

**As Reported by the House Financial Institutions, Housing and  
Urban Development Committee**

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**H. B. No. 209**

**Representative Adams, R.**

**Cosponsors: Representatives Coley, Blessing, Stebelton, Grossman, Bulp,  
Combs, Hottinger, Rosenberger, Murray, Pillich, Hackett, Kozlowski, Boose,  
Thompson, McKenney, Hall, Carey, Huffman, Wachtmann, Brenner,  
Derickson, Phillips, Stinziano, McGregor, Adams, J., Sears, Slesnick**

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**A B I L L**

To amend sections 135.18 and 135.37 and to enact 1  
sections 135.145 and 135.354 of the Revised Code 2  
to permit a political subdivision, upon the 3  
deposit of public moneys with an eligible public 4  
depository, to arrange for the public depository 5  
to redeposit those moneys with other federally 6  
insured banks and savings and loan associations in 7  
accordance with specified conditions. 8

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

**Section 1.** That sections 135.18 and 135.37 be amended and 9  
sections 135.145 and 135.354 of the Revised Code be enacted to 10  
read as follows: 11

**Sec. 135.145.** (A) In addition to the authority provided in 12  
section 135.14 of the Revised Code for the investment or deposit 13  
of interim moneys, the treasurer or governing board of a political 14  
subdivision, upon the deposit of interim moneys with, or the award 15

of active or inactive deposits to, an eligible public depository 16  
described in section 135.03 of the Revised Code and designated 17  
pursuant to section 135.12 of the Revised Code, may authorize the 18  
public depository to arrange for the redeposit of such public 19  
moneys in accordance with the following conditions: 20

(1) The public depository, on or after the date the public 21  
moneys are received, arranges for the redeposit of the moneys into 22  
deposit accounts in one or more federally insured banks or savings 23  
and loan associations that are located in the United States, and 24  
serves as custodian of the moneys for the treasurer or governing 25  
board of the political subdivision. 26

(2) If the amount of the public moneys deposited with and 27  
held at the close of business by the public depository exceeds the 28  
amount insured by the federal deposit insurance corporation, the 29  
excess amount is subject to the pledging requirements described in 30  
section 135.18 or 135.181 of the Revised Code. 31

(3) The full amount of the public moneys redeposited by the 32  
public depository into deposit accounts in banks or savings and 33  
loan associations, plus any accrued interest, is insured by the 34  
federal deposit insurance corporation. 35

(4) On the same date the public moneys are redeposited by the 36  
public depository, the public depository receives an amount of 37  
deposits from customers of other financial institutions that is 38  
equal to the amount of moneys redeposited by the public 39  
depository. 40

(B) Except as provided in division (A)(2) of this section, 41  
the public moneys deposited in accordance with this section are 42  
not subject to the pledging requirements described in section 43  
135.18 or 135.181 of the Revised Code. 44

**Sec. 135.18.** (A) The treasurer, before making the initial 45

deposit in a public depository pursuant to an award made under 46  
sections 135.01 to 135.21 of the Revised Code, except as provided 47  
in section 135.144 or 135.145 of the Revised Code, shall require 48  
the institution designated as a public depository to pledge to and 49  
deposit with the treasurer, as security for the repayment of all 50  
public moneys to be deposited in the public depository during the 51  
period of designation pursuant to the award, eligible securities 52  
of aggregate market value equal to the excess of the amount of 53  
public moneys to be at the time so deposited, over and above the 54  
portion or amount of such moneys as is at that time insured by the 55  
federal deposit insurance corporation or by any other agency or 56  
instrumentality of the federal government. In the case of any 57  
deposit other than the initial deposit made during the period of 58  
designation, the amount of the aggregate market value of 59  
securities required to be pledged and deposited shall be equal to 60  
the difference between the amount of public moneys on deposit in 61  
such public depository plus the amount to be so deposited, minus 62  
the portion or amount of the aggregate as is at the time insured 63  
as provided in this section. The treasurer may require additional 64  
eligible securities to be deposited to provide for any 65  
depreciation which may occur in the market value of any of the 66  
securities so deposited. 67

(B) The following securities shall be eligible for the 68  
purposes of this section: 69

(1) Bonds, notes, or other obligations of the United States; 70  
or bonds, notes, or other obligations guaranteed as to principal 71  
and interest by the United States or those for which the faith of 72  
the United States is pledged for the payment of principal and 73  
interest thereon, by language appearing in the instrument 74  
specifically providing such guarantee or pledge and not merely by 75  
interpretation or otherwise; 76

