

**As Reported by the House State and Local Government
Committee**

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Am. H. B. No. 221

Representatives Terhar, Heard

**Cosponsors: Representatives Butler, Boyd, Gerberry, Becker, Perales,
Lundy, Baker, Retherford, Mallory, Fedor, Young, Cera, Boose, Letson,
Williams, Foley, Anielski**

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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, and 1733.31 and to enact 5
sections 135.011, 135.031, and 135.322 of the 6
Revised Code to permit credit unions to serve as 7
public depositories under certain circumstances 8
and to allow credit unions to participate in the 9
Development Services Agency's Capital Access Loan 10
Program and its various small business loan 11
guarantee programs. 12

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

Section 1. That sections 122.60, 122.71, 135.03, 135.032, 13
135.04, 135.06, 135.08, 135.10, 135.14, 135.144, 135.18, 135.32, 14
135.321, 135.33, 135.35, 135.353, 135.37, 135.51, 135.52, 135.53, 15
1733.04, 1733.041, 1733.24, 1733.30, and 1733.31 be amended and 16
sections 135.011, 135.031, and 135.322 of the Revised Code be 17

enacted to read as follows: 18

Sec. 122.60. As used in sections 122.60 to 122.605 of the 19
Revised Code: 20

(A) "Capital access loan" means a loan made by a 21
participating financial institution to an eligible business that 22
may be secured by a deposit of money from the fund into the 23
participating financial institution's program reserve account. 24

(B) "Department of development" means the development 25
services agency. 26

(C) "Eligible business" means a for-profit business entity, 27
or a nonprofit entity, that had total annual sales in its most 28
recently completed fiscal year of less than ten million dollars 29
and that has a principal place of for-profit business or nonprofit 30
entity activity within the state, the operation of which, alone or 31
in conjunction with other facilities, will create new jobs or 32
preserve existing jobs and employment opportunities and will 33
improve the economic welfare of the people of the state. As used 34
in this division, "new jobs" does not include existing jobs 35
transferred from another facility within the state, and "existing 36
jobs" means only existing jobs at facilities within the same 37
municipal corporation or township in which the project, activity, 38
or enterprise that is the subject of a capital access loan is 39
located. 40

(D) "Financial institution" means any bank, trust company, 41
savings bank, ~~or~~ savings and loan association, or credit union 42
that is chartered by and has a significant presence in the state, 43
or any national bank, federal savings and loan association, ~~or~~ 44
federal savings bank, or federal credit union that has a 45
significant presence in the state. 46

(E) "Fund" means the capital access loan program fund. 47

(F) "Minority business supplier development council" has the same meaning as in section 122.71 of the Revised Code.

(G) "Participating financial institution" means a financial institution that has a valid, current participation agreement with the development services agency.

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

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

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

(K) "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, 78
enlarged, improved, furnished, or equipped, or any combination 79
thereof, with the aid provided under sections 122.71 to 122.83 of 80
the Revised Code, for industrial, commercial, distribution, and 81
research development of the state. 82

(C) "Mortgage" means the lien imposed on a project by a 83
mortgage on real property, or by financing statements on personal 84
property, or a combination of a mortgage and financing statements 85
when a project consists of both real and personal property. 86

(D) "Mortgagor" means the principal user of a project or the 87
person, corporation, partnership, or association unconditionally 88
guaranteeing performance by the principal user of its obligations 89
under the mortgage. 90

(E)(1) "Minority business enterprise" means an individual who 91
is a United States citizen and owns and controls a business, or a 92
partnership, corporation, or joint venture of any kind that is 93
owned and controlled by United States citizens, which citizen or 94
citizens are residents of this state and are members of one of the 95
following economically disadvantaged groups: Blacks or African 96
Americans, American Indians, Hispanics or Latinos, and Asians. 97

(2) "Owned and controlled" means that at least fifty-one per 98
cent of the business, including corporate stock if a corporation, 99
is owned by persons who belong to one or more of the groups set 100
forth in division (E)(1) of this section, and that those owners 101
have control over the management and day-to-day operations of the 102
business and an interest in the capital, assets, and profits and 103
losses of the business proportionate to their percentage of 104
ownership. In order to qualify as a minority business enterprise, 105
a business shall have been owned and controlled by those persons 106
at least one year prior to being awarded a contract pursuant to 107
this section. 108

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| (F) "Community improvement corporation" means a corporation organized under Chapter 1724. of the Revised Code. | 109 110 |
| (G) "Ohio development corporation" means a corporation organized under Chapter 1726. of the Revised Code. | 111 112 |
| (H) "Minority contractors business assistance organization" means an entity engaged in the provision of management and technical business assistance to minority business enterprise entrepreneurs. | 113 114 115 116 |
| (I) "Minority business supplier development council" means a nonprofit organization established as an affiliate of the national minority supplier development council. | 117 118 119 |
| (J) "Regional economic development entity" means an entity that is under contract with the director of development to administer a loan program under this chapter in a particular area of the state. | 120 121 122 123 |
| (K) "Community development corporation" means a corporation organized under Chapter 1702. of the Revised Code that consists of residents of the community and business and civic leaders and that has as a principal purpose one or more of the following: the revitalization and development of a low- to moderate-income neighborhood or community; the creation of jobs for low- to moderate-income residents; the development of commercial facilities and services; providing training, technical assistance, and financial assistance to small businesses; and planning, developing, or managing low-income housing or other community development activities. | 124 125 126 127 128 129 130 131 132 133 134 |
| <u>Sec. 135.011.</u> As used in this chapter, "certificate of deposit" includes a share certificate of a credit union. | 135 136 |
| Sec. 135.03. (A) Any national bank, any bank doing business under authority granted by the superintendent of financial | 137 138 |

institutions, or any bank doing business under authority granted 139
by the regulatory authority of another state of the United States, 140
located in this state, is eligible to become a public depository, 141
subject to sections 135.01 to 135.21 of the Revised Code. No bank 142
shall receive or have on deposit at any one time public moneys, 143
including public moneys as defined in section 135.31 of the 144
Revised Code, in an aggregate amount in excess of thirty per cent 145
of its total assets, as shown in its latest report to the 146
comptroller of the currency, the superintendent of financial 147
institutions, the federal deposit insurance corporation, or the 148
board of governors of the federal reserve system. 149

(B) Any federal savings association, any savings and loan 150
association or savings bank doing business under authority granted 151
by the superintendent of financial institutions, or any savings 152
and loan association or savings bank doing business under 153
authority granted by the regulatory authority of another state of 154
the United States, located in this state, and authorized to accept 155
deposits is eligible to become a public depository, subject to 156
sections 135.01 to 135.21 of the Revised Code. No savings 157
association, savings and loan association, or savings bank shall 158
receive or have on deposit at any one time public moneys, 159
including public moneys as defined in section 135.31 of the 160
Revised Code, in an aggregate amount in excess of thirty per cent 161
of its total assets, as shown in its latest report to the office 162
of thrift supervision, the superintendent of financial 163
institutions, the federal deposit insurance corporation, or the 164
board of governors of the federal reserve system. 165

(C) Any federal credit union, any foreign credit union 166
licensed pursuant to section 1733.39 of the Revised Code, or any 167
credit union as defined in section 1733.01 of the Revised Code, 168
located in this state, is eligible to become a public depository, 169
subject to sections 135.01 to 135.21 of the Revised Code. No 170

credit union shall receive or have on deposit at any one time 171
public moneys, including public moneys as defined in section 172
135.31 of the Revised Code, in an aggregate amount in excess of 173
thirty per cent of its total assets, as shown in its latest report 174
to the superintendent of financial institutions or the national 175
credit union administration. 176

Sec. 135.031. (A) Except as otherwise provided in division 177
(B) of this section, an officer, employee, or agent of the state 178
or of a subdivision shall not deposit public moneys in a credit 179
union referred to in division (C) of section 135.03 of the Revised 180
Code, unless the funds are being placed with the credit union for 181
purposes of a linked deposit program established pursuant to this 182
chapter and both of the following conditions are met: 183

(1) The credit union obtains insurance for the protection of 184
the deposit from the national credit union administration or a 185
credit union share guaranty corporation as defined in section 186
1761.01 of the Revised Code. 187

(2) The credit union pledges securities for the repayment of 188
the deposit in accordance with section 135.18 of the Revised Code. 189

(B) An officer, employee, or agent of a subdivision may 190
deposit public moneys in such a credit union other than for 191
purposes of a linked deposit program established under this 192
chapter if both of the following conditions are met: 193

(1) The credit union obtains insurance for the protection of 194
the deposit from the national credit union administration or a 195
credit union share guaranty corporation as defined in section 196
1761.01 of the Revised Code. 197

(2) The total amount the subdivision will have on deposit 198
with the credit union does not exceed the amount insured. 199

(C) Nothing in this section shall be construed as restricting 200

the participation of such a credit union in the capital access 201
loan program under sections 122.60 to 122.605 of the Revised Code. 202

Sec. 135.032. No bank ~~or~~, savings and loan association, or 203
credit union is eligible to become a public depository or to 204
receive any new public deposits pursuant to sections 135.01 to 205
135.21 of the Revised Code, if: 206

(A) In the case of a bank, the bank or any of its directors, 207
officers, employees, or controlling shareholders is currently a 208
party to an active final or temporary cease-and-desist order 209
issued under section 1121.32 of the Revised Code; 210

(B) In the case of an association, the association or any of 211
its directors, officers, employees, or controlling persons is 212
currently a party to an active final or summary cease-and-desist 213
order issued under section 1155.02 of the Revised Code; 214

(C) In the case of a credit union, the credit union or any of 215
its regulated individuals as defined in section 1733.01 of the 216
Revised Code is currently a party to an active final or summary 217
cease-and-desist order issued under section 1733.324 of the 218
Revised Code. 219

Sec. 135.04. (A) Any institution mentioned in section 135.03 220
of the Revised Code is eligible to become a public depository of 221
the active deposits, inactive deposits, and interim deposits of 222
public moneys of the state subject to the requirements of sections 223
135.01 to 135.21 of the Revised Code. 224

(B) To facilitate the clearance of state warrants to the 225
state treasury, the state board of deposit may delegate the 226
authority to the treasurer of state to establish warrant clearance 227
accounts in any institution mentioned in section 135.03 of the 228
Revised Code located in areas where the volume of warrant 229
clearances justifies the establishment of an account as determined 230

by the treasurer of state. The balances maintained in such warrant 231
clearance accounts shall be at sufficient levels to cover the 232
activity generated by such accounts on an individual basis. Any 233
financial institution in the state that has a warrant clearance 234
account established by the treasurer of state shall, not more than 235
ten days after the close of each quarter, prepare and transmit to 236
the treasurer of state an analysis statement of such account for 237
the quarter then ended. Such statement shall contain such 238
information as determined by the state board of deposit, and this 239
information shall be used in whole or in part by the treasurer of 240
state in determining the level of balances to be maintained in 241
such accounts. 242

(C) Each governing board shall award the active deposits of 243
public moneys subject to its control to the eligible institutions 244
in accordance with this section, except that no such public 245
depository shall thereby be required to take or permitted to 246
receive and have at any one time a greater amount of active 247
deposits of such public moneys than that specified in the 248
application of such depository. When, by reason of such limitation 249
or otherwise, the amount of active public moneys deposited or to 250
be deposited in a public depository, pursuant to an award made 251
under this section, is reduced or withdrawn, as the case requires, 252
the amount of such reduction or the sum so withdrawn shall be 253
deposited in another eligible institution applying therefor, or if 254
there is no such eligible institution, then the amount so withheld 255
or withdrawn shall be awarded or deposited for the remainder of 256
the period of designation in accordance with sections 135.01 to 257
135.21 of the Revised Code. 258

