system, or the national credit union administration and 355
adjusted to show any changes therein made prior to the date of the 356
application. Such application may be combined with an application 357
for designation as a public depository of inactive deposits, 358
active deposits, or both. 359

Sec. 135.10. Each eligible institution desiring to be a 360
public depository of the active deposits of the public moneys of 361
the state or of a subdivision shall, not more than thirty days 362
prior to the date fixed by section 135.12 of the Revised Code for 363
the designation of such public depositories, make application 364
therefor in writing to the proper governing board. If desired, 365
such application may specify the maximum amount of such public 366
moneys which the applicant desires to receive and have on deposit 367
at any one time during the period covered by the designation. Each 368
application shall be accompanied by a financial statement of the 369
applicant, under oath of its cashier, treasurer, or other officer, 370
in such detail as to show the capital funds of the applicant, as 371
of the date of its latest report to the superintendent of ~~banks or~~ 372
financial institutions, the comptroller of the currency, the 373
office of thrift supervision, or the national credit union 374
administration and adjusted to show any changes therein prior to 375
the date of the application. Such application may be combined with 376
an application for designation as a public depository of inactive 377
deposits, interim deposits, or both. 378

Sec. 135.14. (A) As used in this section: 379

(1) "Treasurer" does not include the treasurer of state, and 380
"governing board" does not include the state board of deposit. 381

(2) "Other obligations" includes notes whether or not issued 382
in anticipation of the issuance of bonds. 383

(B) The treasurer or governing board may invest or deposit 384
any part or all of the interim moneys. The following 385
classifications of obligations shall be eligible for such 386
investment or deposit: 387

(1) United States treasury bills, notes, bonds, or any other 388
obligation or security issued by the United States treasury or any 389

other obligation guaranteed as to principal and interest by the 390
United States. 391

Nothing in the classification of eligible obligations set 392
forth in division (B)(1) of this section or in the classifications 393
of eligible obligations set forth in divisions (B)(2) to (7) of 394
this section shall be construed to authorize any investment in 395
stripped principal or interest obligations of such eligible 396
obligations. 397

(2) Bonds, notes, debentures, or any other obligations or 398
securities issued by any federal government agency or 399
instrumentality, including but not limited to, the federal 400
national mortgage association, federal home loan bank, federal 401
farm credit bank, federal home loan mortgage corporation, 402
government national mortgage association, and student loan 403
marketing association. All federal agency securities shall be 404
direct issuances of federal government agencies or 405
instrumentalities. 406

(3) Interim deposits in the eligible institutions applying 407
for interim moneys as provided in section 135.08 of the Revised 408
Code. The award of interim deposits shall be made in accordance 409
with section 135.09 of the Revised Code and the treasurer or the 410
governing board shall determine the periods for which such interim 411
deposits are to be made and shall award such interim deposits for 412
such periods, provided that any eligible institution receiving an 413
interim deposit award may, upon notification that the award has 414
been made, decline to accept the interim deposit in which event 415
the award shall be made as though the institution had not applied 416
for such interim deposit. 417

(4) Bonds and other obligations of this state; 418

(5) No-load money market mutual funds consisting exclusively 419
of obligations described in division (B)(1) or (2) of this section 420

and repurchase agreements secured by such obligations, provided 421
that investments in securities described in this division are made 422
only through eligible institutions mentioned in section 135.03 of 423
the Revised Code; 424

(6) The Ohio subdivision's fund as provided in section 135.45 425
of the Revised Code; 426

(7) Up to twenty-five per cent of interim moneys available 427
for investment in either of the following: 428

(a) Commercial paper notes issued by an entity that is 429
defined in division (D) of section 1705.01 of the Revised Code and 430
that has assets exceeding five hundred million dollars, to which 431
notes all of the following apply: 432

(i) The notes are rated at the time of purchase in the 433
highest classification established by at least two nationally 434
recognized standard rating services. 435

(ii) The aggregate value of the notes does not exceed ten per 436
cent of the aggregate value of the outstanding commercial paper of 437
the issuing corporation. 438

(iii) The notes mature not later than one hundred eighty days 439
after purchase. 440

(b) Bankers acceptances of banks that are insured by the 441
federal deposit insurance corporation and to which both of the 442
following apply: 443

(i) The obligations are eligible for purchase by the federal 444
reserve system. 445

(ii) The obligations mature not later than one hundred eighty 446
days after purchase. 447

No investment shall be made pursuant to division (B)(7) of 448
this section unless the treasurer or governing board has completed 449
additional training for making the investments authorized by 450

division (B)(7) of this section. The type and amount of additional 451
training shall be approved by the auditor of state and may be 452
conducted by or provided under the supervision of the auditor of 453
state. 454

(C) Nothing in the classifications of eligible obligations 455
set forth in divisions (B)(1) to (7) of this section shall be 456
construed to authorize any investment in a derivative, and no 457
treasurer or governing board shall invest in a derivative. For 458
purposes of this division, "derivative" means a financial 459
instrument or contract or obligation whose value or return is 460
based upon or linked to another asset or index, or both, separate 461
from the financial instrument, contract, or obligation itself. Any 462
security, obligation, trust account, or other instrument that is 463
created from an issue of the United States treasury or is created 464
from an obligation of a federal agency or instrumentality or is 465
created from both is considered a derivative instrument. An 466
eligible investment described in this section with a variable 467
interest rate payment, based upon a single interest payment or 468
single index comprised of other eligible investments provided for 469
in division (B)(1) or (2) of this section, is not a derivative, 470
provided that such variable rate investment has a maximum maturity 471
of two years. 472

(D) Except as provided in division (E) of this section, any 473
investment made pursuant to this section must mature within five 474
years from the date of settlement, unless the investment is 475
matched to a specific obligation or debt of the subdivision. 476

(E) The treasurer or governing board may also enter into a 477
written repurchase agreement with any eligible institution 478
mentioned in section 135.03 of the Revised Code or any eligible 479
dealer pursuant to division (M) of this section, under the terms 480
of which agreement the treasurer or governing board purchases, and 481
such institution or dealer agrees unconditionally to repurchase 482

any of the securities listed in divisions (B)(1) to (5), except 483
letters of credit described in division (B)(2), of section 135.18 484
of the Revised Code. The market value of securities subject to an 485
overnight written repurchase agreement must exceed the principal 486
value of the overnight written repurchase agreement by at least 487
two per cent. A written repurchase agreement shall not exceed 488
thirty days and the market value of securities subject to a 489
written repurchase agreement must exceed the principal value of 490
the written repurchase agreement by at least two per cent and be 491
marked to market daily. All securities purchased pursuant to this 492
division shall be delivered into the custody of the treasurer or 493
governing board or an agent designated by the treasurer or 494
governing board. A written repurchase agreement with an eligible 495
securities dealer shall be transacted on a delivery versus payment 496
basis. The agreement shall contain the requirement that for each 497
transaction pursuant to the agreement the participating 498
institution or dealer shall provide all of the following 499
information: 500

(1) The par value of the securities; 501

(2) The type, rate, and maturity date of the securities; 502

(3) A numerical identifier generally accepted in the 503
securities industry that designates the securities. 504

No treasurer or governing board shall enter into a written 505
repurchase agreement under the terms of which the treasurer or 506
governing board agrees to sell securities owned by the subdivision 507
to a purchaser and agrees with that purchaser to unconditionally 508
repurchase those securities. 509

(F) No treasurer or governing board shall make an investment 510
under this section, unless the treasurer or governing board, at 511
the time of making the investment, reasonably expects that the 512
investment can be held until its maturity. 513

(G) No treasurer or governing board shall pay interim moneys 514
into a fund established by another subdivision, treasurer, 515
governing board, or investing authority, if that fund was 516
established for the purpose of investing the public moneys of 517
other subdivisions. This division does not apply to the payment of 518
public moneys into either of the following: 519

(1) The Ohio subdivision's fund pursuant to division (B)(6) 520
of this section; 521

(2) A fund created solely for the purpose of acquiring, 522
constructing, owning, leasing, or operating municipal utilities 523
pursuant to the authority provided under section 715.02 of the 524
Revised Code or Section 4 of Article XVIII, Ohio Constitution. 525

For purposes of division (G) of this section, "subdivision" 526
includes a county. 527

(H) The use of leverage, in which the treasurer or governing 528
board uses its current investment assets as collateral for the 529
purpose of purchasing other assets, is prohibited. The issuance of 530
taxable notes for the purpose of arbitrage is prohibited. 531
Contracting to sell securities that have not yet been acquired by 532
the treasurer or governing board, for the purpose of purchasing 533
such securities on the speculation that bond prices will decline, 534
is prohibited. 535

(I) Whenever, during a period of designation, the treasurer 536
classifies public moneys as interim moneys, the treasurer shall 537
notify the governing board of such action. The notification shall 538
be given within thirty days after such classification and in the 539
event the governing board does not concur in such classification 540
or in the investments or deposits made under this section, the 541
governing board may order the treasurer to sell or liquidate any 542
of such investments or deposits, and any such order shall 543
specifically describe the investments or deposits and fix the date 544

upon which they are to be sold or liquidated. Investments or 545
deposits so ordered to be sold or liquidated shall be sold or 546
liquidated for cash by the treasurer on the date fixed in such 547
order at the then current market price. Neither the treasurer nor 548
the members of the board shall be held accountable for any loss 549
occasioned by sales or liquidations of investments or deposits at 550
prices lower than their cost. Any loss or expense incurred in 551
making such sales or liquidations is payable as other expenses of 552
the treasurer's office. 553

(J) If any investments or deposits purchased under the 554
authority of this section are issuable to a designated payee or to 555
the order of a designated payee, the name of the treasurer and the 556
title of the treasurer's office shall be so designated. If any 557
such securities are registrable either as to principal or 558
interest, or both, then such securities shall be registered in the 559
name of the treasurer as such. 560

(K) The treasurer is responsible for the safekeeping of all 561
documents evidencing a deposit or investment acquired by the 562
treasurer under this section. Any securities may be deposited for 563
safekeeping with a qualified trustee as provided in section 135.18 564
of the Revised Code, except the delivery of securities acquired 565
under any repurchase agreement under this section shall be made to 566
a qualified trustee, provided, however, that the qualified trustee 567
shall be required to report to the treasurer, governing board, 568
auditor of state, or an authorized outside auditor at any time 569
upon request as to the identity, market value, and location of the 570
document evidencing each security, and that if the participating 571
institution is a designated depository of the subdivision for the 572
current period of designation, the securities that are the subject 573
of the repurchase agreement may be delivered to the treasurer or 574
held in trust by the participating institution on behalf of the 575
subdivision. Interest earned on any investments or deposits 576

authorized by this section shall be collected by the treasurer and 577
credited by the treasurer to the proper fund of the subdivision. 578

Upon the expiration of the term of office of a treasurer or 579
in the event of a vacancy in the office of treasurer by reason of 580
death, resignation, removal from office, or otherwise, the 581
treasurer or the treasurer's legal representative shall transfer 582
and deliver to the treasurer's successor all documents evidencing 583
a deposit or investment held by the treasurer. For the investments 584
and deposits so transferred and delivered, such treasurer shall be 585
credited with and the treasurer's successor shall be charged with 586
the amount of money held in such investments and deposits. 587

(L) Whenever investments or deposits acquired under this 588
section mature and become due and payable, the treasurer shall 589
present them for payment according to their tenor, and shall 590
collect the moneys payable thereon. The moneys so collected shall 591
be treated as public moneys subject to sections 135.01 to 135.21 592
of the Revised Code. 593

