

As Passed by the Senate

133rd General Assembly

Regular Session

2019-2020

H. B. No. 405

Representative Cross

Cosponsors: Representatives Manchester, Riedel, Scherer, Stoltzfus, Jones, Wilkin, Baldridge, Edwards, Callender, Hoops, Abrams, LaRe, Seitz, Stein, Swearingen, Ghanbari, Koehler, Hillyer, Wiggam, Hambley, Smith, T., Brent, Carfagna, Clites, Fraizer, Galonski, Ginter, Green, Greenspan, Hicks-Hudson, Howse, Keller, Kick, Lanese, Leland, Lepore-Hagan, Lightbody, Liston, McClain, Miller, J., O'Brien, Patterson, Perales, Plummer, Reineke, Richardson, Robinson, Roemer, Rogers, Romanchuk, Russo, Sheehy, Sobecki, Stephens, Strahorn, Sykes, Upchurch, Weinstein, West

Senators Hackett, Antonio, Blessing, Brenner, Burke, Coley, Craig, Dolan, Eklund, Gavarone, Hoagland, Hottinger, Huffman, S., Johnson, Kunze, McColley, Obhof, Peterson, Rulli, Sykes, Thomas, Wilson, Yuko

A BILL

To amend sections 135.63, 135.78, 1733.04, and	1
1733.24 and to enact sections 135.79, 135.791,	2
135.792, 135.793, 135.794, 135.795, and 135.796	3
of the Revised Code to create the adoption	4
linked deposit program.	5

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

Section 1. That sections 135.63, 135.78, 1733.04, and	6
1733.24 be amended and sections 135.79, 135.791, 135.792,	7
135.793, 135.794, 135.795, and 135.796 of the Revised Code be	8
enacted to read as follows:	9

Sec. 135.63. The treasurer of state may invest in linked	10
deposits under sections 135.61 to 135.67, short-term installment	11

loan linked deposits under sections 135.68 to 135.70, 12
agricultural linked deposits under sections 135.71 to 135.76, 13
business linked deposits under sections 135.77 to 135.774, 14
adoption linked deposits under sections 135.79 to 135.796, 15
housing linked deposits under sections 135.81 to 135.87, 16
assistive technology device linked deposits under sections 17
135.91 to 135.97, and SaveNOW linked deposits under sections 18
135.101 to 135.106 of the Revised Code, provided that at the 19
time of placement of any such linked deposit the combined amount 20
of investments in all such linked deposits is not more than 21
twelve per cent of the state's total average investment 22
portfolio as determined by the treasurer of state. When deciding 23
whether to invest in any such linked deposits, the treasurer of 24
state shall give priority to the investment, liquidity, and cash 25
flow needs of the state. 26

Sec. 135.78. (A) As used in this section: 27

(1) "Eligible lending institution" means an eligible 28
lending institution as defined in section 135.61, 135.68, 29
135.71, ~~or~~ 135.77, or 135.79 of the Revised Code, as applicable. 30

(2) "Prevailing interest rate" means a current interest 31
rate benchmark selected by the treasurer of state that banks are 32
willing to pay to hold deposits for a specific time period, as 33
measured by a third-party organization. 34

(3) "Treasurer's assessment rate" means a number not 35
exceeding ten per cent that is calculated in a manner determined 36
by the treasurer of state and that seeks to account for the 37
effect that varying tax treatment among different types of 38
financial institutions has on the ability of financial 39
institutions to pay competitive interest rates to hold deposits. 40

(B) The treasurer of state shall, in accordance with 41
Chapter 111. of the Revised Code, adopt rules addressing the 42
participation of eligible lending institutions in the 43
agricultural linked deposit program under sections 135.71 to 44
135.76 of the Revised Code ~~and,~~ the business linked deposit 45
program under sections 135.77 to 135.774 of the Revised Code, 46
and the adoption linked deposit program under sections 135.79 to 47
135.796 of the Ohio Revised Code, including, but not limited to, 48
the manner in which an eligible lending institution is 49
designated and the linked deposits are placed, held, and 50
collateralized. Participation of eligible lending institutions 51
in those linked deposit programs shall not begin until these 52
rules have been adopted. 53