(D) Any institution mentioned in section 135.03 of the 259
Revised Code is eligible to become a public depository of the 260
inactive and interim deposits of public moneys of a subdivision. 261
In case the aggregate amount of inactive or interim deposits 262

applied for by such eligible institutions is less than the 263
aggregate maximum amount of such inactive or interim deposits as 264
estimated to be deposited pursuant to sections 135.01 to 135.21 of 265
the Revised Code, the governing board of the subdivision may 266
designate as a public depository of the inactive or interim 267
deposits of the public moneys thereof, one or more institutions of 268
a kind mentioned in section 135.03 of the Revised Code, subject to 269
the requirements of sections 135.01 to 135.21 of the Revised Code. 270

(E) Any institution mentioned in section 135.03 of the 271
Revised Code is eligible to become a public depository of the 272
active deposits of public moneys of a subdivision. In case the 273
aggregate amount of active deposits of the public moneys of the 274
subdivision applied for by such eligible institutions is less than 275
the aggregate maximum amount to be deposited as such, as estimated 276
by the governing board, said board may designate as a public 277
depository of the active deposits of the public moneys of the 278
subdivision, one or more institutions of the kind mentioned in 279
section 135.03 of the Revised Code, subject to the requirements of 280
sections 135.01 to 135.21 of the Revised Code. 281

(F)(1) The governing board of the state or of a subdivision 282
may designate one or more minority banks or minority credit unions 283
as public depositories of its inactive, interim, or active 284
deposits of public moneys designated as federal funds. Except for 285
section 135.18 or 135.181 of the Revised Code, ~~Chapter 135. of the~~ 286
~~Revised Code~~ this chapter does not apply to the application for, 287
or the award of, such deposits. As used in this division, 288
"minority bank" or "minority credit union" means, as applicable, a 289
bank or credit union operating in this state that is owned or 290
controlled by one or more socially or economically disadvantaged 291
persons. Such disadvantage may arise from cultural, ethnic, or 292
racial background, chronic economic circumstances, or other 293
similar cause. Such persons include, but are not limited to, 294

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| Afro-Americans, Puerto Ricans, Spanish-speaking Americans, and | 295 |
| American Indians. | 296 |
| (2) In enacting this division, the general assembly finds | 297 |
| that: | 298 |
| (a) Certain commercial banks <u>and credit unions</u> are owned or | 299 |
| controlled by minority Americans; | 300 |
| (b) Minority banks <u>and minority credit unions</u> are an | 301 |
| important source of banking services in their communities; | 302 |
| (c) Minority banks <u>and minority credit unions</u> have been | 303 |
| unsuccessful in competing under Chapter 135. of the Revised Code | 304 |
| <u>this chapter</u> for the award of federal funds; | 305 |
| (d) This division contains safeguards for the protection of | 306 |
| the general public and the banking industry, since it provides the | 307 |
| governing board of the state or political subdivision with | 308 |
| permissive authority in the award of deposits; limits the | 309 |
| authority of the governing board to the award of federal funds; | 310 |
| and subjects minority banks <u>and minority credit unions</u> to certain | 311 |
| limitations of Chapter 135. of the Revised Code <u>this chapter</u> , | 312 |
| including the requirement that, as in the case of every financial | 313 |
| institution subject to Chapter 135. of the Revised Code <u>this</u> | 314 |
| <u>chapter</u> , a minority bank <u>or minority credit union</u> pledge certain | 315 |
| securities for repayment of the deposits. | 316 |
| (3) The purpose of this division is to recognize that the | 317 |
| state has a substantial and compelling interest in encouraging the | 318 |
| establishment, development, and stability of minority banks <u>and</u> | 319 |
| <u>minority credit unions</u> by facilitating their access to the award | 320 |
| of federal funds, while ensuring the protection of the general | 321 |
| public and the banking industry. | 322 |
| (G) The governing board of a subdivision shall award the | 323 |
| first twenty-five thousand dollars of the active deposits of | 324 |
| public moneys subject to its control to the eligible institution | 325 |

or institutions applying or qualifying therefor on the basis of 326
the operating needs of the subdivision and shall award the active 327
deposits of public moneys subject to its control in excess of 328
twenty-five thousand dollars to the eligible institution or 329
institutions applying or qualifying therefor. 330

Sec. 135.06. Each eligible institution desiring to be a 331
public depository of the inactive deposits of the public moneys of 332
the state or of the inactive deposits of the public moneys of the 333
subdivision shall, not more than thirty days prior to the date 334
fixed by section 135.12 of the Revised Code for the designation of 335
such public depositories, make application therefor in writing to 336
the proper governing board. Such application shall specify the 337
maximum amount of such public moneys which the applicant desires 338
to receive and have on deposit as an inactive deposit at any one 339
time during the period covered by the designation, provided that 340
it shall not apply for more than thirty per cent of its total 341
assets as revealed by its latest report to the superintendent of 342
financial institutions, the comptroller of the currency, the 343
office of thrift supervision, the federal deposit insurance 344
corporation, ~~or~~ the board of governors of the federal reserve 345
system, or the national credit union administration and the rate 346
of interest which the applicant will pay thereon, subject to the 347
limitations of sections 135.01 to 135.21 of the Revised Code. Each 348
application shall be accompanied by a financial statement of the 349
applicant, under oath of its cashier, treasurer, or other officer, 350
in such detail as to show the capital funds of the applicant, as 351
of the date of its latest report to the superintendent of 352
financial institutions, the comptroller of the currency, the 353
office of thrift supervision, the federal deposit insurance 354
corporation, ~~or~~ the board of governors of the federal reserve 355
system, or the national credit union administration and adjusted 356
to show any changes therein made prior to the date of the 357

application. Such application may be combined with an application 358
for designation as a public depository of active deposits, interim 359
deposits, or both. 360

Sec. 135.08. Each eligible institution desiring to be a 361
public depository of interim deposits of the public moneys of the 362
state or of the interim deposits of the public moneys of the 363
subdivision shall, not more than thirty days prior to the date 364
fixed by section 135.12 of the Revised Code for the designation of 365
public depositories, make application therefor in writing to the 366
proper governing board. Such application shall specify the maximum 367
amount of such public moneys which the applicant desires to 368
receive and have on deposit as interim deposits at any one time 369
during the period covered by the designation, provided that it 370
shall not apply for more than thirty per cent of its total assets 371
as revealed by its latest report to the superintendent of 372
financial institutions, the comptroller of the currency, the 373
office of thrift supervision, the federal deposit insurance 374
corporation, ~~or~~ the board of governors of the federal reserve 375
system, or the national credit union administration and the rate 376
of interest which the applicant will pay thereon, subject to the 377
limitations of sections 135.01 to 135.21 of the Revised Code. 378

Each application shall be accompanied by a financial 379
statement of the applicant, under oath of its cashier, treasurer, 380
or other officer, in such detail as to show the capital funds of 381
the applicant, as of the date of its latest report to the 382
superintendent of financial institutions, the comptroller of the 383
currency, the office of thrift supervision, the federal deposit 384
insurance corporation, ~~or~~ the board of governors of the federal 385
reserve system, or the national credit union administration and 386
adjusted to show any changes therein made prior to the date of the 387
application. Such application may be combined with an application 388
for designation as a public depository of inactive deposits, 389

active deposits, or both. 390

Sec. 135.10. Each eligible institution desiring to be a 391
public depository of the active deposits of the public moneys of 392
the state or of a subdivision shall, not more than thirty days 393
prior to the date fixed by section 135.12 of the Revised Code for 394
the designation of such public depositories, make application 395
therefor in writing to the proper governing board. If desired, 396
such application may specify the maximum amount of such public 397
moneys which the applicant desires to receive and have on deposit 398
at any one time during the period covered by the designation. Each 399
application shall be accompanied by a financial statement of the 400
applicant, under oath of its cashier, treasurer, or other officer, 401
in such detail as to show the capital funds of the applicant, as 402
of the date of its latest report to the superintendent of ~~banks or~~ 403
financial institutions, the comptroller of the currency, the 404
office of thrift supervision, or the national credit union 405
administration and adjusted to show any changes therein prior to 406
the date of the application. Such application may be combined with 407
an application for designation as a public depository of inactive 408
deposits, interim deposits, or both. 409

Sec. 135.14. (A) As used in this section: 410

(1) "Treasurer" does not include the treasurer of state, and 411
"governing board" does not include the state board of deposit. 412

(2) "Other obligations" includes notes whether or not issued 413
in anticipation of the issuance of bonds. 414

(B) The treasurer or governing board may invest or deposit 415
any part or all of the interim moneys. The following 416
classifications of obligations shall be eligible for such 417
investment or deposit: 418

(1) United States treasury bills, notes, bonds, or any other 419

obligation or security issued by the United States treasury or any 420
other obligation guaranteed as to principal and interest by the 421
United States. 422

Nothing in the classification of eligible obligations set 423
forth in division (B)(1) of this section or in the classifications 424
of eligible obligations set forth in divisions (B)(2) to (7) of 425
this section shall be construed to authorize any investment in 426
stripped principal or interest obligations of such eligible 427
obligations. 428

(2) Bonds, notes, debentures, or any other obligations or 429
securities issued by any federal government agency or 430
instrumentality, including but not limited to, the federal 431
national mortgage association, federal home loan bank, federal 432
farm credit bank, federal home loan mortgage corporation, 433
government national mortgage association, and student loan 434
marketing association. All federal agency securities shall be 435
direct issuances of federal government agencies or 436
instrumentalities. 437

(3) Interim deposits in the eligible institutions applying 438
for interim moneys as provided in section 135.08 of the Revised 439
Code. The award of interim deposits shall be made in accordance 440
with section 135.09 of the Revised Code and the treasurer or the 441
governing board shall determine the periods for which such interim 442
deposits are to be made and shall award such interim deposits for 443
such periods, provided that any eligible institution receiving an 444
interim deposit award may, upon notification that the award has 445
been made, decline to accept the interim deposit in which event 446
the award shall be made as though the institution had not applied 447
for such interim deposit. 448

(4) Bonds and other obligations of this state; 449

(5) No-load money market mutual funds consisting exclusively 450

of obligations described in division (B)(1) or (2) of this section 451
and repurchase agreements secured by such obligations, provided 452
that investments in securities described in this division are made 453
only through eligible institutions mentioned in section 135.03 of 454
the Revised Code; 455

(6) The Ohio subdivision's fund as provided in section 135.45 456
of the Revised Code; 457

(7) Up to twenty-five per cent of interim moneys available 458
for investment in either of the following: 459

(a) Commercial paper notes issued by an entity that is 460
defined in division (D) of section 1705.01 of the Revised Code and 461
that has assets exceeding five hundred million dollars, to which 462
notes all of the following apply: 463

(i) The notes are rated at the time of purchase in the 464
highest classification established by at least two nationally 465
recognized standard rating services. 466

(ii) The aggregate value of the notes does not exceed ten per 467
cent of the aggregate value of the outstanding commercial paper of 468
the issuing corporation. 469

(iii) The notes mature not later than one hundred eighty days 470
after purchase. 471

(b) Bankers acceptances of banks that are insured by the 472
federal deposit insurance corporation and to which both of the 473
following apply: 474

(i) The obligations are eligible for purchase by the federal 475
reserve system. 476

(ii) The obligations mature not later than one hundred eighty 477
days after purchase. 478

No investment shall be made pursuant to division (B)(7) of 479
this section unless the treasurer or governing board has completed 480

additional training for making the investments authorized by 481
division (B)(7) of this section. The type and amount of additional 482
training shall be approved by the auditor of state and may be 483
conducted by or provided under the supervision of the auditor of 484
state. 485

(C) Nothing in the classifications of eligible obligations 486
set forth in divisions (B)(1) to (7) of this section shall be 487
construed to authorize any investment in a derivative, and no 488
treasurer or governing board shall invest in a derivative. For 489
purposes of this division, "derivative" means a financial 490
instrument or contract or obligation whose value or return is 491
based upon or linked to another asset or index, or both, separate 492
from the financial instrument, contract, or obligation itself. Any 493
security, obligation, trust account, or other instrument that is 494
created from an issue of the United States treasury or is created 495
from an obligation of a federal agency or instrumentality or is 496
created from both is considered a derivative instrument. An 497
eligible investment described in this section with a variable 498
interest rate payment, based upon a single interest payment or 499
single index comprised of other eligible investments provided for 500
in division (B)(1) or (2) of this section, is not a derivative, 501
provided that such variable rate investment has a maximum maturity 502
of two years. 503