(M)(1) All investments, except for investments in securities 594
described in divisions (B)(5) and (6) of this section and for 595
investments by a municipal corporation in the issues of such 596
municipal corporation, shall be made only through a member of the 597
national association of securities dealers, through a bank, 598
savings bank, ~~or~~ savings and loan association or credit union 599
regulated by the superintendent of financial institutions, or 600
through an institution regulated by the comptroller of the 601
currency, federal deposit insurance corporation, ~~or~~ board of 602
governors of the federal reserve system, or the national credit 603
union administration. 604

(2) Payment for investments shall be made only upon the 605
delivery of securities representing such investments to the 606
treasurer, governing board, or qualified trustee. If the 607
securities transferred are not represented by a certificate, 608

payment shall be made only upon receipt of confirmation of 609
transfer from the custodian by the treasurer, governing board, or 610
qualified trustee. 611

(N) In making investments authorized by this section, a 612
treasurer or governing board may retain the services of an 613
investment advisor, provided the advisor is licensed by the 614
division of securities under section 1707.141 of the Revised Code 615
or is registered with the securities and exchange commission, and 616
possesses experience in public funds investment management, 617
specifically in the area of state and local government investment 618
portfolios, or the advisor is an eligible institution mentioned in 619
section 135.03 of the Revised Code. 620

(O)(1) Except as otherwise provided in divisions (O)(2) and 621
(3) of this section, no treasurer or governing board shall make an 622
investment or deposit under this section, unless there is on file 623
with the auditor of state a written investment policy approved by 624
the treasurer or governing board. The policy shall require that 625
all entities conducting investment business with the treasurer or 626
governing board shall sign the investment policy of that 627
subdivision. All brokers, dealers, and financial institutions, 628
described in division (M)(1) of this section, initiating 629
transactions with the treasurer or governing board by giving 630
advice or making investment recommendations shall sign the 631
treasurer's or governing board's investment policy thereby 632
acknowledging their agreement to abide by the policy's contents. 633
All brokers, dealers, and financial institutions, described in 634
division (M)(1) of this section, executing transactions initiated 635
by the treasurer or governing board, having read the policy's 636
contents, shall sign the investment policy thereby acknowledging 637
their comprehension and receipt. 638

(2) If a written investment policy described in division 639
(O)(1) of this section is not filed on behalf of the subdivision 640

with the auditor of state, the treasurer or governing board of 641
that subdivision shall invest the subdivision's interim moneys 642
only in interim deposits pursuant to division (B)(3) of this 643
section, no-load money market mutual funds pursuant to division 644
(B)(5) of this section, or the Ohio subdivision's fund pursuant to 645
division (B)(6) of this section. 646

(3) Divisions (O)(1) and (2) of this section do not apply to 647
a treasurer or governing board of a subdivision whose average 648
annual portfolio of investments held pursuant to this section is 649
one hundred thousand dollars or less, provided that the treasurer 650
or governing board certifies, on a form prescribed by the auditor 651
of state, that the treasurer or governing board will comply and is 652
in compliance with the provisions of sections 135.01 to 135.21 of 653
the Revised Code. 654

(P) A treasurer or governing board may enter into a written 655
investment or deposit agreement that includes a provision under 656
which the parties agree to submit to nonbinding arbitration to 657
settle any controversy that may arise out of the agreement, 658
including any controversy pertaining to losses of public moneys 659
resulting from investment or deposit. The arbitration provision 660
shall be set forth entirely in the agreement, and the agreement 661
shall include a conspicuous notice to the parties that any party 662
to the arbitration may apply to the court of common pleas of the 663
county in which the arbitration was held for an order to vacate, 664
modify, or correct the award. Any such party may also apply to the 665
court for an order to change venue to a court of common pleas 666
located more than one hundred miles from the county in which the 667
treasurer or governing board is located. 668

For purposes of this division, "investment or deposit 669
agreement" means any agreement between a treasurer or governing 670
board and a person, under which agreement the person agrees to 671
invest, deposit, or otherwise manage a subdivision's interim 672

moneys on behalf of the treasurer or governing board, or agrees to 673
provide investment advice to the treasurer or governing board. 674

(Q) An investment made by the treasurer or governing board 675
pursuant to this section prior to September 27, 1996, that was a 676
legal investment under the law as it existed before September 27, 677
1996, may be held until maturity, or if the investment does not 678
have a maturity date, it may be held until five years from 679
September 27, 1996, regardless of whether the investment would 680
qualify as a legal investment under the terms of this section as 681
amended. 682

Sec. 135.144. (A) In addition to the authority provided in 683
section 135.14 of the Revised Code, the treasurer or governing 684
board of a political subdivision may invest interim moneys in 685
certificates of deposit in accordance with all of the following: 686

(1) The interim moneys initially are deposited with an 687
eligible public depository described in section 135.03 of the 688
Revised Code and selected, pursuant to section 135.12 of the 689
Revised Code, by the governing board of a political subdivision, 690
for interim moneys of the political subdivision. 691

(2) For the treasurer or governing board of the political 692
subdivision depositing the interim moneys pursuant to division 693
(A)(1) of this section, the eligible public depository selected 694
pursuant to that division invests the interim moneys in 695
certificates of deposit of one or more federally insured banks or 696
savings and loan associations, or a credit union insured pursuant 697
to section 1733.041 of the Revised Code, wherever located. The 698
full amount of principal and any accrued interest of each 699
certificate of deposit invested in pursuant to division (A)(2) of 700
this section shall be insured by federal deposit insurance, or in 701
the case of a credit union, insured by the national credit union 702
administration or a share guaranty corporation as defined in 703

section 1761.01 of the Revised Code. 704

(3) For the treasurer or governing board of the political 705
subdivision depositing the interim moneys pursuant to division 706
(A)(1) of this section, the eligible public depository selected 707
pursuant to that division acts as custodian of the certificates of 708
deposit described in division (A)(2) of this section. 709

(4) At the same time that the eligible public depository 710
selected in accordance with division (A)(1) of this section 711
invests the deposit received pursuant to that division in the 712
certificates of deposit described in division (A)(2) of this 713
section, and the certificates of deposit are issued by the bank 714
~~or~~, savings and loan association, or credit union, the eligible 715
public depository receives an amount of deposits from customers of 716
other federally insured financial institutions, or credit unions 717
insured by the national credit union administration or a share 718
guaranty corporation as defined in section 1761.01 of the Revised 719
Code, wherever located, that are equal to or greater than the 720
amount of the interim money initially deposited pursuant to 721
division (A)(1) of this section by the treasurer or governing 722
board of a political subdivision. 723

(B) Interim moneys deposited or invested in accordance with 724
division (A) of this section are not subject to any pledging 725
requirements described in section 135.18 or 135.181 of the Revised 726
Code. 727

Sec. 135.18. (A) The treasurer, before making the initial 728
deposit in a public depository pursuant to an award made under 729
sections 135.01 to 135.21 of the Revised Code, except as provided 730
in section 135.144 of the Revised Code, shall require the 731
institution designated as a public depository to pledge to and 732
deposit with the treasurer, as security for the repayment of all 733
public moneys to be deposited in the public depository during the 734

period of designation pursuant to the award, eligible securities 735
of aggregate market value equal to the excess of the amount of 736
public moneys to be at the time so deposited, over and above the 737
portion or amount of such moneys as is at that time insured by the 738
federal deposit insurance corporation ~~or by~~, any other agency or 739
instrumentality of the federal government, or a credit union share 740
guaranty corporation as defined in section 1761.01 of the Revised 741
Code. In the case of any deposit other than the initial deposit 742
made during the period of designation, the amount of the aggregate 743
market value of securities required to be pledged and deposited 744
shall be equal to the difference between the amount of public 745
moneys on deposit in such public depository plus the amount to be 746
so deposited, minus the portion or amount of the aggregate as is 747
at the time insured as provided in this section. The treasurer may 748
require additional eligible securities to be deposited to provide 749
for any depreciation which may occur in the market value of any of 750
the securities so deposited. 751

(B) The following securities shall be eligible for the 752
purposes of this section: 753

(1) Bonds, notes, or other obligations of the United States; 754
or bonds, notes, or other obligations guaranteed as to principal 755
and interest by the United States or those for which the faith of 756
the United States is pledged for the payment of principal and 757
interest thereon, by language appearing in the instrument 758
specifically providing such guarantee or pledge and not merely by 759
interpretation or otherwise; 760

(2) Bonds, notes, debentures, letters of credit, or other 761
obligations or securities issued by any federal government agency 762
or instrumentality, or the export-import bank of Washington; 763
bonds, notes, or other obligations guaranteed as to principal and 764
interest by the United States or those for which the faith of the 765
United States is pledged for the payment of principal and interest 766

thereon, by interpretation or otherwise and not by language	767
appearing in the instrument specifically providing such guarantee	768
or pledge;	769
(3) Obligations of or fully insured or fully guaranteed by	770
the United States or any federal government agency or	771
instrumentality;	772
(4) Obligations partially insured or partially guaranteed by	773
any federal agency or instrumentality;	774
(5) Obligations of or fully guaranteed by the federal	775
national mortgage association, federal home loan mortgage	776
corporation, federal farm credit bank, or student loan marketing	777
association;	778
(6) Bonds and other obligations of this state;	779
(7) Bonds and other obligations of any county, township,	780
school district, municipal corporation, or other legally	781
constituted taxing subdivision of this state, which is not at the	782
time of such deposit, in default in the payment of principal or	783
interest on any of its bonds or other obligations, for which the	784
full faith and credit of the issuing subdivision is pledged;	785
(8) Bonds of other states of the United States which have not	786
during the ten years immediately preceding the time of such	787
deposit defaulted in payments of either interest or principal on	788
any of their bonds;	789
(9) Shares of no-load money market mutual funds consisting	790
exclusively of obligations described in division (B)(1) or (2) of	791
this section and repurchase agreements secured by such	792
obligations;	793
(10) A surety bond issued by a corporate surety licensed by	794
the state and authorized to issue surety bonds in this state	795
pursuant to Chapter 3929. of the Revised Code, and qualified to	796

provide surety bonds to the federal government pursuant to 96 797
Stat. 1047 (1982), 31 U.S.C.A. 9304; 798

(11) Bonds or other obligations of any county, municipal 799
corporation, or other legally constituted taxing subdivision of 800
another state of the United States, or of any instrumentality of 801
such county, municipal corporation, or other taxing subdivision, 802
for which the full faith and credit of the issuer is pledged and, 803
at the time of purchase of the bonds or other obligations, rated 804
in one of the two highest categories by at least one nationally 805
recognized standard rating service. 806

(C) If the public depository fails to pay over any part of 807
the public deposit made therein as provided by law, the treasurer 808
shall sell at public sale any of the bonds or other securities 809
deposited with the treasurer pursuant to this section or section 810
131.09 of the Revised Code, or shall draw on any letter of credit 811
to the extent of the failure to pay. Thirty days' notice of the 812
sale shall be given in a newspaper of general circulation at 813
Columbus, in the case of the treasurer of state, and at the county 814
seat of the county in which the office of the treasurer is 815
located, in the case of any other treasurer. When a sale of bonds 816
or other securities has been so made and upon payment to the 817
treasurer of the purchase money, the treasurer shall transfer such 818
bonds or securities whereupon the absolute ownership of such bonds 819
or securities shall pass to the purchasers. Any surplus remaining 820
after deducting the amount due the state or subdivision and 821
expenses of sale shall be paid to the public depository. 822

