

As Reported by the House Finance Committee

131st General Assembly

Regular Session

2015-2016

H. B. No. 374

Representative Schuring

A BILL

To amend section 135.182 of the Revised Code to
authorize the Treasurer of State to determine by
rule the total market value of securities that
must be pledged to secure the repayment of all
uninsured public deposits at a particular public
depository, to make other changes relative to
the Ohio Pooled Collateral Program, and to
declare an emergency.

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

Section 1. That section 135.182 of the Revised Code be
amended to read as follows:

Sec. 135.182. (A) As used in this section:

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

(2) "Public depositor" means that term as defined in
section 135.01 of the Revised Code, but also includes a county
and any municipal corporation that has adopted a charter under
Article XVIII, Ohio Constitution.

(3) "Public deposits," "public moneys," and "treasurer" 20
mean those terms as defined in section 135.01 of the Revised 21
Code, but also have the same meanings as are set forth in 22
section 135.31 of the Revised Code. 23

(B) (1) Not later than July 1, 2017, the treasurer of state 24
shall create the Ohio pooled collateral program. Under this 25
program, each institution designated as a public depository that 26
selects the pledging method prescribed in division (A) (2) of 27
section 135.18 or division (A) (2) of section 135.37 of the 28
Revised Code shall pledge to the treasurer of state a single 29
pool of eligible securities for the benefit of all public 30
depositories at the public depository to secure the repayment of 31
all uninsured public deposits at the public depository, provided 32
that at all times the total market value of the securities so 33
pledged is at least equal to ~~one~~ either of the following: 34

(a) One hundred two per cent of the total amount of all 35
uninsured public deposits; 36

(b) An amount determined by rules adopted by the treasurer 37
of state that set forth the criteria for determining the 38
aggregate market value of the pool of eligible securities 39
pledged by a public depository pursuant to division (B) of this 40
section. Such criteria shall include, but are not limited to, 41
prudent capital and liquidity management by the public 42
depository and the safety and soundness of the public depository 43
as determined by a third-party rating organization. ~~The~~ 44

(2) The treasurer of state shall monitor the eligibility, 45
market value, and face value of the pooled securities pledged by 46
the public depository. Each public depository shall carry in its 47
accounting records at all times a general ledger or other 48
appropriate account of the total amount of all public deposits 49

to be secured by the pool, as determined at the opening of 50
business each day, and the total market value of securities 51
pledged to secure such deposits, and report such information to 52
the treasurer of state in a manner and frequency as determined 53
by the treasurer of state pursuant to rules adopted by the 54
treasurer of state. A public depositor shall be responsible for 55
periodically confirming the accuracy of its account balances 56
with the treasurer of state; otherwise, the treasurer of state 57
shall be the sole public depositor responsible for monitoring 58
and ensuring the sufficiency of securities pledged under this 59
section. 60

(C) The public depository shall designate a qualified 61
trustee approved by the treasurer of state and place with such 62
trustee for safekeeping the eligible securities pledged pursuant 63
to division (B) of this section. The trustee shall hold the 64
eligible securities in an account indicating the treasurer of 65
state's security interest in the eligible securities. The 66
treasurer of state shall give written notice of the trustee to 67
all public depositors for which such securities are pledged. The 68
trustee shall report to the treasurer of state information 69
relating to the securities pledged to secure such public 70
deposits in a manner and frequency as determined by the 71
treasurer of state. 72

(D) In order for a public depository to receive public 73
moneys under this section, the public depository and the 74
treasurer of state shall first execute an agreement that sets 75
forth the entire arrangement among the parties and that meets 76
the requirements described in 12 U.S.C. 1823(e). In addition, 77
the agreement shall authorize the treasurer of state to obtain 78
control of the collateral pursuant to division (D) of section 79
1308.24 of the Revised Code. 80

(E) The securities or other obligations described in 81
division (D) of section 135.18 of the Revised Code shall be 82
eligible as collateral for the purposes of division (B) of this 83
section, provided no such securities or obligations pledged as 84
collateral are at any time in default as to either principal or 85
interest. 86