(D) Except as provided in division (E) of this section, any 504
investment made pursuant to this section must mature within five 505
years from the date of settlement, unless the investment is 506
matched to a specific obligation or debt of the subdivision. 507

(E) The treasurer or governing board may also enter into a 508
written repurchase agreement with any eligible institution 509
mentioned in section 135.03 of the Revised Code or any eligible 510
dealer pursuant to division (M) of this section, under the terms 511
of which agreement the treasurer or governing board purchases, and 512

such institution or dealer agrees unconditionally to repurchase 513
any of the securities listed in divisions (B)(1) to (5), except 514
letters of credit described in division (B)(2), of section 135.18 515
of the Revised Code. The market value of securities subject to an 516
overnight written repurchase agreement must exceed the principal 517
value of the overnight written repurchase agreement by at least 518
two per cent. A written repurchase agreement shall not exceed 519
thirty days and the market value of securities subject to a 520
written repurchase agreement must exceed the principal value of 521
the written repurchase agreement by at least two per cent and be 522
marked to market daily. All securities purchased pursuant to this 523
division shall be delivered into the custody of the treasurer or 524
governing board or an agent designated by the treasurer or 525
governing board. A written repurchase agreement with an eligible 526
securities dealer shall be transacted on a delivery versus payment 527
basis. The agreement shall contain the requirement that for each 528
transaction pursuant to the agreement the participating 529
institution or dealer shall provide all of the following 530
information: 531

(1) The par value of the securities; 532

(2) The type, rate, and maturity date of the securities; 533

(3) A numerical identifier generally accepted in the 534
securities industry that designates the securities. 535

No treasurer or governing board shall enter into a written 536
repurchase agreement under the terms of which the treasurer or 537
governing board agrees to sell securities owned by the subdivision 538
to a purchaser and agrees with that purchaser to unconditionally 539
repurchase those securities. 540

(F) No treasurer or governing board shall make an investment 541
under this section, unless the treasurer or governing board, at 542
the time of making the investment, reasonably expects that the 543

investment can be held until its maturity. 544

(G) No treasurer or governing board shall pay interim moneys 545
into a fund established by another subdivision, treasurer, 546
governing board, or investing authority, if that fund was 547
established for the purpose of investing the public moneys of 548
other subdivisions. This division does not apply to the payment of 549
public moneys into either of the following: 550

(1) The Ohio subdivision's fund pursuant to division (B)(6) 551
of this section; 552

(2) A fund created solely for the purpose of acquiring, 553
constructing, owning, leasing, or operating municipal utilities 554
pursuant to the authority provided under section 715.02 of the 555
Revised Code or Section 4 of Article XVIII, Ohio Constitution. 556

For purposes of division (G) of this section, "subdivision" 557
includes a county. 558

(H) The use of leverage, in which the treasurer or governing 559
board uses its current investment assets as collateral for the 560
purpose of purchasing other assets, is prohibited. The issuance of 561
taxable notes for the purpose of arbitrage is prohibited. 562
Contracting to sell securities that have not yet been acquired by 563
the treasurer or governing board, for the purpose of purchasing 564
such securities on the speculation that bond prices will decline, 565
is prohibited. 566

(I) Whenever, during a period of designation, the treasurer 567
classifies public moneys as interim moneys, the treasurer shall 568
notify the governing board of such action. The notification shall 569
be given within thirty days after such classification and in the 570
event the governing board does not concur in such classification 571
or in the investments or deposits made under this section, the 572
governing board may order the treasurer to sell or liquidate any 573
of such investments or deposits, and any such order shall 574

specifically describe the investments or deposits and fix the date 575
upon which they are to be sold or liquidated. Investments or 576
deposits so ordered to be sold or liquidated shall be sold or 577
liquidated for cash by the treasurer on the date fixed in such 578
order at the then current market price. Neither the treasurer nor 579
the members of the board shall be held accountable for any loss 580
occasioned by sales or liquidations of investments or deposits at 581
prices lower than their cost. Any loss or expense incurred in 582
making such sales or liquidations is payable as other expenses of 583
the treasurer's office. 584

(J) If any investments or deposits purchased under the 585
authority of this section are issuable to a designated payee or to 586
the order of a designated payee, the name of the treasurer and the 587
title of the treasurer's office shall be so designated. If any 588
such securities are registrable either as to principal or 589
interest, or both, then such securities shall be registered in the 590
name of the treasurer as such. 591

(K) The treasurer is responsible for the safekeeping of all 592
documents evidencing a deposit or investment acquired by the 593
treasurer under this section. Any securities may be deposited for 594
safekeeping with a qualified trustee as provided in section 135.18 595
of the Revised Code, except the delivery of securities acquired 596
under any repurchase agreement under this section shall be made to 597
a qualified trustee, provided, however, that the qualified trustee 598
shall be required to report to the treasurer, governing board, 599
auditor of state, or an authorized outside auditor at any time 600
upon request as to the identity, market value, and location of the 601
document evidencing each security, and that if the participating 602
institution is a designated depository of the subdivision for the 603
current period of designation, the securities that are the subject 604
of the repurchase agreement may be delivered to the treasurer or 605
held in trust by the participating institution on behalf of the 606

subdivision. Interest earned on any investments or deposits 607
authorized by this section shall be collected by the treasurer and 608
credited by the treasurer to the proper fund of the subdivision. 609

Upon the expiration of the term of office of a treasurer or 610
in the event of a vacancy in the office of treasurer by reason of 611
death, resignation, removal from office, or otherwise, the 612
treasurer or the treasurer's legal representative shall transfer 613
and deliver to the treasurer's successor all documents evidencing 614
a deposit or investment held by the treasurer. For the investments 615
and deposits so transferred and delivered, such treasurer shall be 616
credited with and the treasurer's successor shall be charged with 617
the amount of money held in such investments and deposits. 618

(L) Whenever investments or deposits acquired under this 619
section mature and become due and payable, the treasurer shall 620
present them for payment according to their tenor, and shall 621
collect the moneys payable thereon. The moneys so collected shall 622
be treated as public moneys subject to sections 135.01 to 135.21 623
of the Revised Code. 624

(M)(1) All investments, except for investments in securities 625
described in divisions (B)(5) and (6) of this section and for 626
investments by a municipal corporation in the issues of such 627
municipal corporation, shall be made only through a member of the 628
national association of securities dealers, through a bank, 629
savings bank, ~~or~~ savings and loan association, or credit union 630
regulated by the superintendent of financial institutions, or 631
through an institution regulated by the comptroller of the 632
currency, the federal deposit insurance corporation, ~~or~~ the board 633
of governors of the federal reserve system, or the national credit 634
union administration. 635

(2) Payment for investments shall be made only upon the 636
delivery of securities representing such investments to the 637
treasurer, governing board, or qualified trustee. If the 638

securities transferred are not represented by a certificate, 639
payment shall be made only upon receipt of confirmation of 640
transfer from the custodian by the treasurer, governing board, or 641
qualified trustee. 642

(N) In making investments authorized by this section, a 643
treasurer or governing board may retain the services of an 644
investment advisor, provided the advisor is licensed by the 645
division of securities under section 1707.141 of the Revised Code 646
or is registered with the securities and exchange commission, and 647
possesses experience in public funds investment management, 648
specifically in the area of state and local government investment 649
portfolios, or the advisor is an eligible institution mentioned in 650
section 135.03 of the Revised Code. 651

(O)(1) Except as otherwise provided in divisions (O)(2) and 652
(3) of this section, no treasurer or governing board shall make an 653
investment or deposit under this section, unless there is on file 654
with the auditor of state a written investment policy approved by 655
the treasurer or governing board. The policy shall require that 656
all entities conducting investment business with the treasurer or 657
governing board shall sign the investment policy of that 658
subdivision. All brokers, dealers, and financial institutions, 659
described in division (M)(1) of this section, initiating 660
transactions with the treasurer or governing board by giving 661
advice or making investment recommendations shall sign the 662
treasurer's or governing board's investment policy thereby 663
acknowledging their agreement to abide by the policy's contents. 664
All brokers, dealers, and financial institutions, described in 665
division (M)(1) of this section, executing transactions initiated 666
by the treasurer or governing board, having read the policy's 667
contents, shall sign the investment policy thereby acknowledging 668
their comprehension and receipt. 669

(2) If a written investment policy described in division 670

(O)(1) of this section is not filed on behalf of the subdivision 671
with the auditor of state, the treasurer or governing board of 672
that subdivision shall invest the subdivision's interim moneys 673
only in interim deposits pursuant to division (B)(3) of this 674
section, no-load money market mutual funds pursuant to division 675
(B)(5) of this section, or the Ohio subdivision's fund pursuant to 676
division (B)(6) of this section. 677

(3) Divisions (O)(1) and (2) of this section do not apply to 678
a treasurer or governing board of a subdivision whose average 679
annual portfolio of investments held pursuant to this section is 680
one hundred thousand dollars or less, provided that the treasurer 681
or governing board certifies, on a form prescribed by the auditor 682
of state, that the treasurer or governing board will comply and is 683
in compliance with the provisions of sections 135.01 to 135.21 of 684
the Revised Code. 685

(P) A treasurer or governing board may enter into a written 686
investment or deposit agreement that includes a provision under 687
which the parties agree to submit to nonbinding arbitration to 688
settle any controversy that may arise out of the agreement, 689
including any controversy pertaining to losses of public moneys 690
resulting from investment or deposit. The arbitration provision 691
shall be set forth entirely in the agreement, and the agreement 692
shall include a conspicuous notice to the parties that any party 693
to the arbitration may apply to the court of common pleas of the 694
county in which the arbitration was held for an order to vacate, 695
modify, or correct the award. Any such party may also apply to the 696
court for an order to change venue to a court of common pleas 697
located more than one hundred miles from the county in which the 698
treasurer or governing board is located. 699

For purposes of this division, "investment or deposit 700
agreement" means any agreement between a treasurer or governing 701
board and a person, under which agreement the person agrees to 702

invest, deposit, or otherwise manage a subdivision's interim 703
moneys on behalf of the treasurer or governing board, or agrees to 704
provide investment advice to the treasurer or governing board. 705

(Q) An investment made by the treasurer or governing board 706
pursuant to this section prior to September 27, 1996, that was a 707
legal investment under the law as it existed before September 27, 708
1996, may be held until maturity, or if the investment does not 709
have a maturity date, it may be held until five years from 710
September 27, 1996, regardless of whether the investment would 711
qualify as a legal investment under the terms of this section as 712
amended. 713

Sec. 135.144. (A) In addition to the authority provided in 714
section 135.14 or 135.143 of the Revised Code, the treasurer of 715
state or the treasurer or governing board of a political 716
subdivision may invest interim moneys in certificates of deposit 717
in accordance with all of the following: 718

(1) The interim moneys initially are deposited with an 719
eligible public depository described in section 135.03 of the 720
Revised Code and selected, pursuant to section 135.12 of the 721
Revised Code, by the treasurer of state or the treasurer or 722
governing board of a political subdivision, for interim moneys of 723
the state or of the political subdivision. 724

(2) For the treasurer of state or the treasurer or governing 725
board of the political subdivision depositing the interim moneys 726
pursuant to division (A)(1) of this section, the eligible public 727
depository selected pursuant to that division invests the interim 728
moneys in certificates of deposit of one or more federally insured 729
banks, savings banks, or savings and loan associations, or credit 730
unions insured pursuant to section 1733.041 of the Revised Code, 731
wherever located. The full amount of principal and any accrued 732
interest of each certificate of deposit invested in pursuant to 733

division (A)(2) of this section shall be insured by federal 734
deposit insurance, or by the national credit union administration 735
or a credit union share guaranty corporation as defined in section 736
1761.01 of the Revised Code, as applicable. 737