(D) An institution designated as a public depository may, by 823
written notice to the treasurer, designate a qualified trustee and 824
deposit the eligible securities required by this section with the 825
trustee for safekeeping for the account of the treasurer and the 826
institution as a public depository, as their respective rights to 827
and interests in such securities under this section may appear and 828

be asserted by written notice to or demand upon the trustee. In 829
which case, the treasurer shall accept the written receipt of the 830
trustee describing the securities that have been deposited with 831
the trustee by the public depository, a copy of which shall also 832
be delivered to the public depository. Thereupon all securities so 833
deposited with the trustee are deemed to be pledged with the 834
treasurer and to be deposited with the treasurer, for all the 835
purposes of this section. 836

(E) The governing board may make provisions for the exchange 837
and release of securities and the substitution of other eligible 838
securities therefor except where the public depository has 839
deposited eligible securities with a trustee for safekeeping as 840
provided in this section. 841

(F) When the public depository has deposited eligible 842
securities described in division (B)(1) of this section with a 843
trustee for safekeeping, the public depository may at any time 844
substitute or exchange eligible securities described in division 845
(B)(1) of this section having a current market value equal to or 846
greater than the current market value of the securities then on 847
deposit and for which they are to be substituted or exchanged, 848
without specific authorization from any governing board, boards, 849
or treasurer of any such substitution or exchange. 850

(G) When the public depository has deposited eligible 851
securities described in divisions (B)(2) to (9) of this section 852
with a trustee for safekeeping, the public depository may at any 853
time substitute or exchange eligible securities having a current 854
market value equal to or greater than the current market value of 855
the securities then on deposit and for which they are to be 856
substituted or exchanged without specific authorization of any 857
governing board, boards, or treasurer of any such substitution or 858
exchange only if: 859

(1) The treasurer has authorized the public depository to 860

make such substitution or exchange on a continuing basis during a 861
specified period without prior approval of each substitution or 862
exchange. The authorization may be effected by the treasurer 863
sending to the trustee a written notice stating that substitution 864
may be effected on a continuing basis during a specified period 865
which shall not extend beyond the end of the period of designation 866
during which the notice is given. The trustee may rely upon this 867
notice and upon the period of authorization stated therein and 868
upon the period of designation stated therein. 869

(2) No continuing authorization for substitution has been 870
given by the treasurer, the public depository notifies the 871
treasurer and the trustee of an intended substitution or exchange, 872
and the treasurer fails to object to the trustee as to the 873
eligibility or market value of the securities being substituted 874
within ten calendar days after the date appearing on the notice of 875
proposed substitution. The notice to the treasurer and to the 876
trustee shall be given in writing and delivered personally or by 877
certified or registered mail with a return receipt requested. The 878
trustee may assume in any case that the notice has been delivered 879
to the treasurer. In order for objections of the treasurer to be 880
effective, receipt of the objections must be acknowledged in 881
writing by the trustee. 882

(3) The treasurer gives written authorization for a 883
substitution or exchange of specific securities. 884

(H) The public depository shall notify any governing board, 885
boards, or treasurer of any substitution or exchange under 886
division (G)(1) or (2) of this section. Upon request from the 887
treasurer, the trustee shall furnish a statement of the securities 888
pledged against such public deposits. 889

(I) Any federal reserve bank or branch thereof located in 890
this state or federal home loan bank, without compliance with 891
Chapter 1111. of the Revised Code and without becoming subject to 892

any other law of this state relative to the exercise by 893
corporations of trust powers generally, is qualified to act as 894
trustee for the safekeeping of securities, under this section. Any 895
institution mentioned in section 135.03 of the Revised Code that 896
holds a certificate of qualification issued by the superintendent 897
of financial institutions or any institution complying with 898
sections 1111.04, 1111.05, and 1111.06 of the Revised Code, is 899
qualified to act as trustee for the safekeeping of securities, 900
other than those belonging to itself, under this section. Upon 901
application to the superintendent in writing by an institution, 902
the superintendent shall investigate the applicant and ascertain 903
whether or not it has been authorized to execute and accept trusts 904
in this state and has safe and adequate vaults and efficient 905
supervision thereof for the storage and safekeeping within this 906
state of securities. If the superintendent finds that the 907
applicant has been so authorized and has such vaults and 908
supervision thereof, the superintendent shall approve the 909
application and issue a certificate to that effect, the original 910
or any certified copy of which shall be conclusive evidence that 911
the institution therein named is qualified to act as trustee for 912
the purposes of this section with respect to securities other than 913
those belonging to itself. 914

Notwithstanding the fact that a public depository is required 915
to pledge eligible securities in certain amounts to secure 916
deposits of public moneys, a trustee has no duty or obligation to 917
determine the eligibility, market value, or face value of any 918
securities deposited with the trustee by a public depository. This 919
applies in all situations including, without limitation, a 920
substitution or exchange of securities. 921

Any charges or compensation of a designated trustee for 922
acting as such under this section shall be paid by the public 923
depository and in no event shall be chargeable to the state or the 924

subdivision or to the treasurer or to any officer of the state or 925
subdivision. The charges or compensation shall not be a lien or 926
charge upon the securities deposited for safekeeping prior or 927
superior to the rights to and interests in the securities of the 928
state or the subdivision or of the treasurer. The treasurer and 929
the treasurer's bonders or surety shall be relieved from any 930
liability to the state or the subdivision or to the public 931
depository for the loss or destruction of any securities deposited 932
with a qualified trustee pursuant to this section. 933

Sec. 135.32. (A) Any national bank, any bank doing business 934
under authority granted by the superintendent of financial 935
institutions, or any bank doing business under authority granted 936
by the regulatory authority of another state of the United States, 937
located in this state, is eligible to become a public depository, 938
subject to sections 135.31 to 135.40 of the Revised Code. No bank 939
shall receive or have on deposit at any one time public moneys, 940
including public moneys as defined in section 135.01 of the 941
Revised Code, in an aggregate amount in excess of thirty per cent 942
of its total assets, as shown in its latest report to the 943
comptroller of the currency, the superintendent of financial 944
institutions, the federal deposit insurance corporation, or the 945
board of governors of the federal reserve system. 946

(B) Any federal savings association, any savings and loan 947
association or savings bank doing business under authority granted 948
by the superintendent of financial institutions, or any savings 949
and loan association or savings bank doing business under 950
authority granted by the regulatory authority of another state of 951
the United States, located in this state, and authorized to accept 952
deposits is eligible to become a public depository, subject to 953
sections 135.31 to 135.40 of the Revised Code. No savings 954
association, savings and loan association, or savings bank shall 955
receive or have on deposit at any one time public moneys, 956

including public moneys as defined in section 135.01 of the Revised Code, in an aggregate amount in excess of thirty per cent of its total assets, as shown in its latest report to the office of thrift supervision, the superintendent of financial institutions, the federal deposit insurance corporation, or the board of governors of the federal reserve system.

(C) Any federal credit union located in this state, any credit union located in this state and licensed pursuant to section 1733.39 of the Revised Code, or any credit union as defined in section 1733.01 of the Revised Code, subject to inspection by the superintendent of financial institutions, is eligible to become a public depository, subject to sections 135.31 to 135.40 of the Revised Code. No credit union shall receive or have on deposit at any one time public moneys, including public moneys as defined in section 135.01 of the Revised Code, in an aggregate amount in excess of thirty per cent of its total assets, as shown in its latest report to the superintendent of financial institutions or the national credit union administration.

Sec. 135.321. No bank ~~or~~, savings and loan association, or credit union is eligible to become a public depository or to receive any new public deposits pursuant to sections 135.31 to 135.40 of the Revised Code, if:

(A) In the case of a bank, the bank or any of its directors, officers, employees, or controlling shareholders is currently a party to an active final or temporary cease-and-desist order issued under section 1121.32 of the Revised Code;

(B) In the case of an association, the association or any of its directors, officers, employees, or controlling persons is currently a party to an active final or summary cease-and-desist order issued under section 1155.02 of the Revised Code;

(C) In the case of a credit union, the credit union or any of 988
its regulated individuals as defined in section 1733.01 of the 989
Revised Code, is currently a party to an active final or temporary 990
cease-and-desist order issued under section 1733.324 of the 991
Revised Code. 992

Sec. 135.33. (A) The board of county commissioners shall meet 993
every four years in the month next preceding the date of the 994
expiration of its current period of designation for the purpose of 995
designating its public depositories of active moneys for the next 996
succeeding four-year period commencing on the date of expiration 997
of the preceding period. 998

At least sixty days before the meeting, the county treasurer 999
shall submit to the board an estimate of the aggregate amount of 1000
public moneys that might be available for deposit as active moneys 1001
at any one time during the next four-year period. Upon receipt of 1002
such estimate, the board shall immediately notify all eligible 1003
institutions that might desire to be designated as such public 1004
depositories of the date on which the designation is to be made; 1005
the amount that has been estimated to be available for deposit; 1006
and the date fixed as the last date on which applications may be 1007
submitted, that shall not be more than thirty days or less than 1008
ten days prior to the date set for the meeting designating public 1009
depositories. 1010

(B) Any eligible institution described in division (A) or (C) 1011
of section 135.32 of the Revised Code that has an office located 1012
within the territorial limits of the county is eligible to become 1013
a public depository of the active moneys of the county. Each 1014
eligible institution desiring to be a public depository of such 1015
active moneys shall, not more than thirty days or less than ten 1016
days prior to the date fixed by this section, make application 1017
~~therefor~~ therefore in writing to the board of county 1018

commissioners. The application may specify the maximum amount of 1019
such public moneys that the applicant desires to receive and have 1020
on deposit at any time during the period covered by the 1021
designation. Each application shall be accompanied by a financial 1022
statement of the applicant, under oath of its cashier, treasurer, 1023
or other officer as of the date of its latest report to the 1024
superintendent of ~~banks or~~ financial institutions, the comptroller 1025
of the currency, or the national credit union administration, and 1026
adjusted to show any changes therein prior to the date of the 1027
application, that shall include a statement of its public and 1028
nonpublic deposits. 1029

(C) The board of county commissioners, upon recommendation of 1030
the treasurer, shall designate, by resolution, one or more 1031
eligible institutions as public depositories for active moneys. In 1032
case the aggregate amount of active moneys applied for by 1033
institutions within the county is less than the amount estimated 1034
to be available for deposit, the board may designate as a public 1035
depository one or more eligible institutions that are conveniently 1036
located. The original resolution of designation shall be certified 1037
to the treasurer and any institution designated as a public 1038
depository. 1039

(D) No service charge shall be made against any deposit of 1040
active moneys, or collected or paid, unless such service charge is 1041
the same as is customarily imposed by institutions receiving money 1042
on deposit subject to check, in which event the charge may be 1043
paid. 1044

(E) Notwithstanding division (C) of this section, the board 1045
of county commissioners may authorize, by resolution, the 1046
treasurer to deposit money necessary to pay the principal and 1047
interest on bonds and notes, and any fees incident thereto, in any 1048
bank within this state. 1049

Moneys so deposited shall be transferred by the treasurer 1050

according to the terms of the agreement with the bank or credit 1051
union but shall remain as public moneys until such time as they 1052
are actually paid out by the bank or credit union. Until such time 1053
as payments become due and payable on such principal or interest, 1054
the bank or credit union shall invest any moneys in the account in 1055
interest-bearing obligations at the highest, reasonable rate of 1056
interest obtainable. 1057

So long as moneys remain in the account, the bank or credit 1058
union shall deliver to the treasurer, at the end of each month, a 1059
statement showing an accounting of all activities in the account 1060
during the preceding month including, but not limited to, all 1061
payments made, all interest earned, and the beginning and ending 1062
balances, together with any coupons redeemed since the preceding 1063
statement was issued. 1064

Sec. 135.35. (A) The investing authority shall deposit or 1065
invest any part or all of the county's inactive moneys and shall 1066
invest all of the money in the county public library fund when 1067
required by section 135.352 of the Revised Code. The following 1068
classifications of securities and obligations are eligible for 1069
such deposit or investment: 1070

(1) United States treasury bills, notes, bonds, or any other 1071
obligation or security issued by the United States treasury, any 1072
other obligation guaranteed as to principal or interest by the 1073
United States, or any book entry, zero-coupon United States 1074
treasury security that is a direct obligation of the United 1075
States. 1076

Nothing in the classification of eligible securities and 1077
obligations set forth in divisions (A)(2) to (11) of this section 1078
shall be construed to authorize any investment in stripped 1079
principal or interest obligations of such eligible securities and 1080
obligations. 1081

(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality, including but not limited to, the federal national mortgage association, federal home loan bank, federal farm credit bank, federal home loan mortgage corporation, government national mortgage association, and student loan marketing association. All federal agency securities shall be direct issuances of federal government agencies or instrumentalities.