(2) Bonds, notes, debentures, letters of credit, or other 77

obligations or securities issued by any federal government agency	78
or instrumentality, or the export-import bank of Washington;	79
bonds, notes, or other obligations guaranteed as to principal and	80
interest by the United States or those for which the faith of the	81
United States is pledged for the payment of principal and interest	82
thereon, by interpretation or otherwise and not by language	83
appearing in the instrument specifically providing such guarantee	84
or pledge;	85
(3) Obligations of or fully insured or fully guaranteed by	86
the United States or any federal government agency or	87
instrumentality;	88
(4) Obligations partially insured or partially guaranteed by	89
any federal agency or instrumentality;	90
(5) Obligations of or fully guaranteed by the federal	91
national mortgage association, federal home loan mortgage	92
corporation, federal farm credit bank, or student loan marketing	93
association;	94
(6) Bonds and other obligations of this state;	95
(7) Bonds and other obligations of any county, township,	96
school district, municipal corporation, or other legally	97
constituted taxing subdivision of this state, which is not at the	98
time of such deposit, in default in the payment of principal or	99
interest on any of its bonds or other obligations, for which the	100
full faith and credit of the issuing subdivision is pledged;	101
(8) Bonds of other states of the United States which have not	102
during the ten years immediately preceding the time of such	103
deposit defaulted in payments of either interest or principal on	104
any of their bonds;	105
(9) Shares of no-load money market mutual funds consisting	106
exclusively of obligations described in division (B)(1) or (2) of	107
this section and repurchase agreements secured by such	108

obligations; 109

(10) A surety bond issued by a corporate surety licensed by 110  
the state and authorized to issue surety bonds in this state 111  
pursuant to Chapter 3929. of the Revised Code, and qualified to 112  
provide surety bonds to the federal government pursuant to 96 113  
Stat. 1047 (1982), 31 U.S.C.A. 9304; 114

(11) Bonds or other obligations of any county, municipal 115  
corporation, or other legally constituted taxing subdivision of 116  
another state of the United States, or of any instrumentality of 117  
such county, municipal corporation, or other taxing subdivision, 118  
for which the full faith and credit of the issuer is pledged and, 119  
at the time of purchase of the bonds or other obligations, rated 120  
in one of the two highest categories by at least one nationally 121  
recognized standard rating service. 122

(C) If the public depository fails to pay over any part of 123  
the public deposit made therein as provided by law, the treasurer 124  
shall sell at public sale any of the bonds or other securities 125  
deposited with the treasurer pursuant to this section or section 126  
131.09 of the Revised Code, or shall draw on any letter of credit 127  
to the extent of the failure to pay. Thirty days' notice of the 128  
sale shall be given in a newspaper of general circulation at 129  
Columbus, in the case of the treasurer of state, and at the county 130  
seat of the county in which the office of the treasurer is 131  
located, in the case of any other treasurer. When a sale of bonds 132  
or other securities has been so made and upon payment to the 133  
treasurer of the purchase money, the treasurer shall transfer such 134  
bonds or securities whereupon the absolute ownership of such bonds 135  
or securities shall pass to the purchasers. Any surplus remaining 136  
after deducting the amount due the state or subdivision and 137  
expenses of sale shall be paid to the public depository. 138

(D) An institution designated as a public depository may, by 139  
written notice to the treasurer, designate a qualified trustee and 140

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 173  
governing board, boards, or treasurer of any such substitution or 174  
exchange only if: 175

(1) The treasurer has authorized the public depository to 176  
make such substitution or exchange on a continuing basis during a 177  
specified period without prior approval of each substitution or 178  
exchange. The authorization may be effected by the treasurer 179  
sending to the trustee a written notice stating that substitution 180  
may be effected on a continuing basis during a specified period 181  
which shall not extend beyond the end of the period of designation 182  
during which the notice is given. The trustee may rely upon this 183  
notice and upon the period of authorization stated therein and 184  
upon the period of designation stated therein. 185

(2) No continuing authorization for substitution has been 186  
given by the treasurer, the public depository notifies the 187  
treasurer and the trustee of an intended substitution or exchange, 188  
and the treasurer fails to object to the trustee as to the 189  
eligibility or market value of the securities being substituted 190  
within ten calendar days after the date appearing on the notice of 191  
proposed substitution. The notice to the treasurer and to the 192  
trustee shall be given in writing and delivered personally or by 193  
certified or registered mail with a return receipt requested. The 194  
trustee may assume in any case that the notice has been delivered 195  
to the treasurer. In order for objections of the treasurer to be 196  
effective, receipt of the objections must be acknowledged in 197  
writing by the trustee. 198

(3) The treasurer gives written authorization for a 199  
substitution or exchange of specific securities. 200

(H) The public depository shall notify any governing board, 201  
boards, or treasurer of any substitution or exchange under 202  
division (G)(1) or (2) of this section. Upon request from the 203  
treasurer, the trustee shall furnish a statement of the securities 204

pledged against such public deposits. 205

(I) Any federal reserve bank or branch thereof located in 206  
this state or federal home loan bank, without compliance with 207  
Chapter 1111. of the Revised Code and without becoming subject to 208  
any other law of this state relative to the exercise by 209  
corporations of trust powers generally, is qualified to act as 210  
trustee for the safekeeping of securities, under this section. Any 211  
institution mentioned in section 135.03 of the Revised Code that 212  
holds a certificate of qualification issued by the superintendent 213  
of financial institutions or any institution complying with 214  
sections 1111.04, 1111.05, and 1111.06 of the Revised Code, is 215  
qualified to act as trustee for the safekeeping of securities, 216  
other than those belonging to itself, under this section. Upon 217  
application to the superintendent in writing by an institution, 218  
the superintendent shall investigate the applicant and ascertain 219  
whether or not it has been authorized to execute and accept trusts 220  
in this state and has safe and adequate vaults and efficient 221  
supervision thereof for the storage and safekeeping within this 222  
state of securities. If the superintendent finds that the 223  
applicant has been so authorized and has such vaults and 224  
supervision thereof, the superintendent shall approve the 225  
application and issue a certificate to that effect, the original 226  
or any certified copy of which shall be conclusive evidence that 227  
the institution therein named is qualified to act as trustee for 228  
the purposes of this section with respect to securities other than 229  
those belonging to itself. 230