(3) For the treasurer of state or the treasurer or governing 738
board of the political subdivision depositing the interim moneys 739
pursuant to division (A)(1) of this section, the eligible public 740
depository selected pursuant to that division acts as custodian of 741
the certificates of deposit described in division (A)(2) of this 742
section. 743

(4) On the same date the public moneys are redeposited by the 744
public depository, the public depository may, in its sole 745
discretion, choose whether to receive deposits, in any amount, 746
from other banks, savings banks, or savings and loan associations. 747

(5) The public depository provides to the treasurer of state 748
or the treasurer or governing board of a political subdivision a 749
monthly account statement that includes the amount of its funds 750
deposited and held at each bank, savings bank, ~~or~~ savings and loan 751
association, or credit union for which the public depository acts 752
as a custodian pursuant to this section. 753

(B) Interim moneys deposited or invested in accordance with 754
division (A) of this section are not subject to any pledging 755
requirements described in section 135.18 or 135.181 of the Revised 756
Code. 757

Sec. 135.18. (A) The treasurer, before making the initial 758
deposit in a public depository pursuant to an award made under 759
sections 135.01 to 135.21 of the Revised Code, except as provided 760
in section 135.144 or 135.145 of the Revised Code, shall require 761
the institution designated as a public depository to pledge to and 762
deposit with the treasurer, as security for the repayment of all 763
public moneys to be deposited in the public depository during the 764

period of designation pursuant to the award, eligible securities 765
of aggregate market value equal to the excess of the amount of 766
public moneys to be at the time so deposited, over and above the 767
portion or amount of such moneys as is at that time insured by the 768
federal deposit insurance corporation ~~or by~~, any other agency or 769
instrumentality of the federal government, or a credit union share 770
guaranty corporation as defined in section 1761.01 of the Revised 771
Code. In the case of any deposit other than the initial deposit 772
made during the period of designation, the amount of the aggregate 773
market value of securities required to be pledged and deposited 774
shall be equal to the difference between the amount of public 775
moneys on deposit in such public depository plus the amount to be 776
so deposited, minus the portion or amount of the aggregate as is 777
at the time insured as provided in this section. The treasurer may 778
require additional eligible securities to be deposited to provide 779
for any depreciation which may occur in the market value of any of 780
the securities so deposited. 781

(B) The following securities shall be eligible for the 782
purposes of this section: 783

(1) Bonds, notes, or other obligations of the United States; 784
or bonds, notes, or other obligations guaranteed as to principal 785
and interest by the United States or those for which the faith of 786
the United States is pledged for the payment of principal and 787
interest thereon, by language appearing in the instrument 788
specifically providing such guarantee or pledge and not merely by 789
interpretation or otherwise; 790

(2) Bonds, notes, debentures, letters of credit, or other 791
obligations or securities issued by any federal government agency 792
or instrumentality, or the export-import bank of Washington; 793
bonds, notes, or other obligations guaranteed as to principal and 794
interest by the United States or those for which the faith of the 795
United States is pledged for the payment of principal and interest 796

| | |
|---|-----|
| thereon, by interpretation or otherwise and not by language | 797 |
| appearing in the instrument specifically providing such guarantee | 798 |
| or pledge; | 799 |
| (3) Obligations of or fully insured or fully guaranteed by | 800 |
| the United States or any federal government agency or | 801 |
| instrumentality; | 802 |
| (4) Obligations partially insured or partially guaranteed by | 803 |
| any federal agency or instrumentality; | 804 |
| (5) Obligations of or fully guaranteed by the federal | 805 |
| national mortgage association, federal home loan mortgage | 806 |
| corporation, federal farm credit bank, or student loan marketing | 807 |
| association; | 808 |
| (6) Bonds and other obligations of this state; | 809 |
| (7) Bonds and other obligations of any county, township, | 810 |
| school district, municipal corporation, or other legally | 811 |
| constituted taxing subdivision of this state, which is not at the | 812 |
| time of such deposit, in default in the payment of principal or | 813 |
| interest on any of its bonds or other obligations, for which the | 814 |
| full faith and credit of the issuing subdivision is pledged; | 815 |
| (8) Bonds of other states of the United States which have not | 816 |
| during the ten years immediately preceding the time of such | 817 |
| deposit defaulted in payments of either interest or principal on | 818 |
| any of their bonds; | 819 |
| (9) Shares of no-load money market mutual funds consisting | 820 |
| exclusively of obligations described in division (B)(1) or (2) of | 821 |
| this section and repurchase agreements secured by such | 822 |
| obligations; | 823 |
| (10) A surety bond issued by a corporate surety licensed by | 824 |
| the state and authorized to issue surety bonds in this state | 825 |
| pursuant to Chapter 3929. of the Revised Code, and qualified to | 826 |

provide surety bonds to the federal government pursuant to 96 827
Stat. 1047 (1982), 31 U.S.C.A. 9304; 828

(11) Bonds or other obligations of any county, municipal 829
corporation, or other legally constituted taxing subdivision of 830
another state of the United States, or of any instrumentality of 831
such county, municipal corporation, or other taxing subdivision, 832
for which the full faith and credit of the issuer is pledged and, 833
at the time of purchase of the bonds or other obligations, rated 834
in one of the two highest categories by at least one nationally 835
recognized standard rating service. 836

(C) If the public depository fails to pay over any part of 837
the public deposit made therein as provided by law, the treasurer 838
shall sell at public sale any of the bonds or other securities 839
deposited with the treasurer pursuant to this section or section 840
131.09 of the Revised Code, or shall draw on any letter of credit 841
to the extent of the failure to pay. Thirty days' notice of the 842
sale shall be given in a newspaper of general circulation at 843
Columbus, in the case of the treasurer of state, and at the county 844
seat of the county in which the office of the treasurer is 845
located, in the case of any other treasurer. When a sale of bonds 846
or other securities has been so made and upon payment to the 847
treasurer of the purchase money, the treasurer shall transfer such 848
bonds or securities whereupon the absolute ownership of such bonds 849
or securities shall pass to the purchasers. Any surplus remaining 850
after deducting the amount due the state or subdivision and 851
expenses of sale shall be paid to the public depository. 852

(D) An institution designated as a public depository may, by 853
written notice to the treasurer, designate a qualified trustee and 854
deposit the eligible securities required by this section with the 855
trustee for safekeeping for the account of the treasurer and the 856
institution as a public depository, as their respective rights to 857
and interests in such securities under this section may appear and 858

be asserted by written notice to or demand upon the trustee. In 859
which case, the treasurer shall accept the written receipt of the 860
trustee describing the securities that have been deposited with 861
the trustee by the public depository, a copy of which shall also 862
be delivered to the public depository. Thereupon all securities so 863
deposited with the trustee are deemed to be pledged with the 864
treasurer and to be deposited with the treasurer, for all the 865
purposes of this section. 866

(E) The governing board may make provisions for the exchange 867
and release of securities and the substitution of other eligible 868
securities therefor except where the public depository has 869
deposited eligible securities with a trustee for safekeeping as 870
provided in this section. 871

(F) When the public depository has deposited eligible 872
securities described in division (B)(1) of this section with a 873
trustee for safekeeping, the public depository may at any time 874
substitute or exchange eligible securities described in division 875
(B)(1) of this section having a current market value equal to or 876
greater than the current market value of the securities then on 877
deposit and for which they are to be substituted or exchanged, 878
without specific authorization from any governing board, boards, 879
or treasurer of any such substitution or exchange. 880

(G) When the public depository has deposited eligible 881
securities described in divisions (B)(2) to (9) of this section 882
with a trustee for safekeeping, the public depository may at any 883
time substitute or exchange eligible securities having a current 884
market value equal to or greater than the current market value of 885
the securities then on deposit and for which they are to be 886
substituted or exchanged without specific authorization of any 887
governing board, boards, or treasurer of any such substitution or 888
exchange only if: 889

(1) The treasurer has authorized the public depository to 890

make such substitution or exchange on a continuing basis during a 891
specified period without prior approval of each substitution or 892
exchange. The authorization may be effected by the treasurer 893
sending to the trustee a written notice stating that substitution 894
may be effected on a continuing basis during a specified period 895
which shall not extend beyond the end of the period of designation 896
during which the notice is given. The trustee may rely upon this 897
notice and upon the period of authorization stated therein and 898
upon the period of designation stated therein. 899

(2) No continuing authorization for substitution has been 900
given by the treasurer, the public depository notifies the 901
treasurer and the trustee of an intended substitution or exchange, 902
and the treasurer fails to object to the trustee as to the 903
eligibility or market value of the securities being substituted 904
within ten calendar days after the date appearing on the notice of 905
proposed substitution. The notice to the treasurer and to the 906
trustee shall be given in writing and delivered personally or by 907
certified or registered mail with a return receipt requested. The 908
trustee may assume in any case that the notice has been delivered 909
to the treasurer. In order for objections of the treasurer to be 910
effective, receipt of the objections must be acknowledged in 911
writing by the trustee. 912

(3) The treasurer gives written authorization for a 913
substitution or exchange of specific securities. 914

(H) The public depository shall notify any governing board, 915
boards, or treasurer of any substitution or exchange under 916
division (G)(1) or (2) of this section. Upon request from the 917
treasurer, the trustee shall furnish a statement of the securities 918
pledged against such public deposits. 919

(I) Any federal reserve bank or branch thereof located in 920
this state or federal home loan bank, without compliance with 921
Chapter 1111. of the Revised Code and without becoming subject to 922

any other law of this state relative to the exercise by 923
corporations of trust powers generally, is qualified to act as 924
trustee for the safekeeping of securities, under this section. Any 925
institution mentioned in section 135.03 of the Revised Code that 926
holds a certificate of qualification issued by the superintendent 927
of financial institutions or any institution complying with 928
sections 1111.04, 1111.05, and 1111.06 of the Revised Code, is 929
qualified to act as trustee for the safekeeping of securities, 930
other than those belonging to itself, under this section. Upon 931
application to the superintendent in writing by an institution, 932
the superintendent shall investigate the applicant and ascertain 933
whether or not it has been authorized to execute and accept trusts 934
in this state and has safe and adequate vaults and efficient 935
supervision thereof for the storage and safekeeping within this 936
state of securities. If the superintendent finds that the 937
applicant has been so authorized and has such vaults and 938
supervision thereof, the superintendent shall approve the 939
application and issue a certificate to that effect, the original 940
or any certified copy of which shall be conclusive evidence that 941
the institution therein named is qualified to act as trustee for 942
the purposes of this section with respect to securities other than 943
those belonging to itself. 944

Notwithstanding the fact that a public depository is required 945
to pledge eligible securities in certain amounts to secure 946
deposits of public moneys, a trustee has no duty or obligation to 947
determine the eligibility, market value, or face value of any 948
securities deposited with the trustee by a public depository. This 949
applies in all situations including, without limitation, a 950
substitution or exchange of securities. 951

Any charges or compensation of a designated trustee for 952
acting as such under this section shall be paid by the public 953
depository and in no event shall be chargeable to the state or the 954

subdivision or to the treasurer or to any officer of the state or 955
subdivision. The charges or compensation shall not be a lien or 956
charge upon the securities deposited for safekeeping prior or 957
superior to the rights to and interests in the securities of the 958
state or the subdivision or of the treasurer. The treasurer and 959
the treasurer's bonders or surety shall be relieved from any 960
liability to the state or the subdivision or to the public 961
depository for the loss or destruction of any securities deposited 962
with a qualified trustee pursuant to this section. 963