(3) Time certificates of deposit or savings or deposit accounts, including, but not limited to, passbook accounts, in any eligible institution mentioned in section 135.32 of the Revised Code;

(4) Bonds and other obligations of this state or the political subdivisions of this state, provided that such political subdivisions are located wholly or partly within the same county as the investing authority;

(5) No-load money market mutual funds consisting exclusively of obligations described in division (A)(1) or (2) of this section and repurchase agreements secured by such obligations, provided that investments in securities described in this division are made only through eligible institutions mentioned in section 135.32 of the Revised Code;

(6) The Ohio subdivision's fund as provided in section 135.45 of the Revised Code;

(7) Securities lending agreements with any eligible institution mentioned in section 135.32 of the Revised Code that is a member of the federal reserve system or federal home loan bank or with any recognized United States government securities dealer meeting the description in division (J)(1) of this section, under the terms of which agreements the investing authority lends

securities and the eligible institution or dealer agrees to 1113
simultaneously exchange similar securities or cash, equal value 1114
for equal value. 1115

Securities and cash received as collateral for a securities 1116
lending agreement are not inactive moneys of the county or moneys 1117
of a county public library fund. The investment of cash collateral 1118
received pursuant to a securities lending agreement may be 1119
invested only in instruments specified by the investing authority 1120
in the written investment policy described in division (K) of this 1121
section. 1122

(8) Up to twenty-five per cent of the county's total average 1123
portfolio in either of the following investments: 1124

(a) Commercial paper notes issued by an entity that is 1125
defined in division (D) of section 1705.01 of the Revised Code and 1126
that has assets exceeding five hundred million dollars, to which 1127
notes all of the following apply: 1128

(i) The notes are rated at the time of purchase in the 1129
highest classification established by at least two nationally 1130
recognized standard rating services. 1131

(ii) The aggregate value of the notes does not exceed ten per 1132
cent of the aggregate value of the outstanding commercial paper of 1133
the issuing corporation. 1134

(iii) The notes mature not later than two hundred seventy 1135
days after purchase. 1136

(b) Bankers acceptances of banks that are insured by the 1137
federal deposit insurance corporation and to which both of the 1138
following apply: 1139

(i) The obligations are eligible for purchase by the federal 1140
reserve system. 1141

(ii) The obligations mature not later than one hundred eighty 1142

days after purchase. 1143

No investment shall be made pursuant to division (A)(8) of 1144
this section unless the investing authority has completed 1145
additional training for making the investments authorized by 1146
division (A)(8) of this section. The type and amount of additional 1147
training shall be approved by the auditor of state and may be 1148
conducted by or provided under the supervision of the auditor of 1149
state. 1150

(9) Up to fifteen per cent of the county's total average 1151
portfolio in notes issued by corporations that are incorporated 1152
under the laws of the United States and that are operating within 1153
the United States, or by depository institutions that are doing 1154
business under authority granted by the United States or any state 1155
and that are operating within the United States, provided both of 1156
the following apply: 1157

(a) The notes are rated in the second highest or higher 1158
category by at least two nationally recognized standard rating 1159
services at the time of purchase. 1160

(b) The notes mature not later than two years after purchase. 1161
1162

(10) No-load money market mutual funds rated in the highest 1163
category at the time of purchase by at least one nationally 1164
recognized standard rating service and consisting exclusively of 1165
obligations described in division (A)(1), (2), or (6) of section 1166
135.143 of the Revised Code; 1167

(11) Debt interests rated at the time of purchase in the 1168
three highest categories by two nationally recognized standard 1169
rating services and issued by foreign nations diplomatically 1170
recognized by the United States government. All interest and 1171
principal shall be denominated and payable in United States funds. 1172
The investments made under division (A)(11) of this section shall 1173

not exceed in the aggregate one per cent of a county's total 1174
average portfolio. 1175

The investing authority shall invest under division (A)(11) 1176
of this section in a debt interest issued by a foreign nation only 1177
if the debt interest is backed by the full faith and credit of 1178
that foreign nation, there is no prior history of default, and the 1179
debt interest matures not later than five years after purchase. 1180
For purposes of division (A)(11) of this section, a debt interest 1181
is rated in the three highest categories by two nationally 1182
recognized standard rating services if either the debt interest 1183
itself or the issuer of the debt interest is rated, or is 1184
implicitly rated, at the time of purchase in the three highest 1185
categories by two nationally recognized standard rating services. 1186

(12) A current unpaid or delinquent tax line of credit 1187
authorized under division (G) of section 135.341 of the Revised 1188
Code, provided that all of the conditions for entering into such a 1189
line of credit under that division are satisfied. 1190

(B) Nothing in the classifications of eligible obligations 1191
and securities set forth in divisions (A)(1) to (11) of this 1192
section shall be construed to authorize investment in a 1193
derivative, and no investing authority shall invest any county 1194
inactive moneys or any moneys in a county public library fund in a 1195
derivative. For purposes of this division, "derivative" means a 1196
financial instrument or contract or obligation whose value or 1197
return is based upon or linked to another asset or index, or both, 1198
separate from the financial instrument, contract, or obligation 1199
itself. Any security, obligation, trust account, or other 1200
instrument that is created from an issue of the United States 1201
treasury or is created from an obligation of a federal agency or 1202
instrumentality or is created from both is considered a derivative 1203
instrument. An eligible investment described in this section with 1204
a variable interest rate payment, based upon a single interest 1205

payment or single index comprised of other eligible investments 1206
provided for in division (A)(1) or (2) of this section, is not a 1207
derivative, provided that such variable rate investment has a 1208
maximum maturity of two years. A treasury inflation-protected 1209
security shall not be considered a derivative, provided the 1210
security matures not later than five years after purchase. 1211

1212

(C) Except as provided in division (D) of this section, any 1213
investment made pursuant to this section must mature within five 1214
years from the date of settlement, unless the investment is 1215
matched to a specific obligation or debt of the county or to a 1216
specific obligation or debt of a political subdivision of this 1217
state located wholly or partly within the county, and the 1218
investment is specifically approved by the investment advisory 1219
committee. 1220

(D) The investing authority may also enter into a written 1221
repurchase agreement with any eligible institution mentioned in 1222
section 135.32 of the Revised Code or any eligible securities 1223
dealer pursuant to division (J) of this section, under the terms 1224
of which agreement the investing authority purchases and the 1225
eligible institution or dealer agrees unconditionally to 1226
repurchase any of the securities listed in divisions (B)(1) to 1227
(5), except letters of credit described in division (B)(2), of 1228
section 135.18 of the Revised Code. The market value of securities 1229
subject to an overnight written repurchase agreement must exceed 1230
the principal value of the overnight written repurchase agreement 1231
by at least two per cent. A written repurchase agreement must 1232
exceed the principal value of the overnight written repurchase 1233
agreement, by at least two per cent. A written repurchase 1234
agreement shall not exceed thirty days, and the market value of 1235
securities subject to a written repurchase agreement must exceed 1236
the principal value of the written repurchase agreement by at 1237

least two per cent and be marked to market daily. All securities 1238
purchased pursuant to this division shall be delivered into the 1239
custody of the investing authority or the qualified custodian of 1240
the investing authority or an agent designated by the investing 1241
authority. A written repurchase agreement with an eligible 1242
securities dealer shall be transacted on a delivery versus payment 1243
basis. The agreement shall contain the requirement that for each 1244
transaction pursuant to the agreement the participating 1245
institution shall provide all of the following information: 1246

(1) The par value of the securities; 1247

(2) The type, rate, and maturity date of the securities; 1248

(3) A numerical identifier generally accepted in the 1249
securities industry that designates the securities. 1250

No investing authority shall enter into a written repurchase 1251
agreement under the terms of which the investing authority agrees 1252
to sell securities owned by the county to a purchaser and agrees 1253
with that purchaser to unconditionally repurchase those 1254
securities. 1255

(E) No investing authority shall make an investment under 1256
this section, unless the investing authority, at the time of 1257
making the investment, reasonably expects that the investment can 1258
be held until its maturity. The investing authority's written 1259
investment policy shall specify the conditions under which an 1260
investment may be redeemed or sold prior to maturity. 1261

(F) No investing authority shall pay a county's inactive 1262
moneys or moneys of a county public library fund into a fund 1263
established by another subdivision, treasurer, governing board, or 1264
investing authority, if that fund was established by the 1265
subdivision, treasurer, governing board, or investing authority 1266
for the purpose of investing or depositing the public moneys of 1267
other subdivisions. This division does not apply to the payment of 1268

public moneys into either of the following: 1269

(1) The Ohio subdivision's fund pursuant to division (A)(6) 1270
of this section; 1271

(2) A fund created solely for the purpose of acquiring, 1272
constructing, owning, leasing, or operating municipal utilities 1273
pursuant to the authority provided under section 715.02 of the 1274
Revised Code or Section 4 of Article XVIII, Ohio Constitution. 1275

For purposes of division (F) of this section, "subdivision" 1276
includes a county. 1277

(G) The use of leverage, in which the county uses its current 1278
investment assets as collateral for the purpose of purchasing 1279
other assets, is prohibited. The issuance of taxable notes for the 1280
purpose of arbitrage is prohibited. Contracting to sell securities 1281
not owned by the county, for the purpose of purchasing such 1282
securities on the speculation that bond prices will decline, is 1283
prohibited. 1284

(H) Any securities, certificates of deposit, deposit 1285
accounts, or any other documents evidencing deposits or 1286
investments made under authority of this section shall be issued 1287
in the name of the county with the county treasurer or investing 1288
authority as the designated payee. If any such deposits or 1289
investments are registrable either as to principal or interest, or 1290
both, they shall be registered in the name of the treasurer. 1291

(I) The investing authority shall be responsible for the 1292
safekeeping of all documents evidencing a deposit or investment 1293
acquired under this section, including, but not limited to, 1294
safekeeping receipts evidencing securities deposited with a 1295
qualified trustee, as provided in section 135.37 of the Revised 1296
Code, and documents confirming the purchase of securities under 1297
any repurchase agreement under this section shall be deposited 1298
with a qualified trustee, provided, however, that the qualified 1299

trustee shall be required to report to the investing authority, 1300
auditor of state, or an authorized outside auditor at any time 1301
upon request as to the identity, market value, and location of the 1302
document evidencing each security, and that if the participating 1303
institution is a designated depository of the county for the 1304
current period of designation, the securities that are the subject 1305
of the repurchase agreement may be delivered to the treasurer or 1306
held in trust by the participating institution on behalf of the 1307
investing authority. 1308

Upon the expiration of the term of office of an investing 1309
authority or in the event of a vacancy in the office for any 1310
reason, the officer or the officer's legal representative shall 1311
transfer and deliver to the officer's successor all documents 1312
mentioned in this division for which the officer has been 1313
responsible for safekeeping. For all such documents transferred 1314
and delivered, the officer shall be credited with, and the 1315
officer's successor shall be charged with, the amount of moneys 1316
evidenced by such documents. 1317