Notwithstanding the fact that a public depository is required 231  
to pledge eligible securities in certain amounts to secure 232  
deposits of public moneys, a trustee has no duty or obligation to 233  
determine the eligibility, market value, or face value of any 234  
securities deposited with the trustee by a public depository. This 235  
applies in all situations including, without limitation, a 236

substitution or exchange of securities. 237

Any charges or compensation of a designated trustee for 238  
acting as such under this section shall be paid by the public 239  
depository and in no event shall be chargeable to the state or the 240  
subdivision or to the treasurer or to any officer of the state or 241  
subdivision. The charges or compensation shall not be a lien or 242  
charge upon the securities deposited for safekeeping prior or 243  
superior to the rights to and interests in the securities of the 244  
state or the subdivision or of the treasurer. The treasurer and 245  
the treasurer's bonders or surety shall be relieved from any 246  
liability to the state or the subdivision or to the public 247  
depository for the loss or destruction of any securities deposited 248  
with a qualified trustee pursuant to this section. 249

Sec. 135.354. (A) In addition to the authority provided in 250  
section 135.35 of the Revised Code for the investment or deposit 251  
of inactive moneys, the investing authority of a county, upon the 252  
deposit of active or inactive moneys with an eligible public 253  
depository described in section 135.32 of the Revised Code and 254  
selected by the investing authority, may authorize the public 255  
depository to arrange for the redeposit of such public moneys in 256  
accordance with the following conditions: 257

(1) The public depository, on or after the date the public 258  
moneys are received, arranges for the redeposit of the moneys into 259  
deposit accounts in one or more federally insured banks or savings 260  
and loan associations that are located in the United States, and 261  
serves as custodian of the moneys for the investing authority. 262

(2) If the amount of the public moneys deposited with and 263  
held at the close of business by the public depository exceeds the 264  
amount insured by the federal deposit insurance corporation, the 265  
excess amount is subject to the pledging requirements described in 266  
section 135.181 or 135.37 of the Revised Code. 267

(3) The full amount of the public moneys redeposited by the public depository into deposit accounts in 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 receives an amount of deposits from customers of other financial institutions that is equal to the amount of moneys redeposited by the public depository.

(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. 299

The investing authority also may require that additional 300  
eligible securities be pledged or deposited when depreciation 301  
occurs in the market value of any securities pledged or deposited. 302

(B) The public depository may, at any time, provide for the 303  
exchange or substitution of securities for other eligible 304  
securities or the release of securities when the amount of public 305  
moneys on deposit does not require that they be pledged or 306  
deposited, by notifying the investing authority of its intent to 307  
take such action. 308

Upon proper notification of the public depository's desire 309  
for release of securities, the investing authority may sign a 310  
release of such securities provided that the aggregate amount of 311  
collateral remaining pledged or deposited meets the requirements 312  
of divisions (A) to (E) of this section. 313

When a public depository desires to exchange or substitute 314  
securities for other eligible securities, the investing authority 315  
may release the securities pledged or deposited after the deposit 316  
of other securities having a current market value equal to or 317  
greater than the current market value of securities then on 318  
deposit or after a safekeeping receipt has been received 319  
evidencing the deposit and pledge of such securities. 320

(C) Upon request from the investing authority, the trustee or 321  
the public depository shall furnish a statement of the securities 322  
pledged against the public moneys deposited in the public 323  
depository. 324

(D) If a public depository fails to pay over any part of any 325  
public deposit made as provided by law, the investing authority 326  
shall sell any pledged or deposited securities, as prescribed in 327  
division (C) of section 135.18 of the Revised Code. 328

(E) A public depository may designate, in accordance with the 329

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provisions of division (D) of section 135.18 of the Revised Code, 330  
a trustee for the safekeeping of any pledged securities. Such 331  
trustee shall be any bank or other institution eligible as a 332  
trustee under division (I) of section 135.18 of the Revised Code, 333  
except that, for the purposes of this section, a bank to which a 334  
certificate of qualification is issued shall be an institution 335  
mentioned in division (A) of section 135.32 of the Revised Code. 336

(F) In lieu of the pledging requirements prescribed in 337  
divisions (A) to (E) of this section, an institution designated as 338  
a public depository may pledge securities pursuant to section 339  
135.181 of the Revised Code. 340

**Section 2.** That existing sections 135.18 and 135.37 of the 341  
Revised Code are hereby repealed. 342