Sec. 135.32. (A) Any national bank, any bank doing business 964
under authority granted by the superintendent of financial 965
institutions, or any bank doing business under authority granted 966
by the regulatory authority of another state of the United States, 967
located in this state, is eligible to become a public depository, 968
subject to sections 135.31 to 135.40 of the Revised Code. No bank 969
shall receive or have on deposit at any one time public moneys, 970
including public moneys as defined in section 135.01 of the 971
Revised Code, in an aggregate amount in excess of thirty per cent 972
of its total assets, as shown in its latest report to the 973
comptroller of the currency, the superintendent of financial 974
institutions, the federal deposit insurance corporation, or the 975
board of governors of the federal reserve system. 976

(B) Any federal savings association, any savings and loan 977
association or savings bank doing business under authority granted 978
by the superintendent of financial institutions, or any savings 979
and loan association or savings bank doing business under 980
authority granted by the regulatory authority of another state of 981
the United States, located in this state, and authorized to accept 982
deposits is eligible to become a public depository, subject to 983
sections 135.31 to 135.40 of the Revised Code. No savings 984
association, savings and loan association, or savings bank shall 985
receive or have on deposit at any one time public moneys, 986

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, any foreign credit union licensed pursuant to section 1733.39 of the Revised Code, or any credit union as defined in section 1733.01 of the Revised Code, located in this state, 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 its regulated individuals as defined in section 1733.01 of the

Revised Code is currently a party to an active final or summary 1018
cease-and-desist order issued under section 1733.324 of the 1019
Revised Code. 1020

Sec. 135.322. (A) Except as otherwise provided in division 1021
(B) of this section, an officer, employee, or agent of a county 1022
shall not deposit public moneys in a credit union, as referred to 1023
in division (C) of section 135.32 of the Revised Code, unless the 1024
funds are being placed with the credit union for purposes of a 1025
linked deposit program established pursuant to this chapter and 1026
both of the following conditions are met: 1027

(1) The credit union obtains insurance for the protection of 1028
the deposit from the national credit union administration or a 1029
credit union share guaranty corporation as defined in section 1030
1761.01 of the Revised Code. 1031

(2) The credit union pledges securities for the repayment of 1032
the deposit in accordance with section 135.37 of the Revised Code. 1033

(B) An officer, employee, or agent of a county may deposit 1034
public moneys in such a credit union other than for purposes of a 1035
linked deposit program established under this chapter if both of 1036
the following conditions are met: 1037

(1) The credit union obtains insurance for the protection of 1038
the deposit from the national credit union administration or a 1039
credit union share guaranty corporation as defined in section 1040
1761.01 of the Revised Code. 1041

(2) The total amount the county will have on deposit with the 1042
credit union does not exceed the amount insured. 1043

Sec. 135.33. (A) The board of county commissioners shall meet 1044
every four years in the month next preceding the date of the 1045
expiration of its current period of designation for the purpose of 1046
designating its public depositories of active moneys for the next 1047

succeeding four-year period commencing on the date of expiration 1048
of the preceding period. 1049

At least sixty days before the meeting, the county treasurer 1050
shall submit to the board an estimate of the aggregate amount of 1051
public moneys that might be available for deposit as active moneys 1052
at any one time during the next four-year period. Upon receipt of 1053
such estimate, the board shall immediately notify all eligible 1054
institutions that might desire to be designated as such public 1055
depositories of the date on which the designation is to be made; 1056
the amount that has been estimated to be available for deposit; 1057
and the date fixed as the last date on which applications may be 1058
submitted, that shall not be more than thirty days or less than 1059
ten days prior to the date set for the meeting designating public 1060
depositories. 1061

(B) Any eligible institution described in division (A) or (C) 1062
of section 135.32 of the Revised Code that has an office located 1063
within the territorial limits of the county is eligible to become 1064
a public depository of the active moneys of the county. Each 1065
eligible institution desiring to be a public depository of such 1066
active moneys shall, not more than thirty days or less than ten 1067
days prior to the date fixed by this section, make application 1068
~~therefor~~ therefore in writing to the board of county 1069
commissioners. The application may specify the maximum amount of 1070
such public moneys that the applicant desires to receive and have 1071
on deposit at any time during the period covered by the 1072
designation. Each application shall be accompanied by a financial 1073
statement of the applicant, under oath of its cashier, treasurer, 1074
or other officer as of the date of its latest report to the 1075
superintendent of ~~banks or~~ financial institutions, the comptroller 1076
of the currency, or the national credit union administration and 1077
adjusted to show any changes therein prior to the date of the 1078
application, that shall include a statement of its public and 1079

nonpublic deposits. 1080

(C) The board of county commissioners, upon recommendation of 1081
the treasurer, shall designate, by resolution, one or more 1082
eligible institutions as public depositories for active moneys. In 1083
case the aggregate amount of active moneys applied for by 1084
institutions within the county is less than the amount estimated 1085
to be available for deposit, the board may designate as a public 1086
depository one or more eligible institutions that are conveniently 1087
located. The original resolution of designation shall be certified 1088
to the treasurer and any institution designated as a public 1089
depository. 1090

(D) No service charge shall be made against any deposit of 1091
active moneys, or collected or paid, unless such service charge is 1092
the same as is customarily imposed by institutions receiving money 1093
on deposit subject to check, in which event the charge may be 1094
paid. 1095

(E) Notwithstanding division (C) of this section, the board 1096
of county commissioners may authorize, by resolution, the 1097
treasurer to deposit money necessary to pay the principal and 1098
interest on bonds and notes, and any fees incident thereto, in any 1099
bank or credit union within this state. 1100

Moneys so deposited shall be transferred by the treasurer 1101
according to the terms of the agreement with the bank or credit 1102
union but shall remain as public moneys until such time as they 1103
are actually paid out by the bank or credit union. Until such time 1104
as payments become due and payable on such principal or interest, 1105
the bank or credit union shall invest any moneys in the account in 1106
interest-bearing obligations at the highest, reasonable rate of 1107
interest obtainable. 1108

So long as moneys remain in the account, the bank or credit 1109
union shall deliver to the treasurer, at the end of each month, a 1110

statement showing an accounting of all activities in the account 1111
during the preceding month including, but not limited to, all 1112
payments made, all interest earned, and the beginning and ending 1113
balances, together with any coupons redeemed since the preceding 1114
statement was issued. 1115

Sec. 135.35. (A) The investing authority shall deposit or 1116
invest any part or all of the county's inactive moneys and shall 1117
invest all of the money in the county public library fund when 1118
required by section 135.352 of the Revised Code. The following 1119
classifications of securities and obligations are eligible for 1120
such deposit or investment: 1121

(1) United States treasury bills, notes, bonds, or any other 1122
obligation or security issued by the United States treasury, any 1123
other obligation guaranteed as to principal or interest by the 1124
United States, or any book entry, zero-coupon United States 1125
treasury security that is a direct obligation of the United 1126
States. 1127

Nothing in the classification of eligible securities and 1128
obligations set forth in divisions (A)(2) to (11) of this section 1129
shall be construed to authorize any investment in stripped 1130
principal or interest obligations of such eligible securities and 1131
obligations. 1132

(2) Bonds, notes, debentures, or any other obligations or 1133
securities issued by any federal government agency or 1134
instrumentality, including, but not limited to, the federal 1135
national mortgage association, federal home loan bank, federal 1136
farm credit bank, federal home loan mortgage corporation, 1137
government national mortgage association, and student loan 1138
marketing association. All federal agency securities shall be 1139
direct issuances of federal government agencies or 1140
instrumentalities. 1141

| | |
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| (3) Time certificates of deposit or savings or deposit | 1142 |
| accounts, including, but not limited to, passbook accounts, in any | 1143 |
| eligible institution mentioned in section 135.32 of the Revised | 1144 |
| Code; | 1145 |
| (4) Bonds and other obligations of this state or the | 1146 |
| political subdivisions of this state; | 1147 |
| (5) No-load money market mutual funds consisting exclusively | 1148 |
| of obligations described in division (A)(1) or (2) of this section | 1149 |
| and repurchase agreements secured by such obligations, provided | 1150 |
| that investments in securities described in this division are made | 1151 |
| only through eligible institutions mentioned in section 135.32 of | 1152 |
| the Revised Code; | 1153 |
| (6) The Ohio subdivision's fund as provided in section 135.45 | 1154 |
| of the Revised Code; | 1155 |
| (7) Securities lending agreements with any eligible | 1156 |
| institution mentioned in section 135.32 of the Revised Code that | 1157 |
| is a member of the federal reserve system or federal home loan | 1158 |
| bank or with any recognized United States government securities | 1159 |
| dealer meeting the description in division (J)(1) of this section, | 1160 |
| under the terms of which agreements the investing authority lends | 1161 |
| securities and the eligible institution or dealer agrees to | 1162 |
| simultaneously exchange similar securities or cash, equal value | 1163 |
| for equal value. | 1164 |
| Securities and cash received as collateral for a securities | 1165 |
| lending agreement are not inactive moneys of the county or moneys | 1166 |
| of a county public library fund. The investment of cash collateral | 1167 |
| received pursuant to a securities lending agreement may be | 1168 |
| invested only in instruments specified by the investing authority | 1169 |
| in the written investment policy described in division (K) of this | 1170 |
| section. | 1171 |
| (8) Up to twenty-five per cent of the county's total average | 1172 |

| | |
|--|------|
| portfolio in either of the following investments: | 1173 |
| (a) Commercial paper notes issued by an entity that is | 1174 |
| defined in division (D) of section 1705.01 of the Revised Code and | 1175 |
| that has assets exceeding five hundred million dollars, to which | 1176 |
| notes all of the following apply: | 1177 |
| (i) The notes are rated at the time of purchase in the | 1178 |
| highest classification established by at least two nationally | 1179 |
| recognized standard rating services. | 1180 |
| (ii) The aggregate value of the notes does not exceed ten per | 1181 |
| cent of the aggregate value of the outstanding commercial paper of | 1182 |
| the issuing corporation. | 1183 |
| (iii) The notes mature not later than two hundred seventy | 1184 |
| days after purchase. | 1185 |
| (b) Bankers acceptances of banks that are insured by the | 1186 |
| federal deposit insurance corporation and to which both of the | 1187 |
| following apply: | 1188 |
| (i) The obligations are eligible for purchase by the federal | 1189 |
| reserve system. | 1190 |
| (ii) The obligations mature not later than one hundred eighty | 1191 |
| days after purchase. | 1192 |
| No investment shall be made pursuant to division (A)(8) of | 1193 |
| this section unless the investing authority has completed | 1194 |
| additional training for making the investments authorized by | 1195 |
| division (A)(8) of this section. The type and amount of additional | 1196 |
| training shall be approved by the auditor of state and may be | 1197 |
| conducted by or provided under the supervision of the auditor of | 1198 |
| state. | 1199 |
| (9) Up to fifteen per cent of the county's total average | 1200 |
| portfolio in notes issued by corporations that are incorporated | 1201 |
| under the laws of the United States and that are operating within | 1202 |

the United States, or by depository institutions that are doing 1203
business under authority granted by the United States or any state 1204
and that are operating within the United States, provided both of 1205
the following apply: 1206

(a) The notes are rated in the second highest or higher 1207
category by at least two nationally recognized standard rating 1208
services at the time of purchase. 1209

(b) The notes mature not later than two years after purchase. 1210

(10) No-load money market mutual funds rated in the highest 1211
category at the time of purchase by at least one nationally 1212
recognized standard rating service and consisting exclusively of 1213
obligations described in division (A)(1), (2), or (6) of section 1214
135.143 of the Revised Code; 1215

(11) Debt interests rated at the time of purchase in the 1216
three highest categories by two nationally recognized standard 1217
rating services and issued by foreign nations diplomatically 1218
recognized by the United States government. All interest and 1219
principal shall be denominated and payable in United States funds. 1220
The investments made under division (A)(11) of this section shall 1221
not exceed in the aggregate one per cent of a county's total 1222
average portfolio. 1223