(J)(1) All investments, except for investments in securities 1318
described in divisions (A)(5) and (6) of this section, shall be 1319
made only through a member of the national association of 1320
securities dealers, through a bank, savings bank, ~~or~~ savings and 1321
loan association, or credit union regulated by the superintendent 1322
of financial institutions, or through an institution regulated by 1323
the comptroller of the currency, federal deposit insurance 1324
corporation, ~~or~~ board of governors of the federal reserve system, 1325
or the national credit union administration. 1326

(2) Payment for investments shall be made only upon the 1327
delivery of securities representing such investments to the 1328
treasurer, investing authority, or qualified trustee. If the 1329
securities transferred are not represented by a certificate, 1330
payment shall be made only upon receipt of confirmation of 1331

transfer from the custodian by the treasurer, governing board, or 1332
qualified trustee. 1333

(K)(1) Except as otherwise provided in division (K)(2) of 1334
this section, no investing authority shall make an investment or 1335
deposit under this section, unless there is on file with the 1336
auditor of state a written investment policy approved by the 1337
investing authority. The policy shall require that all entities 1338
conducting investment business with the investing authority shall 1339
sign the investment policy of that investing authority. All 1340
brokers, dealers, and financial institutions, described in 1341
division (J)(1) of this section, initiating transactions with the 1342
investing authority by giving advice or making investment 1343
recommendations shall sign the investing authority's investment 1344
policy thereby acknowledging their agreement to abide by the 1345
policy's contents. All brokers, dealers, and financial 1346
institutions, described in division (J)(1) of this section, 1347
executing transactions initiated by the investing authority, 1348
having read the policy's contents, shall sign the investment 1349
policy thereby acknowledging their comprehension and receipt. 1350

(2) If a written investment policy described in division 1351
(K)(1) of this section is not filed on behalf of the county with 1352
the auditor of state, the investing authority of that county shall 1353
invest the county's inactive moneys and moneys of the county 1354
public library fund only in time certificates of deposits or 1355
savings or deposit accounts pursuant to division (A)(3) of this 1356
section, no-load money market mutual funds pursuant to division 1357
(A)(5) of this section, or the Ohio subdivision's fund pursuant to 1358
division (A)(6) of this section. 1359

(L)(1) The investing authority shall establish and maintain 1360
an inventory of all obligations and securities acquired by the 1361
investing authority pursuant to this section. The inventory shall 1362
include a description of each obligation or security, including 1363

type, cost, par value, maturity date, settlement date, and any 1364
coupon rate. 1365

(2) The investing authority shall also keep a complete record 1366
of all purchases and sales of the obligations and securities made 1367
pursuant to this section. 1368

(3) The investing authority shall maintain a monthly 1369
portfolio report and issue a copy of the monthly portfolio report 1370
describing such investments to the county investment advisory 1371
committee, detailing the current inventory of all obligations and 1372
securities, all transactions during the month that affected the 1373
inventory, any income received from the obligations and 1374
securities, and any investment expenses paid, and stating the 1375
names of any persons effecting transactions on behalf of the 1376
investing authority. 1377

(4) The monthly portfolio report shall be a public record and 1378
available for inspection under section 149.43 of the Revised Code. 1379

(5) The inventory and the monthly portfolio report shall be 1380
filed with the board of county commissioners. 1381

(M) An investing authority may enter into a written 1382
investment or deposit agreement that includes a provision under 1383
which the parties agree to submit to nonbinding arbitration to 1384
settle any controversy that may arise out of the agreement, 1385
including any controversy pertaining to losses of public moneys 1386
resulting from investment or deposit. The arbitration provision 1387
shall be set forth entirely in the agreement, and the agreement 1388
shall include a conspicuous notice to the parties that any party 1389
to the arbitration may apply to the court of common pleas of the 1390
county in which the arbitration was held for an order to vacate, 1391
modify, or correct the award. Any such party may also apply to the 1392
court for an order to change venue to a court of common pleas 1393
located more than one hundred miles from the county in which the 1394

investing authority is located. 1395

For purposes of this division, "investment or deposit 1396
agreement" means any agreement between an investing authority and 1397
a person, under which agreement the person agrees to invest, 1398
deposit, or otherwise manage, on behalf of the investing 1399
authority, a county's inactive moneys or moneys in a county public 1400
library fund, or agrees to provide investment advice to the 1401
investing authority. 1402

(N) An investment held in the county portfolio on September 1403
27, 1996, that was a legal investment under the law as it existed 1404
before September 27, 1996, may be held until maturity, or if the 1405
investment does not have a maturity date the investment may be 1406
held until five years from September 27, 1996, regardless of 1407
whether the investment would qualify as a legal investment under 1408
the terms of this section as amended. 1409

Sec. 135.353. (A) In addition to the investments specified in 1410
section 135.35 of the Revised Code, the investing authority of a 1411
county may do all of the following: 1412

(1) Invest inactive or public moneys in linked deposits as 1413
authorized by resolution adopted pursuant to section 135.80 or 1414
135.801 of the Revised Code; 1415

(2) Invest inactive or public moneys in linked deposits as 1416
authorized by resolution adopted pursuant to section 135.805 of 1417
the Revised Code for a term considered appropriate by the 1418
investing authority, but not exceeding fifteen years, which 1419
investment may be renewed for up to two additional terms with each 1420
additional term not exceeding fifteen years. 1421

(3) Invest inactive moneys in certificates of deposit in 1422
accordance with all of the following: 1423

(a) The inactive moneys initially are deposited with an 1424

eligible public depository described in section 135.32 of the Revised Code and selected by the investing authority.

(b) For the investing authority depositing the inactive moneys pursuant to division (A)(3)(a) 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, or a credit union insured pursuant to section 1733.041 of the Revised Code, wherever located. The full amount of principal and any accrued interest of each certificate of deposit invested in pursuant to division (A)(3)(b) of this section shall be insured by federal deposit insurance, or in the case of a credit union, insured by the national credit union administration or a share guaranty corporation as defined in section 1761.01 of the Revised Code.

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

(d) At the same time that the eligible public depository selected in accordance with division (A)(3)(a) of this section invests the deposit received pursuant to that division in the certificates of deposit described in division (A)(3)(b) of this section, and the certificates of deposit are issued by the bank ~~or~~, savings and loan association, or credit union, the eligible public depository receives an amount of deposits from customers of other federally insured financial institutions, or credit unions insured by the national credit union administration or a share guaranty corporation as defined in section 1761.01 of the Revised Code, wherever located, that are equal to or greater than the amount initially deposited by the investing authority pursuant to

division (A)(3)(a) of this section. 1457

(B) Inactive moneys deposited or invested in accordance with 1458
division (A)(3) of this section are not subject to any pledging 1459
requirements described in section 135.181 or 135.37 of the Revised 1460
Code. 1461

Sec. 135.37. (A) Any institution described in section 135.32 1462
of the Revised Code shall, at the time it receives a deposit of 1463
public moneys under section 135.33 or 135.35 of the Revised Code, 1464
pledge to and deposit with the investing authority, as security 1465
for the repayment of all public moneys to be deposited, eligible 1466
securities of aggregate market value equal to or in excess of the 1467
amount of public moneys to be at the time so deposited. Any 1468
securities listed in division (B) of section 135.18 of the Revised 1469
Code are eligible for such purpose. The collateral so pledged or 1470
deposited may be in an amount that when added to the portion of 1471
the deposit insured by the federal deposit insurance corporation 1472
~~or~~ any other agency or instrumentality of the federal government, 1473
or a credit union share guaranty corporation as defined in section 1474
1761.01 of the Revised Code will, in the aggregate, equal or 1475
exceed the amount of public moneys so deposited; provided that, 1476
when an investment of inactive moneys consists of the purchase of 1477
one or more of the type of securities listed in division (A)(1) or 1478
(2) of section 135.35 of the Revised Code, no additional 1479
collateral need be pledged or deposited. 1480

The investing authority also may require that additional 1481
eligible securities be pledged or deposited when depreciation 1482
occurs in the market value of any securities pledged or deposited. 1483

(B) The public depository may, at any time, provide for the 1484
exchange or substitution of securities for other eligible 1485
securities or the release of securities when the amount of public 1486
moneys on deposit does not require that they be pledged or 1487

deposited, by notifying the investing authority of its intent to 1488
take such action. 1489

Upon proper notification of the public depository's desire 1490
for release of securities, the investing authority may sign a 1491
release of such securities provided that the aggregate amount of 1492
collateral remaining pledged or deposited meets the requirements 1493
of divisions (A) to (E) of this section. 1494

When a public depository desires to exchange or substitute 1495
securities for other eligible securities, the investing authority 1496
may release the securities pledged or deposited after the deposit 1497
of other securities having a current market value equal to or 1498
greater than the current market value of securities then on 1499
deposit or after a safekeeping receipt has been received 1500
evidencing the deposit and pledge of such securities. 1501

(C) Upon request from the investing authority, the trustee or 1502
the public depository shall furnish a statement of the securities 1503
pledged against the public moneys deposited in the public 1504
depository. 1505

(D) If a public depository fails to pay over any part of any 1506
public deposit made as provided by law, the investing authority 1507
shall sell any pledged or deposited securities, as prescribed in 1508
division (C) of section 135.18 of the Revised Code. 1509

(E) A public depository may designate, in accordance with the 1510
provisions of division (D) of section 135.18 of the Revised Code, 1511
a trustee for the safekeeping of any pledged securities. Such 1512
trustee shall be any bank or other institution eligible as a 1513
trustee under division (I) of section 135.18 of the Revised Code, 1514
except that, for the purposes of this section, a bank to which a 1515
certificate of qualification is issued shall be an institution 1516
mentioned in division (A) of section 135.32 of the Revised Code. 1517

(F) In lieu of the pledging requirements prescribed in 1518

divisions (A) to (E) of this section, an institution designated as 1519
a public depository may pledge securities pursuant to section 1520
135.181 of the Revised Code. 1521

Sec. 135.51. In case of any default on the part of a bank ~~or,~~ 1522
domestic ~~building and loan~~ association, savings bank, or credit 1523
union in its capacity as depository of the money of any county, 1524
municipal corporation, township, or school district, the board of 1525
county commissioners, the legislative authority of such municipal 1526
corporation, the board of township trustees, and the board of 1527
education of such school district, in lieu of immediately selling 1528
the securities received and held as security for the deposit of 1529
such money under authority of any section of the Revised Code, may 1530
retain the same, collect the interest and any installments of 1531
principal thereafter falling due on such securities, and refund, 1532
exchange, sell, or otherwise dispose of any of them, at such times 1533
and in such manner as such board of county commissioners, 1534
legislative authority, board of township trustees, or board of 1535
education determines to be advisable with a view to conserving the 1536
value of such securities for the benefit of such county, municipal 1537
corporation, township, or school district, and for the benefit of 1538
the depositors, creditors, and stockholders or other owners of 1539
such bank ~~or building and loan, domestic~~ association, savings 1540
bank, or credit union. 1541

