

# AN ACT

To amend sections 135.13, 135.144, 135.18, 135.353, and 135.37 and to enact sections 135.145 and 135.354 of the Revised Code to permit the Treasurer of State or a political subdivision, upon the deposit of public moneys with an eligible public depository, to arrange for the public depository to redeposit those moneys with other federally insured banks, savings banks, and savings and loan associations in accordance with specified conditions, to remove the one-year maturity limitation for certificates of deposit with respect to interim deposits, to alter the authority of the Treasurer of State to invest interim money in certificates of deposit, and to require public depositories to provide certain information to political subdivisions.

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

SECTION 1. That sections 135.13, 135.144, 135.18, 135.353, and 135.37 be amended and sections 135.145 and 135.354 of the Revised Code be enacted to read as follows:

Sec. 135.13. Inactive deposits shall be evidenced by time certificates of deposit, each of which shall mature not later than the end of the period of designation, and may provide on its face that the amount of such deposit is payable upon written notice to be given a specified period before the date of repayment or by savings or deposit accounts, including, but not limited to, passbook accounts.

Interim deposits shall be evidenced by time certificates of deposit ~~maturing not more than one year from the date of deposit~~ or by savings or deposit accounts, including, but not limited to, ~~pass-book~~ passbook accounts.

Sec. 135.144. (A) In addition to the authority provided in section 135.14

or 135.143 of the Revised Code, the treasurer of state or the treasurer or governing board of a political subdivision may invest interim moneys in certificates of deposit in accordance with all of the following:

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

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

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

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

(5) The public depository provides to the treasurer of state or the treasurer or governing board of a political subdivision a monthly account statement that includes the amount of its funds deposited and held at each bank, savings bank, or savings and loan association for which the public depository acts as a custodian pursuant to this section.

(B) Interim moneys deposited or invested in accordance with division

(A) of this section are not subject to any pledging requirements described in section 135.18 or 135.181 of the Revised Code.

Sec. 135.145. (A) In addition to the authority provided in section 135.14 or 135.143 of the Revised Code for the investment or deposit of interim moneys, the treasurer of state or the treasurer or governing board of a political subdivision, upon the deposit of interim moneys with, or the award of active or inactive deposits to, an eligible public depository described in section 135.03 of the Revised Code and designated pursuant to section 135.12 of the Revised Code, may authorize the public depository to arrange for the redeposit of such public moneys in accordance with the following conditions:

(1) The public depository, on or after the date the public moneys are received, arranges for the redeposit of the moneys into deposit accounts in one or more federally insured banks, savings banks, or savings and loan associations that are located in the United States, and acts as custodian of the moneys deposited or redeposited under this section.

(2) If the amount of the public moneys deposited with and held at the close of business by the public depository exceeds the amount insured by the federal deposit insurance corporation, the excess amount is subject to the pledging requirements described in section 135.18 or 135.181 of the Revised Code.

(3) The full amount of the public moneys redeposited by the public depository into deposit accounts in banks, savings banks, or savings and loan associations, plus any accrued interest, is insured by the federal deposit insurance corporation.

(4) On the same date the public moneys are redeposited by the public depository, the public depository may, in its sole discretion, choose whether to receive deposits, in any amount, from other banks, savings banks, or savings and loan associations.

(5) The public depository provides to the treasurer of state or the treasurer or governing board of a political subdivision an account statement at least monthly and access to daily reporting that include the amount of its funds deposited and held at each bank, savings bank, or savings and loan association for which the public depository acts as a custodian pursuant to this section.

(B) Except as provided in division (A)(2) of this section, the public moneys deposited in accordance with this section are not subject to the pledging requirements described in section 135.18 or 135.181 of the Revised Code.

Sec. 135.18. (A) The treasurer, before making the initial deposit in a

public depository pursuant to an award made under sections 135.01 to 135.21 of the Revised Code, except as provided in section 135.144 or 135.145 of the Revised Code, shall require the institution designated as a public depository to pledge to and deposit with the treasurer, as security for the repayment of all public moneys to be deposited in the public depository during the period of designation pursuant to the award, eligible securities of aggregate market value equal to the excess of the amount of public moneys to be at the time so deposited, over and above the portion or amount of such moneys as is at that time insured by the federal deposit insurance corporation or by any other agency or instrumentality of the federal government. In the case of any deposit other than the initial deposit made during the period of designation, the amount of the aggregate market value of securities required to be pledged and deposited shall be equal to the difference between the amount of public moneys on deposit in such public depository plus the amount to be so deposited, minus the portion or amount of the aggregate as is at the time insured as provided in this section. The treasurer may require additional eligible securities to be deposited to provide for any depreciation which may occur in the market value of any of the securities so deposited.

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

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

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

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

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

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

bank, or student loan marketing association;

(6) Bonds and other obligations of this state;

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

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

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

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

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

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

(D) An institution designated as a public depository may, by written notice to the treasurer, designate a qualified trustee and deposit the eligible

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

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

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

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

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

(2) No continuing authorization for substitution has been given by the

treasurer, the public depository notifies the treasurer and the trustee of an intended substitution or exchange, and the treasurer fails to object to the trustee as to the eligibility or market value of the securities being substituted within ten calendar days after the date appearing on the notice of proposed substitution. The notice to the treasurer and to the trustee shall be given in writing and delivered personally or by certified or registered mail with a return receipt requested. The trustee may assume in any case that the notice has been delivered to the treasurer. In order for objections of the treasurer to be effective, receipt of the objections must be acknowledged in writing by the trustee.