The investing authority shall invest under division (A)(11) 1224
of this section in a debt interest issued by a foreign nation only 1225
if the debt interest is backed by the full faith and credit of 1226
that foreign nation, there is no prior history of default, and the 1227
debt interest matures not later than five years after purchase. 1228
For purposes of division (A)(11) of this section, a debt interest 1229
is rated in the three highest categories by two nationally 1230
recognized standard rating services if either the debt interest 1231
itself or the issuer of the debt interest is rated, or is 1232
implicitly rated, at the time of purchase in the three highest 1233

categories by two nationally recognized standard rating services. 1234

(12) A current unpaid or delinquent tax line of credit 1235
authorized under division (G) of section 135.341 of the Revised 1236
Code, provided that all of the conditions for entering into such a 1237
line of credit under that division are satisfied, or bonds and 1238
other obligations of a county land reutilization corporation 1239
organized under Chapter 1724. of the Revised Code, if the county 1240
land reutilization corporation is located wholly or partly within 1241
the same county as the investing authority. 1242

(B) Nothing in the classifications of eligible obligations 1243
and securities set forth in divisions (A)(1) to (11) of this 1244
section shall be construed to authorize investment in a 1245
derivative, and no investing authority shall invest any county 1246
inactive moneys or any moneys in a county public library fund in a 1247
derivative. For purposes of this division, "derivative" means a 1248
financial instrument or contract or obligation whose value or 1249
return is based upon or linked to another asset or index, or both, 1250
separate from the financial instrument, contract, or obligation 1251
itself. Any security, obligation, trust account, or other 1252
instrument that is created from an issue of the United States 1253
treasury or is created from an obligation of a federal agency or 1254
instrumentality or is created from both is considered a derivative 1255
instrument. An eligible investment described in this section with 1256
a variable interest rate payment, based upon a single interest 1257
payment or single index comprised of other eligible investments 1258
provided for in division (A)(1) or (2) of this section, is not a 1259
derivative, provided that such variable rate investment has a 1260
maximum maturity of two years. A treasury inflation-protected 1261
security shall not be considered a derivative, provided the 1262
security matures not later than five years after purchase. 1263

(C) Except as provided in division (D) of this section, any 1264
investment made pursuant to this section must mature within five 1265

years from the date of settlement, unless the investment is 1266
matched to a specific obligation or debt of the county or to a 1267
specific obligation or debt of a political subdivision of this 1268
state, and the investment is specifically approved by the 1269
investment advisory committee. 1270

(D) The investing authority may also enter into a written 1271
repurchase agreement with any eligible institution mentioned in 1272
section 135.32 of the Revised Code or any eligible securities 1273
dealer pursuant to division (J) of this section, under the terms 1274
of which agreement the investing authority purchases and the 1275
eligible institution or dealer agrees unconditionally to 1276
repurchase any of the securities listed in divisions (B)(1) to 1277
(5), except letters of credit described in division (B)(2), of 1278
section 135.18 of the Revised Code. The market value of securities 1279
subject to an overnight written repurchase agreement must exceed 1280
the principal value of the overnight written repurchase agreement 1281
by at least two per cent. A written repurchase agreement must 1282
exceed the principal value of the overnight written repurchase 1283
agreement, by at least two per cent. A written repurchase 1284
agreement shall not exceed thirty days, and the market value of 1285
securities subject to a written repurchase agreement must exceed 1286
the principal value of the written repurchase agreement by at 1287
least two per cent and be marked to market daily. All securities 1288
purchased pursuant to this division shall be delivered into the 1289
custody of the investing authority or the qualified custodian of 1290
the investing authority or an agent designated by the investing 1291
authority. A written repurchase agreement with an eligible 1292
securities dealer shall be transacted on a delivery versus payment 1293
basis. The agreement shall contain the requirement that for each 1294
transaction pursuant to the agreement the participating 1295
institution shall provide all of the following information: 1296

(1) The par value of the securities; 1297

| | |
|--|--|
| (2) The type, rate, and maturity date of the securities; | 1298 |
| (3) A numerical identifier generally accepted in the securities industry that designates the securities. | 1299 1300 |
| No investing authority shall enter into a written repurchase agreement under the terms of which the investing authority agrees to sell securities owned by the county to a purchaser and agrees with that purchaser to unconditionally repurchase those securities. | 1301 1302 1303 1304 1305 |
| (E) No investing authority shall make an investment under this section, unless the investing authority, at the time of making the investment, reasonably expects that the investment can be held until its maturity. The investing authority's written investment policy shall specify the conditions under which an investment may be redeemed or sold prior to maturity. | 1306 1307 1308 1309 1310 1311 |
| (F) No investing authority shall pay a county's inactive moneys or moneys of a county public library fund into a fund established by another subdivision, treasurer, governing board, or investing authority, if that fund was established by the subdivision, treasurer, governing board, or investing authority for the purpose of investing or depositing the public moneys of other subdivisions. This division does not apply to the payment of public moneys into either of the following: | 1312 1313 1314 1315 1316 1317 1318 1319 |
| (1) The Ohio subdivision's fund pursuant to division (A)(6) of this section; | 1320 1321 |
| (2) A fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to the authority provided under section 715.02 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution. | 1322 1323 1324 1325 |
| For purposes of division (F) of this section, "subdivision" includes a county. | 1326 1327 |

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

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

(I) The investing authority shall be responsible for the safekeeping of all documents evidencing a deposit or investment acquired under this section, including, but not limited to, safekeeping receipts evidencing securities deposited with a qualified trustee, as provided in section 135.37 of the Revised Code, and documents confirming the purchase of securities under any repurchase agreement under this section shall be deposited with a qualified trustee, provided, however, that the qualified trustee shall be required to report to the investing authority, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security, and that if the participating institution is a designated depository of the county for the current period of designation, the securities that are the subject of the repurchase agreement may be delivered to the treasurer or held in trust by the participating institution on behalf of the investing authority.

Upon the expiration of the term of office of an investing

authority or in the event of a vacancy in the office for any 1360
reason, the officer or the officer's legal representative shall 1361
transfer and deliver to the officer's successor all documents 1362
mentioned in this division for which the officer has been 1363
responsible for safekeeping. For all such documents transferred 1364
and delivered, the officer shall be credited with, and the 1365
officer's successor shall be charged with, the amount of moneys 1366
evidenced by such documents. 1367

(J)(1) All investments, except for investments in securities 1368
described in divisions (A)(5), (6), and (12) of this section, 1369
shall be made only through a member of the national association of 1370
securities dealers, through a bank, savings bank, ~~or~~ savings and 1371
loan association, or credit union regulated by the superintendent 1372
of financial institutions, or through an institution regulated by 1373
the comptroller of the currency, the federal deposit insurance 1374
corporation, ~~or~~ the board of governors of the federal reserve 1375
system, or the national credit union administration. 1376

(2) Payment for investments shall be made only upon the 1377
delivery of securities representing such investments to the 1378
treasurer, investing authority, or qualified trustee. If the 1379
securities transferred are not represented by a certificate, 1380
payment shall be made only upon receipt of confirmation of 1381
transfer from the custodian by the treasurer, governing board, or 1382
qualified trustee. 1383

(K)(1) Except as otherwise provided in division (K)(2) of 1384
this section, no investing authority shall make an investment or 1385
deposit under this section, unless there is on file with the 1386
auditor of state a written investment policy approved by the 1387
investing authority. The policy shall require that all entities 1388
conducting investment business with the investing authority shall 1389
sign the investment policy of that investing authority. All 1390
brokers, dealers, and financial institutions, described in 1391

division (J)(1) of this section, initiating transactions with the 1392
investing authority by giving advice or making investment 1393
recommendations shall sign the investing authority's investment 1394
policy thereby acknowledging their agreement to abide by the 1395
policy's contents. All brokers, dealers, and financial 1396
institutions, described in division (J)(1) of this section, 1397
executing transactions initiated by the investing authority, 1398
having read the policy's contents, shall sign the investment 1399
policy thereby acknowledging their comprehension and receipt. 1400

(2) If a written investment policy described in division 1401
(K)(1) of this section is not filed on behalf of the county with 1402
the auditor of state, the investing authority of that county shall 1403
invest the county's inactive moneys and moneys of the county 1404
public library fund only in time certificates of deposits or 1405
savings or deposit accounts pursuant to division (A)(3) of this 1406
section, no-load money market mutual funds pursuant to division 1407
(A)(5) of this section, or the Ohio subdivision's fund pursuant to 1408
division (A)(6) of this section. 1409

(L)(1) The investing authority shall establish and maintain 1410
an inventory of all obligations and securities acquired by the 1411
investing authority pursuant to this section. The inventory shall 1412
include a description of each obligation or security, including 1413
type, cost, par value, maturity date, settlement date, and any 1414
coupon rate. 1415

(2) The investing authority shall also keep a complete record 1416
of all purchases and sales of the obligations and securities made 1417
pursuant to this section. 1418

(3) The investing authority shall maintain a monthly 1419
portfolio report and issue a copy of the monthly portfolio report 1420
describing such investments to the county investment advisory 1421
committee, detailing the current inventory of all obligations and 1422
securities, all transactions during the month that affected the 1423

inventory, any income received from the obligations and 1424
securities, and any investment expenses paid, and stating the 1425
names of any persons effecting transactions on behalf of the 1426
investing authority. 1427

(4) The monthly portfolio report shall be a public record and 1428
available for inspection under section 149.43 of the Revised Code. 1429

(5) The inventory and the monthly portfolio report shall be 1430
filed with the board of county commissioners. The monthly 1431
portfolio report also shall be filed with the treasurer of state. 1432

(M) An investing authority may enter into a written 1433
investment or deposit agreement that includes a provision under 1434
which the parties agree to submit to nonbinding arbitration to 1435
settle any controversy that may arise out of the agreement, 1436
including any controversy pertaining to losses of public moneys 1437
resulting from investment or deposit. The arbitration provision 1438
shall be set forth entirely in the agreement, and the agreement 1439
shall include a conspicuous notice to the parties that any party 1440
to the arbitration may apply to the court of common pleas of the 1441
county in which the arbitration was held for an order to vacate, 1442
modify, or correct the award. Any such party may also apply to the 1443
court for an order to change venue to a court of common pleas 1444
located more than one hundred miles from the county in which the 1445
investing authority is located. 1446

For purposes of this division, "investment or deposit 1447
agreement" means any agreement between an investing authority and 1448
a person, under which agreement the person agrees to invest, 1449
deposit, or otherwise manage, on behalf of the investing 1450
authority, a county's inactive moneys or moneys in a county public 1451
library fund, or agrees to provide investment advice to the 1452
investing authority. 1453

(N)(1) An investment held in the county portfolio on 1454

September 27, 1996, that was a legal investment under the law as 1455
it existed before September 27, 1996, may be held until maturity, 1456
or if the investment does not have a maturity date the investment 1457
may be held until five years from September 27, 1996, regardless 1458
of whether the investment would qualify as a legal investment 1459
under the terms of this section as amended. 1460

(2) An investment held in the county portfolio on ~~the~~ 1461
~~effective date of this amendment~~ September 10, 2012, that was a 1462
legal investment under the law as it existed before ~~the effective~~ 1463
~~date of this amendment~~ September 10, 2012, may be held until 1464
maturity. 1465

Sec. 135.353. (A) In addition to the investments specified in 1466
section 135.35 of the Revised Code, the investing authority of a 1467
county may do all of the following: 1468

(1) Invest inactive or public moneys in linked deposits as 1469
authorized by resolution adopted pursuant to section 135.80 or 1470
135.801 of the Revised Code; 1471

(2) Invest inactive or public moneys in linked deposits as 1472
authorized by resolution adopted pursuant to section 135.805 of 1473
the Revised Code for a term considered appropriate by the 1474
investing authority, but not exceeding fifteen years, which 1475
investment may be renewed for up to two additional terms with each 1476
additional term not exceeding fifteen years. 1477

(3) Invest inactive moneys in certificates of deposit in 1478
accordance with all of the following: 1479