Sec. 135.52. In anticipation of the collection of the 1542
principal and interest of securities, or other disposition of 1543
them, as authorized by section 135.51 of the Revised Code, and of 1544
the payment of dividends in the liquidation of the depository bank 1545
~~or,~~ domestic ~~savings and loan~~ association, savings bank, or credit 1546
union and for the purpose of providing public money immediately 1547
available for the needs of the county, municipal corporation, 1548
township, or school district, the taxing authority may issue bonds 1549

of the county, municipal corporation, township, or school 1550
district, in an amount not exceeding the moneys on deposit in the 1551
depository bank ~~or savings and loan~~, domestic association, savings 1552
bank, or credit union the payment of which is secured by such 1553
securities, after crediting to such moneys the amount realized 1554
from the sale or other disposition of any other securities pledged 1555
or deposited for such moneys, or in an amount not exceeding the 1556
value or amount ultimately to be realized from such securities to 1557
be determined by valuation made under oath by two persons who are 1558
conversant with the value of the assets represented by such 1559
securities, whichever amount is the lesser, plus an amount equal 1560
to the interest accruing on such securities during one year from 1561
and after the date of default of such bank ~~or savings and loan~~, 1562
domestic association, savings bank, or credit union in its 1563
capacity as a depository. The maturity of such bonds shall not 1564
exceed ten years and they shall bear interest at a rate not 1565
exceeding the rate determined as provided in section 9.95 of the 1566
Revised Code. Such bonds shall be the general obligations of the 1567
county, municipal corporation, township, or school district 1568
issuing them. The legislation under which such bonds are issued 1569
shall comply with Section 11 of Article XII, Ohio Constitution. 1570
The amount of such bonds issued or outstanding shall not be 1571
considered in ascertaining any of the limitations on the net 1572
indebtedness of such county, municipal corporation, township, or 1573
school district prescribed by law. In all other respects, the 1574
issuance, maturities, and sale of such bonds shall be subject to 1575
Chapter 133. of the Revised Code. 1576

A sufficient amount of the moneys received from principal on 1577
the sale of such bonds to cover the interest accruing on such 1578
securities for one year, to the extent determined by the authority 1579
issuing such bonds in the resolution or ordinance of issuance 1580
under this section, shall be paid into the bond retirement fund 1581
from which the bonds are to be redeemed, together with premiums 1582

and accrued interest. The balance of such principal shall be 1583
credited to the funds to which the moneys represented by such 1584
depository balance belong, and in the respective amounts of such 1585
funds. 1586

Sec. 135.53. All principal and interest collected by the 1587
proper officer or agent of the county, municipal corporation, 1588
township, or school district, on account of the securities 1589
mentioned in section 135.51 of the Revised Code, the proceeds of 1590
any sale or other disposition of any of such securities, and any 1591
dividends received from the liquidation of the defaulting bank ~~or~~ 1592
~~domestic building and loan~~ association, savings bank, or credit 1593
union shall be paid into the bond retirement fund from which the 1594
bonds provided for in section 135.52 of the Revised Code are to be 1595
redeemed, until the aggregate of such payments equals the 1596
requirements of such fund, whereupon such securities, and any 1597
remaining depository balance, not anticipated by such bonds, to 1598
the extent then retained by such county, municipal corporation, 1599
township, or school district, shall be assigned and delivered to 1600
the defaulting bank ~~or building and loan, domestic~~ association, 1601
savings bank, or credit union to its liquidating officer, or to 1602
its successor or assignee, together with a release or other 1603
instrument showing full satisfaction of the claim of such county, 1604
municipal corporation, township, or school district against such 1605
bank, ~~building and loan domestic~~ association, savings bank, credit 1606
union, or officer. 1607

Sec. 1733.04. (A) In addition to the authority conferred by 1608
section 1701.13 of the Revised Code, but subject to any 1609
limitations contained in sections 1733.01 to 1733.45 of the 1610
Revised Code, and its articles and regulations, a credit union may 1611
do any of the following: 1612

(1) Make loans as provided in section 1733.25 of the Revised 1613

Code;	1614
(2) Invest its money as provided in section 1733.30 of the Revised Code;	1615 1616
(3) If authorized by the code of regulations, rebate to the borrowing members a portion of the member's interest paid to the credit union;	1617 1618 1619
(4) If authorized by the regulations, charge a membership or entrance fee not to exceed one dollar per member;	1620 1621
(5) Purchase group savings life insurance and group credit life insurance;	1622 1623
(6) Make reasonable contributions to any nonprofit civic, charitable, or service organizations;	1624 1625
(7) Act as trustee or custodian, for which reasonable compensation may be received, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a tax-advantaged savings plan that qualifies for specific tax treatment under sections 223, 401(d), 408, 408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223, 401(d), 408, 408A, and 530, as amended, for its members or groups of its members, provided that the funds of such plans are invested in share accounts or share certificate accounts of the credit union. These services include, but are not limited to, acting as a trustee or custodian for member retirement, education, or health savings accounts.	1626 1627 1628 1629 1630 1631 1632 1633 1634 1635 1636 1637
<u>(8) Act as a public depository pursuant to Chapter 135. of the Revised Code.</u>	1638 1639
(B) The authority of a credit union shall be subject to the following:	1640 1641
(1) A credit union may not borrow money in excess of twenty-five per cent of its shares and undivided earnings, without	1642 1643

prior specific authorization by the superintendent of credit unions. 1644
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(2) A credit union may not pay a commission or other compensation to any person for securing members or for the sale of its shares, except that reasonable incentives may be made available directly to members or potential members to promote thrift. 1646
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(3) A credit union, subject to the approval of the superintendent, may have service facilities other than its home office. 1651
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(4) Real estate may be acquired by lease, purchase, or otherwise as necessary and to the extent required for use of the credit union presently and in the future operation of its office or headquarters, and in case of a purchase of real estate, the superintendent must first be notified in writing prior to the purchase of the real estate. The superintendent shall notify the credit union not more than thirty days after receipt of the notification to purchase the real estate if the purchase is denied, approved, or modified. If the superintendent does not respond within thirty days after receipt of the notification to purchase the real estate, it shall be deemed approved. Nothing herein contained shall be deemed to prohibit a credit union from taking title to real estate in connection with a default in the payment of a loan, provided that title to such real estate shall not be held by the credit union for more than two years without the prior written approval of the superintendent. A credit union also may lease space in any real estate it acquires in accordance with rules adopted by the superintendent. 1654
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(C)(1) As used in division (C) of this section: 1672

(a) "School" means an elementary or secondary school. 1673

(b) "Student" means a child enrolled in a school. 1674

(c) "Student branch" means the designation provided to the credit union for the in-school services and financial education offered to students.

(2) A credit union, upon agreement with a school board, in the case of a public school, or the governing authority, in the case of a nonpublic school, and with the permission of the superintendent, may open and maintain a student branch.

(3) Notwithstanding any other provision of this section, any student enrolled in the school maintaining a student branch who is not otherwise qualified for membership in the credit union maintaining the student branch is qualified to be a member of that student branch.

(4) The student's membership in the student branch expires upon the student's graduation from secondary school.

(5) The student branch is for the express use of students and may not be used by faculty, staff, or lineal ancestors or descendents of students.

(6) Faculty, staff, or lineal ancestors or descendents of students are not eligible for membership in the credit union maintaining the student branch unless otherwise qualified by this section to be members.

(7) The superintendent may adopt rules appropriate to the formation and operation of student branches.

(D) A credit union may guarantee the signature of a member in connection with a transaction involving tangible or intangible property in which a member has or seeks to acquire an interest.

Sec. 1733.041. Each credit union operating under this chapter or otherwise authorized to do business in this state shall obtain insurance for the protection of their members' accounts. Such share guarantee insurance may be obtained from the national credit

union administration operating under the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C. 1751, and any amendments thereto, or from ~~the national deposit~~ a credit union share guaranty corporation, established under Chapter 1761. of the Revised Code, or from any insurer qualified under the laws of this state to write such insurance.

Sec. 1733.24. (A) A credit union is authorized to receive funds for deposit in share accounts, share draft accounts, and share certificates from its members, from other credit unions, and from an officer, employee, or agent of the federal, state, or local governments, or political subdivisions of the state, in accordance with such terms, rates, and conditions as may be established by its board of directors, and, if acting as a public depository, consistent with Chapter 135. of the Revised Code.

(B) The shares and share accounts of the credit union may be of one or more classes, as designated by the board of directors, subject to approval of the superintendent of credit unions based on rules that shall assure equitable distribution of dividends among classes, considering costs and advantages of each class to the members of the credit union, including without limitation special services rendered, length of ownership, minimum investment, conditions of repurchase, and other appropriate standards or combinations thereof. In the event the articles of incorporation of the credit union indicate the authorized number of shares to be unlimited, the designation of classification of shares and share accounts of the credit union may be effected by the board of directors, subject to the approval of the superintendent, and does not require amendment of the articles of incorporation. All shares of the credit union shall have a par value per share as set by the board of directors. Redemptions and liquidating dividends shall be prorated to each member on the basis of the price paid the credit union for such share,

irrespective of the class of such shares. 1737

(C)(1) Each credit union shall have one class of shares 1738
designated as "membership share." The membership shares, or if a 1739
credit union has but one class of shares, then all of the shares 1740
of the credit union, shall have a par value as set by the board of 1741
directors. 1742

(2) Two or more persons that are eligible for membership that 1743
have jointly subscribed for one or more shares under a joint 1744
account each may be admitted to membership. 1745

(D) A credit union need not issue certificates for any or all 1746
of its classes of shares but irrespective of whether certificates 1747
are issued, a registry of shares must be kept, including all of 1748
the transactions of the credit union pertaining to such shares. 1749

(E) A credit union is authorized to maintain share draft 1750
accounts in accordance with rules prescribed by the 1751
superintendent. The credit union may pay dividends on share draft 1752
accounts, may pay dividends at different rates on different types 1753
of share draft accounts, and may permit the owners of such share 1754
draft accounts to make withdrawals by negotiable or transferable 1755
instruments or other orders for the purpose of making transfers to 1756
third parties. 1757

(F) Unless otherwise provided by written agreement of the 1758
parties, the rights, responsibilities, and liabilities attaching 1759
to a share draft withdrawn from, transferred to, or otherwise 1760
handled by a credit union are defined in and governed by Chapters 1761
1303. and 1304. of the Revised Code, as if the credit union were a 1762
bank. 1763

(G) Unless otherwise provided in the articles or regulations, 1764
a member may designate any person or persons to own or hold 1765
shares, or share accounts with the member in joint tenancy with 1766
right of survivorship and not as tenants in common. 1767

(H) Shares or share accounts may be issued in the name of a 1768
custodian under the Ohio transfers to minors act, a member in 1769
trust for a beneficiary, a fiduciary or custodian in trust for a 1770
member beneficiary, or a fiduciary or custodian in trust upon the 1771
death of a member. Redemption of such shares or payment of such 1772
share accounts to a member, to the extent of the payment, 1773
discharges the liability of the credit union to the member and the 1774
beneficiary, and the credit union shall be under no obligation to 1775
see to the application of the payment. Unless prior to the death 1776
of a member, the member has notified the credit union in writing 1777
in a form approved by the credit union of a different beneficiary 1778
to receive the proceeds of such shares or share accounts, then the 1779
proceeds shall be paid to the beneficiary or to the beneficiary's 1780
parent or legal representative. Any payment made pursuant to 1781
written instructions of the member or pursuant to the provisions 1782
herein contained shall be a valid and sufficient release and 1783
discharge of the credit union in connection with any such share or 1784
share accounts. 1785

(I)(1) Except as otherwise provided in the articles or 1786
regulations, and subject to the provisions thereof, a minor may 1787
purchase shares, share accounts, or other depository instruments, 1788
and except for qualification as a voting member, the credit union 1789
may deal with the minor with respect to shares, share accounts, or 1790
other depository instruments owned by the minor as if the minor 1791
were a person of legal age. 1792

(2) If shares, share accounts, or other depository 1793
instruments are issued in the name of a minor, redemption of any 1794
part or all of the shares or withdrawal of funds by payment to the 1795
minor of the shares or funds and any declared dividends or 1796
interest releases the credit union from all obligation to the 1797
minor as to the shares reduced or funds withdrawn. 1798