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

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

(I) Any federal reserve bank or branch thereof located in this state or federal home loan bank, without compliance with Chapter 1111. of the Revised Code and without becoming subject to any other law of this state relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in section 135.03 of the Revised Code that holds a certificate of qualification issued by the superintendent of financial institutions or any institution complying with sections 1111.04, 1111.05, and 1111.06 of the Revised Code, is qualified to act as trustee for the safekeeping of securities, other than those belonging to itself, under this section. Upon application to the superintendent in writing by an institution, the superintendent shall investigate the applicant and ascertain whether or not it has been authorized to execute and accept trusts in this state and has safe and adequate vaults and efficient supervision thereof for the storage and safekeeping within this state of securities. If the superintendent finds that the applicant has been so authorized and has such vaults and supervision thereof, the superintendent shall approve the application and issue a certificate to that effect, the original or any certified copy of which shall be conclusive evidence that the institution therein named is qualified to act as trustee for the purposes of this section with respect to securities other than those belonging to itself.

Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee has no duty or obligation to determine the eligibility, market value,

or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, without limitation, a substitution or exchange of securities.

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

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

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

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

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

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

(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, savings banks, or savings and loan associations, wherever located. The full amount of principal and any accrued interest of each certificate of deposit invested in pursuant to division (A)(3)(b) of this section shall be insured by federal deposit insurance.

(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, the eligible public depository receives an amount of deposits from customers of other federally insured financial institutions, wherever located, that are equal to or greater than the amount initially deposited by the investing authority pursuant to division (A)(3)(a) of this section~~ On the same date the public moneys are redeposited by the public depository, the public depository may, in its sole discretion, choose whether to receive deposits, in any amount, from other banks, savings banks, or savings and loan associations.

(e) The public depository provides to the investing authority a monthly account statement that includes the amount of its funds deposited and held at each bank, savings bank, or savings and loan association for which the public depository acts as a custodian pursuant to this section.

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

Sec. 135.354. (A) In addition to the authority provided in section 135.35 of the Revised Code for the investment or deposit of inactive moneys, the investing authority of a county, upon the deposit of active or inactive moneys with an eligible public depository described in section 135.32 of the Revised Code and selected by the investing authority, may authorize the public depository to arrange for the redeposit of such public moneys in accordance with the following conditions:

(1) The public depository, on or after the date the public moneys are received, arranges for the redeposit of the moneys into deposit accounts in one or more federally insured banks, savings banks, or savings and loan associations that are located in the United States, and acts as custodian of the moneys deposited or redeposited under this section.

(2) If the amount of the public moneys deposited with and held at the close of business by the public depository exceeds the amount insured by the federal deposit insurance corporation, the excess amount is subject to the pledging requirements described in section 135.181 or 135.37 of the Revised Code.

(3) The full amount of the public moneys redeposited by the public depository into deposit accounts in banks, savings banks, or savings and loan associations, plus any accrued interest, is insured by the federal deposit

insurance corporation.

(4) On the same date the public moneys are redeposited by the public depository, the public depository may, in its sole discretion, choose whether to receive deposits, in any amount, from other banks, savings banks, or savings and loan associations.

(5) The public depository provides to the investing authority an account statement at least monthly and access to daily reporting that include the amount of its funds deposited and held at each bank, savings bank, or savings and loan association for which the public depository acts as a custodian pursuant to this section.

(B) Except as provided in division (A)(2) of this section, public moneys deposited in accordance with this section are not subject to the pledging requirements described in section 135.181 or 135.37 of the Revised Code.

Sec. 135.37. (A) ~~Any~~ Except as provided in section 135.353 or 135.354 of the Revised Code, any institution described in section 135.32 of the Revised Code shall, at the time it receives a deposit of public moneys under section 135.33 or 135.35 of the Revised Code, pledge to and deposit with the investing authority, as security for the repayment of all public moneys to be deposited, eligible securities of aggregate market value equal to or in excess of the amount of public moneys to be at the time so deposited. Any securities listed in division (B) of section 135.18 of the Revised Code are eligible for such purpose. The collateral so pledged or deposited may be in an amount that when added to the portion of the deposit insured by the federal deposit insurance corporation or any other agency or instrumentality of the federal government will, in the aggregate, equal or exceed the amount of public moneys so deposited; provided that, when an investment of inactive moneys consists of the purchase of one or more of the type of securities listed in division (A)(1) or (2) of section 135.35 of the Revised Code, no additional collateral need be pledged or deposited.

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

(B) The public depository may, at any time, provide for the exchange or substitution of securities for other eligible securities or the release of securities when the amount of public moneys on deposit does not require that they be pledged or deposited, by notifying the investing authority of its intent to take such action.

Upon proper notification of the public depository's desire for release of securities, the investing authority may sign a release of such securities provided that the aggregate amount of collateral remaining pledged or

deposited meets the requirements of divisions (A) to (E) of this section.

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

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

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

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

(F) In lieu of the pledging requirements prescribed in divisions (A) to (E) of this section, an institution designated as a public depository may pledge securities pursuant to section 135.181 of the Revised Code.

SECTION 2. That existing sections 135.13, 135.144, 135.18, 135.353, and 135.37 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. H. B. No. 209

129th G.A.

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

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*Director, Legislative Service Commission.*

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

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_