(a) The inactive moneys initially are deposited with an 1480
eligible public depository described in section 135.32 of the 1481
Revised Code and selected by the investing authority. 1482

(b) For the investing authority depositing the inactive 1483
moneys pursuant to division (A)(3)(a) of this section, the 1484

eligible public depository selected pursuant to that division 1485
invests the inactive moneys in certificates of deposit of one or 1486
more federally insured banks, savings banks, or savings and loan 1487
associations, or credit unions insured pursuant to section 1488
1733.041 of the Revised Code, wherever located. The full amount of 1489
principal and any accrued interest of each certificate of deposit 1490
invested in pursuant to division (A)(3)(b) of this section shall 1491
be insured by federal deposit insurance, or by the national credit 1492
union administration or a credit union share guaranty corporation 1493
as defined in section 1761.01 of the Revised Code, as applicable. 1494

(c) For the investing authority depositing the inactive 1495
moneys pursuant to division (A)(3)(a) of this section, the 1496
eligible public depository selected pursuant to that division acts 1497
as custodian of the certificates of deposit described in division 1498
(A)(3)(b) of this section. 1499

(d) On the same date the public moneys are redeposited by the 1500
public depository, the public depository may, in its sole 1501
discretion, choose whether to receive deposits, in any amount, 1502
from other banks, savings banks, or savings and loan associations. 1503

(e) The public depository provides to the investing authority 1504
a monthly account statement that includes the amount of its funds 1505
deposited and held at each bank, savings bank, ~~or~~ savings and loan 1506
association, or credit union for which the public depository acts 1507
as a custodian pursuant to this section. 1508

(B) Inactive moneys deposited or invested in accordance with 1509
division (A)(3) of this section are not subject to any pledging 1510
requirements described in section 135.181 or 135.37 of the Revised 1511
Code. 1512

Sec. 135.37. (A) Except as provided in section 135.353 or 1513
135.354 of the Revised Code, any institution described in section 1514
135.32 of the Revised Code shall, at the time it receives a 1515

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, or a credit union share guaranty corporation as defined in section 1761.01 of the Revised Code 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 1548
may release the securities pledged or deposited after the deposit 1549
of other securities having a current market value equal to or 1550
greater than the current market value of securities then on 1551
deposit or after a safekeeping receipt has been received 1552
evidencing the deposit and pledge of such securities. 1553

(C) Upon request from the investing authority, the trustee or 1554
the public depository shall furnish a statement of the securities 1555
pledged against the public moneys deposited in the public 1556
depository. 1557

(D) If a public depository fails to pay over any part of any 1558
public deposit made as provided by law, the investing authority 1559
shall sell any pledged or deposited securities, as prescribed in 1560
division (C) of section 135.18 of the Revised Code. 1561

(E) A public depository may designate, in accordance with the 1562
provisions of division (D) of section 135.18 of the Revised Code, 1563
a trustee for the safekeeping of any pledged securities. Such 1564
trustee shall be any bank or other institution eligible as a 1565
trustee under division (I) of section 135.18 of the Revised Code, 1566
except that, for the purposes of this section, a bank to which a 1567
certificate of qualification is issued shall be an institution 1568
mentioned in division (A) of section 135.32 of the Revised Code. 1569

(F) In lieu of the pledging requirements prescribed in 1570
divisions (A) to (E) of this section, an institution designated as 1571
a public depository may pledge securities pursuant to section 1572
135.181 of the Revised Code. 1573

Sec. 135.51. In case of any default on the part of a bank ~~or~~ 1574
domestic ~~building and loan~~ association, savings bank, or credit 1575
union in its capacity as depository of the money of any county, 1576
municipal corporation, township, or school district, the board of 1577
county commissioners, the legislative authority of such municipal 1578

corporation, the board of township trustees, and the board of 1579
education of such school district, in lieu of immediately selling 1580
the securities received and held as security for the deposit of 1581
such money under authority of any section of the Revised Code, may 1582
retain the same, collect the interest and any installments of 1583
principal thereafter falling due on such securities, and refund, 1584
exchange, sell, or otherwise dispose of any of them, at such times 1585
and in such manner as such board of county commissioners, 1586
legislative authority, board of township trustees, or board of 1587
education determines to be advisable with a view to conserving the 1588
value of such securities for the benefit of such county, municipal 1589
corporation, township, or school district, and for the benefit of 1590
the depositors, creditors, and stockholders or other owners of 1591
such bank ~~or building and loan, domestic~~ association, savings 1592
bank, or credit union. 1593

Sec. 135.52. In anticipation of the collection of the 1594
principal and interest of securities, or other disposition of 1595
them, as authorized by section 135.51 of the Revised Code, and of 1596
the payment of dividends in the liquidation of the depository bank 1597
~~or, domestic savings and loan~~ association, savings bank, or credit 1598
union and for the purpose of providing public money immediately 1599
available for the needs of the county, municipal corporation, 1600
township, or school district, the taxing authority may issue bonds 1601
of the county, municipal corporation, township, or school 1602
district, in an amount not exceeding the moneys on deposit in the 1603
depository bank ~~or savings and loan, domestic~~ association, savings 1604
bank, or credit union, the payment of which is secured by such 1605
securities, after crediting to such moneys the amount realized 1606
from the sale or other disposition of any other securities pledged 1607
or deposited for such moneys, or in an amount not exceeding the 1608
value or amount ultimately to be realized from such securities to 1609
be determined by valuation made under oath by two persons who are 1610

conversant with the value of the assets represented by such 1611
securities, whichever amount is the lesser, plus an amount equal 1612
to the interest accruing on such securities during one year from 1613
and after the date of default of such bank ~~or savings and loan,~~ 1614
domestic association, savings bank, or credit union in its 1615
capacity as a depository. The maturity of such bonds shall not 1616
exceed ten years and they shall bear interest at a rate not 1617
exceeding the rate determined as provided in section 9.95 of the 1618
Revised Code. Such bonds shall be the general obligations of the 1619
county, municipal corporation, township, or school district 1620
issuing them. The legislation under which such bonds are issued 1621
shall comply with Section 11 of Article XII, Ohio Constitution. 1622
The amount of such bonds issued or outstanding shall not be 1623
considered in ascertaining any of the limitations on the net 1624
indebtedness of such county, municipal corporation, township, or 1625
school district prescribed by law. In all other respects, the 1626
issuance, maturities, and sale of such bonds shall be subject to 1627
Chapter 133. of the Revised Code. 1628

A sufficient amount of the moneys received from principal on 1629
the sale of such bonds to cover the interest accruing on such 1630
securities for one year, to the extent determined by the authority 1631
issuing such bonds in the resolution or ordinance of issuance 1632
under this section, shall be paid into the bond retirement fund 1633
from which the bonds are to be redeemed, together with premiums 1634
and accrued interest. The balance of such principal shall be 1635
credited to the funds to which the moneys represented by such 1636
depository balance belong, and in the respective amounts of such 1637
funds. 1638

Sec. 135.53. All principal and interest collected by the 1639
proper officer or agent of the county, municipal corporation, 1640
township, or school district, on account of the securities 1641
mentioned in section 135.51 of the Revised Code, the proceeds of 1642

any sale or other disposition of any of such securities, and any 1643
dividends received from the liquidation of the defaulting bank ~~or~~, 1644
domestic ~~building and loan~~ association, savings bank, or credit 1645
union shall be paid into the bond retirement fund from which the 1646
bonds provided for in section 135.52 of the Revised Code are to be 1647
redeemed, until the aggregate of such payments equals the 1648
requirements of such fund, whereupon such securities, and any 1649
remaining depository balance, not anticipated by such bonds, to 1650
the extent then retained by such county, municipal corporation, 1651
township, or school district, shall be assigned and delivered to 1652
the defaulting bank ~~or building and loan, domestic~~ association, 1653
savings bank, or credit union to its liquidating officer, or to 1654
its successor or assignee, together with a release or other 1655
instrument showing full satisfaction of the claim of such county, 1656
municipal corporation, township, or school district against such 1657
bank, ~~building and loan domestic~~ association, savings bank, credit 1658
union, or officer. 1659

Sec. 1733.04. (A) In addition to the authority conferred by 1660
section 1701.13 of the Revised Code, but subject to any 1661
limitations contained in sections 1733.01 to 1733.45 of the 1662
Revised Code, and its articles and regulations, a credit union may 1663
do any of the following: 1664

(1) Make loans as provided in section 1733.25 of the Revised 1665
Code; 1666

(2) Invest its money as provided in section 1733.30 of the 1667
Revised Code; 1668

(3) If authorized by the code of regulations, rebate to the 1669
borrowing members a portion of the member's interest paid to the 1670
credit union; 1671

(4) If authorized by the regulations, charge a membership or 1672
entrance fee not to exceed one dollar per member; 1673

| | |
|--|--|
| (5) Purchase group savings life insurance and group credit life insurance; | 1674 1675 |
| (6) Make reasonable contributions to any nonprofit civic, charitable, or service organizations; | 1676 1677 |
| (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. | 1678 1679 1680 1681 1682 1683 1684 1685 1686 1687 1688 1689 |
| <u>(8) Act as a public depository for purposes of and in accordance with, Chapter 135. of the Revised Code.</u> | 1690 1691 |
| (B) The authority of a credit union shall be subject to the following: | 1692 1693 |
| (1) A credit union may not borrow money in excess of twenty-five per cent of its shares and undivided earnings, without prior specific authorization by the superintendent of credit unions. | 1694 1695 1696 1697 |
| (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. | 1698 1699 1700 1701 1702 |
| (3) A credit union, subject to the approval of the superintendent, may have service facilities other than its home | 1703 1704 |

office. 1705

(4) Real estate may be acquired by lease, purchase, or 1706
otherwise as necessary and to the extent required for use of the 1707
credit union presently and in the future operation of its office 1708
or headquarters, and in case of a purchase of real estate, the 1709
superintendent must first be notified in writing prior to the 1710
purchase of the real estate. The superintendent shall notify the 1711
credit union not more than thirty days after receipt of the 1712
notification to purchase the real estate if the purchase is 1713
denied, approved, or modified. If the superintendent does not 1714
respond within thirty days after receipt of the notification to 1715
purchase the real estate, it shall be deemed approved. Nothing 1716
herein contained shall be deemed to prohibit a credit union from 1717
taking title to real estate in connection with a default in the 1718
payment of a loan, provided that title to such real estate shall 1719
not be held by the credit union for more than two years without 1720
the prior written approval of the superintendent. A credit union 1721
also may lease space in any real estate it acquires in accordance 1722
with rules adopted by the superintendent. 1723

(C)(1) As used in division (C) of this section: 1724

(a) "School" means an elementary or secondary school. 1725

(b) "Student" means a child enrolled in a school. 1726

(c) "Student branch" means the designation provided to the 1727
credit union for the in-school services and financial education 1728
offered to students. 1729

(2) A credit union, upon agreement with a school board, in 1730
the case of a public school, or the governing authority, in the 1731
case of a nonpublic school, and with the permission of the 1732
superintendent, may open and maintain a student branch. 1733

(3) Notwithstanding any other provision of this section, any 1734
student enrolled in the school maintaining a student branch who is 1735

not otherwise qualified for membership in the credit union 1736
maintaining the student branch is qualified to be a member of that 1737
student branch. 1738

(4) The student's membership in the student branch expires 1739
upon the student's graduation from secondary school. 1740

(5) The student branch is for the express use of students and 1741
may not be used by faculty, staff, or lineal ancestors or 1742
descendents of students. 1743

(6) Faculty, staff, or lineal ancestors or descendents of 1744
students are not eligible for membership in the credit union 1745
maintaining the student branch unless otherwise qualified by this 1746
section to be members. 1747

(7) The superintendent may adopt rules appropriate to the 1748
formation and operation of student branches. 1749