(J) The regulations may require advance written notice of a 1799

member's intention to withdraw the member's shares. Such advance 1800
notice shall not exceed sixty days. 1801

Sec. 1733.30. (A) A credit union may make any investment of 1802
any funds not required for the purpose of loans or not required to 1803
meet the pledging requirements of Chapter 135. of the Revised 1804
Code, in state or national banks or state or federally chartered 1805
savings and loan associations, savings banks, or credit unions, 1806
doing business in this state; in accounts, deposits, or shares of 1807
federally insured savings and loan associations or savings banks 1808
or insured credit unions, doing business outside this state; in 1809
deposits or accounts of federally insured banks, trust companies, 1810
and mutual savings banks doing business outside this state; in the 1811
shares of a corporate credit union subject to the regulations of 1812
that corporate credit union; in shares, stocks, or obligations of 1813
any other organization providing services that are associated with 1814
the routine operations of credit unions; or in United States 1815
government securities or municipal bonds issued by municipalities 1816
of this state; and, with the approval of the superintendent of 1817
credit unions, in securities other than those specified in this 1818
division. All investments under this division shall be made in 1819
United States dollars. 1820

(B) In accordance with rules adopted by, and subject to the 1821
approval of, the superintendent, notes or loans made by or to 1822
individual members of a credit union may be purchased by another 1823
credit union at such prices as may be agreed upon between the 1824
credit unions. 1825

(C) A corporate credit union may make investments provided 1826
the investments are in accordance with rules adopted by the 1827
superintendent, are consistent with the safety and soundness of 1828
the credit union, and are made with due regard to the investment 1829
requirements established by the applicable insurer recognized 1830

under section 1733.041 of the Revised Code. 1831

Sec. 1733.31. For purposes of this section, "gross income" 1832
means all income, before expenses, earned on risk assets. "Risk 1833
assets" shall be defined by rule adopted by the superintendent of 1834
credit unions. 1835

Each credit union shall establish and maintain reserves as 1836
required by Chapter 1733. of the Revised Code, by Chapter 135. of 1837
the Revised Code, if applicable, or by rules adopted by the 1838
superintendent, including the following: 1839

(A) Valuation allowances for delinquent loans, investments, 1840
other risk assets, and contingencies, which shall be established 1841
and maintained pursuant to rules adopted ~~adopted~~ by the 1842
superintendent. 1843

(B) A regular reserve as follows: 1844

(1) A credit union in operation for more than four years and 1845
having assets of five hundred thousand dollars or more shall 1846
reserve ten per cent of its gross income until its regular reserve 1847
equals four per cent of its total risk assets. Once the credit 1848
union has regular reserves equal to four per cent of its total 1849
risk assets, it shall reserve five per cent of its gross income 1850
until its regular reserve equals six per cent of its total risk 1851
assets. 1852

(2) A credit union in operation for less than four years or 1853
having assets of less than five hundred thousand dollars shall 1854
reserve ten per cent of its gross income until its regular reserve 1855
equals seven and one-half per cent of its total risk assets. Once 1856
the credit union has regular reserves equal to seven and one-half 1857
per cent of its total risk assets, it shall reserve five per cent 1858
of its gross income until its regular reserve equals ten per cent 1859
of its total risk assets. 1860

(3) The provision for loan losses, or other such provisions related to the valuation allowances described in division (A) of this section, recorded on the credit union's statement of income for the year shall be deducted from the appropriate regular reserve calculated under division (B)(1) or (2) of this section.

(4) Once the credit union has closed out its net income or loss to undivided earnings, it may allocate any extraordinary loss for the year, as defined by AICPA APB Opinion No. 30 or by rules as promulgated by the superintendent, to the regular reserve.

(5) If the regular reserve account becomes less than the percentage required by division (B)(1) or (2) of this section, then the schedule of allocation shall apply until the required percentages are achieved.

(6) The superintendent may decrease the reserve requirements under division (B)(1) or (2) of this section when, in the superintendent's opinion, a decrease is necessary or desirable and is consistent with the purposes of this section.

(7) Nothing herein shall prevent the superintendent from requiring a particular credit union or all credit unions to establish a regular reserve in excess of the percentages required by division (B)(1) or (2) of this section if, in the opinion of the superintendent, economic conditions or other appropriate circumstances so warrant.

(C) Except as otherwise provided in this division, each credit union shall maintain a liquidity fund equal to five per cent of its shares. The assets included in the liquidity fund shall be defined by rule adopted by the superintendent. The superintendent may require a particular credit union or all credit unions to establish a liquidity fund greater than or less than five per cent of total shares, if, in the opinion of the superintendent, economic conditions or other appropriate

circumstances so warrant. 1892

(D)(1) Reserves for corporate credit unions shall be 1893
established by the superintendent with due regard for the 1894
reserving requirements for corporate credit unions set by the 1895
applicable insurer recognized under section 1733.041 of the 1896
Revised Code. Specific reserving requirements shall be established 1897
by rule of the superintendent, but shall substantially parallel 1898
the reserving formula set by the applicable insurer recognized 1899
under section 1733.041 of the Revised Code. 1900

(2) Nothing in division (D)(1) of this section shall prevent 1901
the superintendent from requiring a particular corporate credit 1902
union or all corporate credit unions to establish a regular 1903
reserve in excess of those reserves established pursuant to 1904
division (D)(1) of this section if, in the opinion of the 1905
superintendent, economic conditions or other appropriate 1906
circumstances so warrant. 1907

Sec. 2909.32. (A)(1) The director of public safety shall 1908
adopt rules in accordance with Chapter 119. of the Revised Code to 1909
identify licenses the state issues for which a holder with a 1910
connection to a terrorist organization would present a potential 1911
risk to the residents of this state. The rules shall not identify 1912
a renewable driver's license or permit as a license of this nature 1913
if the applicant is a resident of this state. 1914

(2)(a) The director shall prepare a document to serve as a 1915
declaration of material assistance/nonassistance for agencies to 1916
use to identify whether an applicant for a license or the renewal 1917
of a license has provided material assistance to an organization 1918
listed in the United States department of state terrorist 1919
exclusion list. The declaration shall be substantially in the form 1920
and of the same content as set forth in division (A)(2)(b) of this 1921
section. The director shall make the declaration available to each 1922

issuing agency of a license the director identifies pursuant to 1923
division (A)(1) of this section, along with a then-current copy of 1924
the United States department of state terrorist exclusion list. 1925
The director may adopt rules governing the preparation of the 1926
declaration and the distribution of the declaration and the list. 1927

(b) The declaration of material assistance/nonassistance this 1928
section requires shall be substantially as follows and shall 1929
include the following questions and the associated spaces for 1930
answering the questions: 1931

"DECLARATION REGARDING MATERIAL ASSISTANCE/NONASSISTANCE 1932
TO TERRORIST ORGANIZATION 1933

(1) Are you a member of an organization on the U.S. 1934
Department of State Terrorist Exclusion List? Yes; No 1935

(2) Have you used any position of prominence you have within 1936
any country to persuade others to support an organization on the 1937
U.S. Department of State Terrorist Exclusion List? Yes; No 1938
..... 1939

(3) Have you knowingly solicited funds or other things of 1940
value for an organization on the U.S. Department of State 1941
Terrorist Exclusion List? Yes; No 1942

(4) Have you solicited any individual for membership in an 1943
organization on the U.S. Department of State Terrorist Exclusion 1944
List? Yes; No 1945

(5) Have you committed an act that you know, or reasonably 1946
should have known, affords "material support or resources" (see 1947
below) to an organization on the U.S. Department of State 1948
Terrorist Exclusion List? Yes; No 1949

(6) Have you hired or compensated a person you knew to be a 1950
member of an organization on the U.S. Department of State 1951
Terrorist Exclusion List or a person you knew to be engaged in 1952
planning, assisting, or carrying out an act of terrorism? Yes 1953

.....; No 1954

For purposes of this declaration of material 1955
assistance/nonassistance, "material support or resources" means 1956
currency, payment instruments, other financial securities, funds, 1957
transfer of funds, and financial services that are in excess of 1958
one hundred dollars, as well as communications, lodging, training, 1959
safe houses, false documentation or identification, communications 1960
equipment, facilities, weapons, lethal substances, explosives, 1961
personnel, transportation, and other physical assets, except 1962
medicine or religious materials." 1963

(B)(1) Any agency that issues a license the director 1964
identifies pursuant to division (A)(1) of this section shall 1965
include with the agency's application form a copy of the 1966
declaration of material assistance/nonassistance the director 1967
prepares pursuant to this section and a then-current copy of the 1968
terrorist exclusion list. The agency shall inform applicants that 1969
they must truthfully answer each question. 1970

(2) Any person provided a declaration of material 1971
assistance/nonassistance pursuant to this section shall answer 1972
each question and attach the completed declaration to the 1973
application for the license or the license renewal. 1974

(C)(1) Any answer of "yes" to any question, or the failure to 1975
answer "no" to any question, on a declaration of material 1976
assistance/nonassistance an agency provides pursuant to this 1977
section shall serve for purposes of this section as a disclosure 1978
that the applicant has provided material assistance to an 1979
organization listed on the terrorist exclusion list. 1980

(2) Any person who discloses the provision of material 1981
assistance to any organization on the terrorist exclusion list 1982
shall be denied the license or the renewal of the license unless 1983
the department of public safety reinstates the application 1984

pursuant to division (D) of this section. 1985

(3) Any licensing entity that denies a license or a renewal 1986
of a license pursuant to this division shall send written notice 1987
of that denial to the applicant within three business days of the 1988
decision to deny. The notice shall inform the applicant of the 1989
right to have the department of public safety review the denial if 1990
the applicant requests a review within sixty days after the 1991
mailing date of the notice. The licensing entity shall provide the 1992
department of public safety with a copy of any notice that it 1993
sends to an applicant pursuant to this division. 1994

(D) The department of public safety shall review any decision 1995
to deny an application within thirty days of receiving an 1996
applicant's request for a review. The department shall reinstate 1997
the license application for good cause if it determines all of the 1998
following pursuant to guidelines the director adopts by rule: 1999

(1) That the provision of material assistance to an 2000
organization on the terrorist exclusion list was made more than 2001
ten years prior to the time of the application, or the applicant 2002
provided material assistance during the ten years prior to the 2003
application and the date of the review, but at the time of the 2004
assistance, the organization was either not on the list or was not 2005
involved in any activity or conduct that would have merited 2006
inclusion on the list had it existed at the time, or at the time 2007
of the assistance it was not reasonable to know of the 2008
organization's activities that would have merited its inclusion on 2009
the list. 2010

(2) That the applicant is unlikely in the future to provide 2011
material assistance to any organization on the terrorist exclusion 2012
list; 2013

(3) That the applicant does not pose a risk to the residents 2014
of this state. 2015

(E) The failure of an applicant for a license to complete and attach a declaration of material assistance/nonassistance as this section requires, the failure to disclose material assistance to an organization on the terrorist exclusion list, or the making of false statements regarding material assistance to an organization the applicant knew or should have known was on the terrorist exclusion list, shall result in the denial of the application and in the revocation of the license.

(F) The failure of an applicant for a license to disclose, as this section requires, the provision of material assistance to an organization on the terrorist exclusion list or knowingly making false statements regarding material assistance to an organization on that list is a felony of the fifth degree.

(G) An issuing agency shall notify the department of public safety if it denies an application for a license or the renewal of a license because the applicant disclosed the provision of material assistance to an organization listed on the terrorist exclusion list.