(F) Any federal reserve bank or branch thereof located in 87
this state or federal home loan bank, without compliance with 88
Chapter 1111. of the Revised Code and without becoming subject 89
to any other law of this state relative to the exercise by 90
corporations of trust powers generally, is qualified to act as 91
trustee for the safekeeping of securities, under this section. 92
Any institution mentioned in section 135.03 or 135.32 of the 93
Revised Code that holds a certificate of qualification issued by 94
the superintendent of financial institutions or any institution 95
complying with sections 1111.04, 1111.05, and 1111.06 of the 96
Revised Code is qualified to act as trustee for the safekeeping 97
of securities under this section, other than those belonging to 98
itself or to an affiliate as defined in section 1101.01 of the 99
Revised Code. 100

(G) The public depository may substitute, exchange, or 101
release eligible securities deposited with the qualified trustee 102
pursuant to this section, provided that such substitution, 103
exchange, or release is effectuated pursuant to written 104
authorization from the treasurer of state, and such action does 105
not reduce the total market value of the securities to an amount 106
that is less than the amount established pursuant to division 107
(B) of this section. 108

(H) Notwithstanding the fact that a public depository is 109
required to pledge eligible securities in certain amounts to 110

secure public deposits, a qualified trustee has no duty or 111
obligation to determine the eligibility, market value, or face 112
value of any securities deposited with the trustee by a public 113
depository. This applies in all situations including, but not 114
limited to, a substitution or exchange of securities, but 115
excluding those situations effectuated by division (I) of this 116
section in which the trustee is required to determine face and 117
market value. 118

(I) The qualified trustee shall enter into a custodial 119
agreement with the treasurer of state and public depository in 120
which the trustee agrees to comply with entitlement orders 121
originated by the treasurer of state without further consent by 122
the public depository or, in the case of collateral held by the 123
public depository in an account at a federal reserve bank, the 124
treasurer of state shall have the treasurer's security interest 125
marked on the books of the federal reserve bank where the 126
account for the collateral is maintained. If the public 127
depository fails to pay over any part of the public deposits 128
made therein as provided by law and secured pursuant to division 129
(B) of this section, the treasurer of state shall give written 130
notice of this failure to the qualified trustee holding the pool 131
of securities pledged against the public deposits, and at the 132
same time shall send a copy of this notice to the public 133
depository. Upon receipt of this notice, the trustee shall 134
transfer to the treasurer of state for sale, the pooled 135
securities that are necessary to produce an amount equal to the 136
public deposits made by the public depositor and not paid over, 137
less the portion of the deposits covered by any federal deposit 138
insurance, plus any accrued interest due on the deposits. The 139
treasurer of state shall sell any of the bonds or other 140
securities so transferred. When a sale of bonds or other 141

securities has been so made and upon payment to the public 142
depositor of the purchase money, the treasurer of state shall 143
transfer such bonds or securities whereupon the absolute 144
ownership of such bonds or securities shall pass to the 145
purchasers. Any surplus after deducting the amount due to the 146
public depositor and expenses of sale shall be paid to the 147
public depository. 148

(J) Any charges or compensation of a qualified trustee for 149
acting as such under this section shall be paid by the public 150
depository and in no event shall be chargeable to the public 151
depositor or to any officer of the public depositor. The charges 152
or compensation shall not be a lien or charge upon the 153
securities deposited for safekeeping prior or superior to the 154
rights to and interests in the securities of the public 155
depositor. The treasurer and the treasurer's bonders or surety 156
shall be relieved from any liability to the public depositor or 157
to the public depository for the loss or destruction of any 158
securities deposited with a qualified trustee pursuant to this 159
section. 160

Section 2. That existing section 135.182 of the Revised 161
Code is hereby repealed. 162

Section 3. This act is hereby declared to be an emergency 163
measure necessary for the immediate preservation of the public 164
peace, health, and safety. The reason for such necessity is that 165
financial institutions are required to comply with certain 166
aspects of the federal rule on liquidity coverage ratio (LCR) by 167
January 1, 2016, and the Treasurer of State needs time to adopt 168
appropriate rules to ensure Ohio financial institutions will be 169
compliant. Therefore, this act shall go into immediate effect. 170