(D) A credit union may guarantee the signature of a member in 1750
connection with a transaction involving tangible or intangible 1751
property in which a member has or seeks to acquire an interest. 1752

Sec. 1733.041. Each credit union operating under this chapter 1753
or otherwise authorized to do business in this state shall obtain 1754
insurance for the protection of their members' accounts. Such 1755
share guarantee insurance may be obtained from the national credit 1756
union administration operating under the "Federal Credit Union 1757
Act," 84 Stat. 994 (1970), 12 U.S.C. 1751, and any amendments 1758
thereto, or from ~~the national deposit~~ a credit union share 1759
guaranty corporation, established under Chapter 1761. of the 1760
Revised Code, or from any insurer qualified under the laws of this 1761
state to write such insurance. 1762

Sec. 1733.24. (A) A credit union is authorized to receive 1763
funds for deposit in share accounts, share draft accounts, and 1764
share certificates from its members, from other credit unions, and 1765

from an officer, employee, or agent of the federal, state, or 1766
local governments, or political subdivisions of the state, in 1767
accordance with such terms, rates, and conditions as may be 1768
established by its board of directors and, if acting as a public 1769
depository, for purposes of, and in accordance with, Chapter 135. 1770
of the Revised Code. 1771

(B) The shares and share accounts of the credit union may be 1772
of one or more classes, as designated by the board of directors, 1773
subject to approval of the superintendent of credit unions based 1774
on rules that shall assure equitable distribution of dividends 1775
among classes, considering costs and advantages of each class to 1776
the members of the credit union, including without limitation 1777
special services rendered, length of ownership, minimum 1778
investment, conditions of repurchase, and other appropriate 1779
standards or combinations thereof. In the event the articles of 1780
incorporation of the credit union indicate the authorized number 1781
of shares to be unlimited, the designation of classification of 1782
shares and share accounts of the credit union may be effected by 1783
the board of directors, subject to the approval of the 1784
superintendent, and does not require amendment of the articles of 1785
incorporation. All shares of the credit union shall have a par 1786
value per share as set by the board of directors. Redemptions and 1787
liquidating dividends shall be prorated to each member on the 1788
basis of the price paid the credit union for such share, 1789
irrespective of the class of such shares. 1790

(C)(1) Each credit union shall have one class of shares 1791
designated as "membership share." The membership shares, or if a 1792
credit union has but one class of shares, then all of the shares 1793
of the credit union, shall have a par value as set by the board of 1794
directors. 1795

(2) Two or more persons that are eligible for membership that 1796
have jointly subscribed for one or more shares under a joint 1797

account each may be admitted to membership. 1798

(D) A credit union need not issue certificates for any or all 1799
of its classes of shares but irrespective of whether certificates 1800
are issued, a registry of shares must be kept, including all of 1801
the transactions of the credit union pertaining to such shares. 1802

(E) A credit union is authorized to maintain share draft 1803
accounts in accordance with rules prescribed by the 1804
superintendent. The credit union may pay dividends on share draft 1805
accounts, may pay dividends at different rates on different types 1806
of share draft accounts, and may permit the owners of such share 1807
draft accounts to make withdrawals by negotiable or transferable 1808
instruments or other orders for the purpose of making transfers to 1809
third parties. 1810

(F) Unless otherwise provided by written agreement of the 1811
parties, the rights, responsibilities, and liabilities attaching 1812
to a share draft withdrawn from, transferred to, or otherwise 1813
handled by a credit union are defined in and governed by Chapters 1814
1303. and 1304. of the Revised Code, as if the credit union were a 1815
bank. 1816

(G) Unless otherwise provided in the articles or regulations, 1817
a member may designate any person or persons to own or hold 1818
shares, or share accounts with the member in joint tenancy with 1819
right of survivorship and not as tenants in common. 1820

(H) Shares or share accounts may be issued in the name of a 1821
custodian under the Ohio transfers to minors act, a member in 1822
trust for a beneficiary, a fiduciary or custodian in trust for a 1823
member beneficiary, or a fiduciary or custodian in trust upon the 1824
death of a member. Redemption of such shares or payment of such 1825
share accounts to a member, to the extent of the payment, 1826
discharges the liability of the credit union to the member and the 1827
beneficiary, and the credit union shall be under no obligation to 1828

see to the application of the payment. Unless prior to the death 1829
of a member, the member has notified the credit union in writing 1830
in a form approved by the credit union of a different beneficiary 1831
to receive the proceeds of such shares or share accounts, then the 1832
proceeds shall be paid to the beneficiary or to the beneficiary's 1833
parent or legal representative. Any payment made pursuant to 1834
written instructions of the member or pursuant to the provisions 1835
herein contained shall be a valid and sufficient release and 1836
discharge of the credit union in connection with any such share or 1837
share accounts. 1838

(I)(1) Except as otherwise provided in the articles or 1839
regulations, and subject to the provisions thereof, a minor may 1840
purchase shares, share accounts, or other depository instruments, 1841
and except for qualification as a voting member, the credit union 1842
may deal with the minor with respect to shares, share accounts, or 1843
other depository instruments owned by the minor as if the minor 1844
were a person of legal age. 1845

(2) If shares, share accounts, or other depository 1846
instruments are issued in the name of a minor, redemption of any 1847
part or all of the shares or withdrawal of funds by payment to the 1848
minor of the shares or funds and any declared dividends or 1849
interest releases the credit union from all obligation to the 1850
minor as to the shares reduced or funds withdrawn. 1851

(J) The regulations may require advance written notice of a 1852
member's intention to withdraw the member's shares. Such advance 1853
notice shall not exceed sixty days. 1854

Sec. 1733.30. (A) A credit union may make any investment of 1855
any funds not required for the purpose of loans or not required to 1856
meet the pledging requirements of Chapter 135. of the Revised 1857
Code, in state or national banks or state or federally chartered 1858
savings and loan associations, savings banks, or credit unions, 1859

doing business in this state; in accounts, deposits, or shares of 1860
federally insured savings and loan associations or savings banks 1861
or insured credit unions, doing business outside this state; in 1862
deposits or accounts of federally insured banks, trust companies, 1863
and mutual savings banks doing business outside this state; in the 1864
shares of a corporate credit union subject to the regulations of 1865
that corporate credit union; in shares, stocks, or obligations of 1866
any other organization providing services that are associated with 1867
the routine operations of credit unions; or in United States 1868
government securities or municipal bonds issued by municipalities 1869
of this state; and, with the approval of the superintendent of 1870
credit unions, in securities other than those specified in this 1871
division. All investments under this division shall be made in 1872
United States dollars. 1873

(B) In accordance with rules adopted by, and subject to the 1874
approval of, the superintendent, notes or loans made by or to 1875
individual members of a credit union may be purchased by another 1876
credit union at such prices as may be agreed upon between the 1877
credit unions. 1878

(C) A corporate credit union may make investments provided 1879
the investments are in accordance with rules adopted by the 1880
superintendent, are consistent with the safety and soundness of 1881
the credit union, and are made with due regard to the investment 1882
requirements established by the applicable insurer recognized 1883
under section 1733.041 of the Revised Code. 1884

Sec. 1733.31. For purposes of this section, "gross income" 1885
means all income, before expenses, earned on risk assets. "Risk 1886
assets" shall be defined by rule adopted by the superintendent of 1887
credit unions. 1888

Each credit union shall establish and maintain reserves as 1889
required by Chapter 1733. of the Revised Code, by Chapter 135. of 1890

the Revised Code, if applicable, or by rules adopted by the 1891
superintendent, including the following: 1892

(A) Valuation allowances for delinquent loans, investments, 1893
other risk assets, and contingencies, which shall be established 1894
and maintained pursuant to rules adopted ~~adopted~~ by the 1895
superintendent. 1896

(B) A regular reserve as follows: 1897

(1) A credit union in operation for more than four years and 1898
having assets of five hundred thousand dollars or more shall 1899
reserve ten per cent of its gross income until its regular reserve 1900
equals four per cent of its total risk assets. Once the credit 1901
union has regular reserves equal to four per cent of its total 1902
risk assets, it shall reserve five per cent of its gross income 1903
until its regular reserve equals six per cent of its total risk 1904
assets. 1905

(2) A credit union in operation for less than four years or 1906
having assets of less than five hundred thousand dollars shall 1907
reserve ten per cent of its gross income until its regular reserve 1908
equals seven and one-half per cent of its total risk assets. Once 1909
the credit union has regular reserves equal to seven and one-half 1910
per cent of its total risk assets, it shall reserve five per cent 1911
of its gross income until its regular reserve equals ten per cent 1912
of its total risk assets. 1913

(3) The provision for loan losses, or other such provisions 1914
related to the valuation allowances described in division (A) of 1915
this section, recorded on the credit union's statement of income 1916
for the year shall be deducted from the appropriate regular 1917
reserve calculated under division (B)(1) or (2) of this section. 1918

(4) Once the credit union has closed out its net income or 1919
loss to undivided earnings, it may allocate any extraordinary loss 1920
for the year, as defined by AICPA APB Opinion No. 30 or by rules 1921

as promulgated by the superintendent, to the regular reserve. 1922

(5) If the regular reserve account becomes less than the 1923
percentage required by division (B)(1) or (2) of this section, 1924
then the schedule of allocation shall apply until the required 1925
percentages are achieved. 1926

(6) The superintendent may decrease the reserve requirements 1927
under division (B)(1) or (2) of this section when, in the 1928
superintendent's opinion, a decrease is necessary or desirable and 1929
is consistent with the purposes of this section. 1930

(7) Nothing herein shall prevent the superintendent from 1931
requiring a particular credit union or all credit unions to 1932
establish a regular reserve in excess of the percentages required 1933
by division (B)(1) or (2) of this section if, in the opinion of 1934
the superintendent, economic conditions or other appropriate 1935
circumstances so warrant. 1936

(C) Except as otherwise provided in this division, each 1937
credit union shall maintain a liquidity fund equal to five per 1938
cent of its shares. The assets included in the liquidity fund 1939
shall be defined by rule adopted by the superintendent. The 1940
superintendent may require a particular credit union or all credit 1941
unions to establish a liquidity fund greater than or less than 1942
five per cent of total shares, if, in the opinion of the 1943
superintendent, economic conditions or other appropriate 1944
circumstances so warrant. 1945

(D)(1) Reserves for corporate credit unions shall be 1946
established by the superintendent with due regard for the 1947
reserving requirements for corporate credit unions set by the 1948
applicable insurer recognized under section 1733.041 of the 1949
Revised Code. Specific reserving requirements shall be established 1950
by rule of the superintendent, but shall substantially parallel 1951
the reserving formula set by the applicable insurer recognized 1952

under section 1733.041 of the Revised Code. 1953

(2) Nothing in division (D)(1) of this section shall prevent 1954
the superintendent from requiring a particular corporate credit 1955
union or all corporate credit unions to establish a regular 1956
reserve in excess of those reserves established pursuant to 1957
division (D)(1) of this section if, in the opinion of the 1958
superintendent, economic conditions or other appropriate 1959
circumstances so warrant. 1960

Section 2. That existing sections 122.60, 122.71, 135.03, 1961
135.032, 135.04, 135.06, 135.08, 135.10, 135.14, 135.144, 135.18, 1962
135.32, 135.321, 135.33, 135.35, 135.353, 135.37, 135.51, 135.52, 1963
135.53, 1733.04, 1733.041, 1733.24, 1733.30, and 1733.31 of the 1964
Revised Code are hereby repealed. 1965

Section 3. Section 135.14 of the Revised Code is presented in 1966
this act as a composite of the section as amended by both Sub. 1967
H.B. 473 and Am. Sub. H.B. 640 of the 123rd General Assembly. The 1968
General Assembly, applying the principle stated in division (B) of 1969
section 1.52 of the Revised Code that amendments are to be 1970
harmonized if reasonably capable of simultaneous operation, finds 1971
that the composite is the resulting version of the section in 1972
effect prior to the effective date of the section as presented in 1973
this act. 1974