(H) An agency may revoke a license issued to any person who, after providing a declaration of material assistance/nonassistance pursuant to this section, takes an action that would result in "yes" being the correct answer to any question on the declaration, had the declaration been readministered after taking that action. The agency shall conduct a hearing pursuant to Chapter 119. of the Revised Code prior to revoking any license pursuant to this division.

(I) This section does not apply to a license issued to ~~either~~ any of the following:

(1) A federally insured depository institution that is subject to anti-money laundering and antiterrorism requirements under federal law, any subsidiary of such a depository

institution, or an officer or employee of such a depository 2047
institution or subsidiary when that license is related to the 2048
person's duties as an officer or employee; 2049

(2) Any affiliate of a depository institution described in 2050
division (I)(1) of this section, other than an affiliate that is a 2051
subsidiary of a depository institution, when that affiliate is 2052
subject to anti-money laundering and antiterrorism requirements 2053
under federal law, or an officer or employee of such an affiliate 2054
when that license is related to the person's duties as an officer 2055
or employee. 2056

(3) A credit union insured by the national credit union 2057
administration or by a credit union share guaranty corporation as 2058
defined in section 1761.01 of the Revised Code. 2059

Sec. 2909.33. (A)(1) The director of public safety shall 2060
prepare a document to serve as a declaration of material 2061
assistance/nonassistance by which any person, company, affiliated 2062
group, or organization, or person who holds, owns, or otherwise 2063
has a controlling interest in a company, affiliated group, or 2064
organization, when required by this section, shall certify any 2065
provision of material assistance to an organization listed on the 2066
United States department of state terrorist exclusion list. The 2067
declaration shall be substantially in the same format and of the 2068
same content as set forth in division (A)(2)(b) of section 2909.32 2069
of the Revised Code. 2070

(2) The director of public safety and the director of budget 2071
and management shall make available on their respective department 2072
web sites and by any other means the director of public safety 2073
deems appropriate, the declaration of material 2074
assistance/nonassistance and a then-current copy of the terrorist 2075
exclusion list. The director of public safety, in consultation 2076
with the director of budget and management, may adopt rules that 2077

govern the preparation of the declaration and the distribution of 2078
the declaration and terrorist exclusion list. 2079

(3)(a) Prior to entering into a contract to conduct business 2080
with or receive funding from any state agency, instrumentality, or 2081
political subdivision of the state any person, company, affiliated 2082
group, or organization, or person who holds, owns, or otherwise 2083
has a controlling interest in a company, affiliated group, or 2084
organization, may precertify that it has not provided material 2085
assistance to an organization on the terrorist exclusion list. The 2086
precertification this division describes shall be granted to any 2087
person, company, affiliated group, or organization that submits to 2088
the director of budget and management a completed copy of the 2089
declaration prepared pursuant to this section, with an answer of 2090
"no" to all questions. No person shall require any person, 2091
company, affiliated group, or organization that is precertified to 2092
complete any additional declarations prior to the expiration of a 2093
precertification. All precertifications expire the thirtieth day 2094
of June of the second year of each state biennium period. To be 2095
precertified during the two years subsequent to that expiration 2096
date, an entity shall submit a new declaration to the director of 2097
budget and management pursuant to rules the director adopts. 2098

(b) Any person, company, affiliated group, or organization 2099
that is precertified pursuant to this division and that takes any 2100
action or learns of anything that would result in an answer of 2101
"yes" to any question on the declaration of material 2102
assistance/nonassistance this division requires, shall cease to 2103
represent that it is precertified and, within thirty days of 2104
taking that action or learning the new information, shall notify 2105
the director of budget and management to request its 2106
precertification be rescinded. 2107

(c) When applying for a contract, falsely representing 2108
precertification, or representing precertification when that 2109

precertification has been rescinded or should have been rescinded 2110
pursuant to this division, is a felony of the fifth degree. 2111

(B) Any person who submits a declaration of material 2112
assistance/nonassistance pursuant to this section shall complete 2113
the entire declaration. Any answer of "yes" to any question, or 2114
the failure to answer "no" to any question, on the declaration 2115
shall serve for purposes of this section as a disclosure of the 2116
provision of material assistance to an organization that is listed 2117
on the terrorist exclusion list. 2118

(C)(1) Except as otherwise provided in divisions (C)(2) and 2119
(H) of this section, prior to entering into a contract with any 2120
state agency, instrumentality, or political subdivision to conduct 2121
business or receive funding, any person, company, affiliated 2122
group, or organization, and any person who holds, owns, or 2123
otherwise has a controlling interest in a company, affiliated 2124
group, or organization shall certify that it does not provide 2125
material assistance to any organization on the United States 2126
department of state terrorist exclusion list. The certification 2127
shall be made by completing and submitting the declaration of 2128
material assistance/nonassistance as described in division (A) of 2129
this section. 2130

(2) Certification pursuant to this division shall not be 2131
required unless the entity entering into a contract for business 2132
or funding has received, or will have received as a result of the 2133
pending contract, an aggregate amount greater than one hundred 2134
thousand dollars in business or funding, excluding the amount of 2135
any personal benefit, from the state, instrumentalities, and 2136
political subdivisions during the current fiscal year, measured 2137
from the first day of July until the thirtieth day of June. 2138

(D)(1) No state agency, instrumentality, or political 2139
subdivision shall conduct business with or provide any funding to 2140
any person, company, affiliated group or organization, or any 2141

person who has a controlling interest in a company, affiliated 2142
group, or organization unless that person, company, affiliated 2143
group, or organization is certified as this section requires. 2144

(2) No person, company, affiliated group or organization, or 2145
any person who holds, owns, or otherwise has a controlling 2146
interest in a company, affiliated group, or organization shall 2147
enter into a contract to conduct business with or receive funding 2148
from the state, an agency or instrumentality of the state, or a 2149
political subdivision of the state unless it is certified as this 2150
section requires. 2151

(E) For the purposes of this section, the office of budget 2152
and management shall be the repository for all declarations 2153
received pursuant to division (A)(3)(a) of this section and the 2154
director of budget and management shall maintain a centralized 2155
database of all such declarations received. If a person, company, 2156
affiliated group, or organization discloses the provision of 2157
material assistance to an organization listed on the terrorist 2158
exclusion list, within three business days of that disclosure, the 2159
director shall send the declarant a written notice of prohibition 2160
against doing business or receiving funding. The notice shall 2161
inform the declarant of the right to a review of the prohibition 2162
by the department of public safety if the declarant requests that 2163
review within sixty days after the notice of prohibition was 2164
mailed. The director shall send copy of any notice sent pursuant 2165
to this division to the department of public safety. 2166

The department of public safety shall review any prohibition 2167
within thirty days of the receipt of a request for a review and 2168
determine whether the prohibitions against doing business or 2169
receiving funding set forth in divisions (D)(1) and (D)(2) of this 2170
section should apply. The department of public safety shall order 2171
that the prohibitions do not apply if it determines all of the 2172
following pursuant to guidelines the director adopts by rule: 2173

(1) That the provision of material assistance to an organization on the terrorist exclusion list was made more than ten years prior to the time the declaration of material assistance/nonassistance was filled out, or the material assistance was provided during the ten years prior to the application and the date of the review, but at the time of the assistance, the organization was either not on the list or would not have merited inclusion had it existed at the time, or at the time of the assistance it was not reasonable to know of the organization's activities that would have merited its inclusion on the list.

(2) That it is unlikely in the future that the person, company, affiliated group, or organization will provide material assistance to any organization on the terrorist exclusion list;

(3) The person, company, affiliated group, or organization does not pose a risk to the residents of this state.

(F) Any person, company, affiliated group, or organization that had not provided material assistance at the time a declaration of material assistance/nonassistance was answered, but starts providing material assistance to an organization on the terrorist exclusion list during the course of doing business with or receiving funding from the state, an agency or instrumentality of the state, or a subdivision of the state, is prohibited from entering into additional contracts to do business with or receive funding from the state, any agency or instrumentality, or any subdivision for a period of ten years after the provision of material assistance is discovered.

(G)(1) Any person, company, affiliated group, or organization that knowingly provides a false certification pursuant to this section is permanently banned from conducting business with or receiving funding from the state, an agency or instrumentality of the state, or a political subdivision of the state is guilty of a

felony of the fifth degree. 2206

(2) Any person, company, affiliated group, or organization 2207
that fails to certify as this section requires is subject to a 2208
fine of one thousand dollars for each day of doing business or 2209
receiving funding, except that any person, company, affiliated 2210
group, or organization that first reaches the threshold of one 2211
hundred thousand dollars in business or funding, due to the 2212
contract that it is entering into, shall not be subject to the 2213
fine for the first thirty days after entering into that contract, 2214
after which it shall be subject to the fine for each day that it 2215
is not certified. 2216

(H) This section does not apply to the following types of 2217
transactions: 2218

(1) An investment in a company that is publicly traded in any 2219
United States market; 2220

(2) An investment that is traded on a foreign market where 2221
United States investors regularly make investments; 2222

(3) An investment that is made through an agent or investment 2223
manager who has a fiduciary responsibility to the investor; 2224

(4) An investment in public agency debt; 2225

(5) An investment in derivatives that are regulated by a 2226
government agency; 2227

(6) Financial services provided by or through ~~either~~ any of 2228
the following: 2229

(a) A federally insured depository institution that is 2230
subject to anti-money laundering and antiterrorism requirements 2231
under federal law or any subsidiary of such a depository 2232
institution; 2233

(b) An affiliate of a depository institution described in 2234
division (H)(6)(a) of this section, other than an affiliate that 2235

is a subsidiary of the depository institution, when the affiliate 2236
is subject to anti-money laundering and antiterrorism requirements 2237
under federal law. 2238

(c) A credit union insured by the national credit union 2239
administration or by a credit union share guaranty corporation as 2240
defined in section 1761.01 of the Revised Code. 2241

"Financial services" include, but are not limited to, 2242
services related to currency, payment instruments, other financial 2243
securities, funds, and transfer of funds; 2244

(7) Any contract to conduct business or receive funding 2245
between state agencies, instrumentalities, or political 2246
subdivisions of the state; 2247

(8) Any person, company, affiliated group, or organization 2248
providing necessary, nonelective healthcare services. 2249

(I) As used in this section, "personal benefit" means all of 2250
the following: 2251

(1) Pensions and disability and survivor benefits; 2252

(2) Money, goods, services, or other things of value provided 2253
by the United States, the state, or a political subdivision of the 2254
state to which the recipient is entitled by reason of age, medical 2255
condition, or a financial need that is established pursuant to an 2256
act of congress or the general assembly; 2257

(3) Salary or compensation a person receives as an employee 2258
of the state or a political subdivision of the state. 2259

Section 2. That existing sections 122.60, 122.71, 135.03, 2260
135.032, 135.04, 135.06, 135.08, 135.10, 135.14, 135.144, 135.18, 2261
135.32, 135.321, 135.33, 135.35, 135.353, 135.37, 135.51, 135.52, 2262
135.53, 1733.04, 1733.041, 1733.24, 1733.30, 1733.31, 2909.32, and 2263
2909.33 of the Revised Code are hereby repealed. 2264

Section 3. Section 135.14 of the Revised Code is presented in 2265
this act as a composite of the section as amended by both Sub. 2266
H.B. 473 and Am. Sub. H.B. 640 of the 123rd General Assembly. The 2267
General Assembly, applying the principle stated in division (B) of 2268
section 1.52 of the Revised Code that amendments are to be 2269
harmonized if reasonably capable of simultaneous operation, finds 2270
that the composite is the resulting version of the section in 2271
effect prior to the effective date of the section as presented in 2272
this act. 2273