(C) Notwithstanding any provision of law to the contrary, 54
the treasurer of state may require an eligible lending 55
institution that holds public deposits under sections 135.61 to 56
135.67, 135.68 to 135.70, 135.71 to 135.76, ~~or~~ 135.77 to 57
135.774, or 135.79 to 135.796 of the Revised Code, and any 58
institution mentioned in section 135.03 of the Revised Code that 59
holds public deposits under sections 135.71 to 135.76 of the 60
Revised Code, to pay interest at a rate not lower than the 61
product of the prevailing interest rate multiplied by the sum of 62
one plus the treasurer's assessment rate. The treasurer may 63
adopt rules necessary for the implementation of this division. 64
The rules shall be adopted in accordance with Chapter 119. of 65
the Revised Code. 66

Sec. 135.79. As used in sections 135.79 to 135.796 of the 67
Revised Code: 68

(A) "Eligible borrower" means an individual who is a 69
resident of this state and to whom either of the following 70

applies: 71

(1) The individual completes a home study pursuant to 72
section 3107.031 of the Revised Code and is approved. 73

(2) The individual is pursuing an adoption through the 74
public foster care system and meets the requirements set by the 75
department of job and family services. 76

(B) "Eligible lending institution" means a financial 77
institution that may make secured or unsecured personal loans, 78
agrees to participate in the adoption linked deposit program, 79
and is either of the following: 80

(1) A public depository of state funds under section 81
135.03 of the Revised Code; 82

(2) Notwithstanding sections 135.01 to 135.21 of the 83
Revised Code, a federal credit union, a foreign credit union 84
licensed pursuant to section 1733.39 of the Revised Code, or a 85
credit union as defined in section 1733.01 of the Revised Code, 86
located in this state. 87

(C) "Adoption linked deposit" means a certificate of 88
deposit or other financial institution instrument placed by the 89
treasurer of state with an eligible lending institution at a 90
rate below current market rate, as determined and calculated by 91
the treasurer of state, provided the institution agrees to lend 92
the value of such deposit or instrument, according to the 93
agreement provided in division (C) of section 135.793 of the 94
Revised Code, to eligible borrowers at a rate that reflects an 95
equal percentage rate reduction below the present borrowing rate 96
applicable to each specific borrower at the time of the 97
placement of state funds in the institution. 98

(D) "Other financial institution instrument" means a fully 99

collateralized product that otherwise would pay market rates of 100
interest approved by the treasurer of state. 101

(E) "Loan" means a contractual agreement under which an 102
eligible lending institution agrees to lend money to an eligible 103
borrower in the form of an upfront lump sum, a line of credit, 104
or any other reasonable arrangement approved by the treasurer of 105
state. 106

(F) "Qualifying adoption expense" means any expense 107
incurred to legally adopt a child as described in division (C) 108
of section 3107.055 of the Revised Code, including any costs 109
incurred by the eligible borrower proximately relating to the 110
completion and approval of the home study under section 3107.031 111
of the Revised Code, and any other expense as determined by the 112
treasurer of state. 113

Sec. 135.791. The general assembly finds that the 114
financial costs of adoption in this state have grown and the 115
growth has placed a substantial financial burden on families 116
seeking to adopt in this state. Accordingly, it is declared to 117
be the public policy of the state through the adoption linked 118
deposit program to create an availability of lower-cost loans to 119
reduce the financial burdens of adoption and to strengthen 120
families in this state. 121

Sec. 135.792. (A) An eligible lending institution that 122
desires to receive an adoption linked deposit shall accept and 123
review applications for loans to eligible borrowers. The lending 124
institution shall apply all usual lending standards to determine 125
the credit worthiness of each eligible borrower. 126

(B) (1) An eligible borrower shall certify on the 127
borrower's loan application that the reduced rate loan will be 128

used exclusively to pay for qualifying adoption expenses. 129

(2) Whoever knowingly makes a false statement concerning 130
such application is guilty of the offense of falsification under 131
section 2921.13 of the Revised Code. 132

(C) The eligible lending institution shall do all of the 133
following: 134

(1) Forward to the treasurer of state an adoption linked 135
deposit loan package, in the form and manner prescribed by the 136
treasurer of state. The package shall include information as 137
required by the treasurer of state, including the amount of the 138
loan requested. 139

(2) Certify that each applicant is an eligible borrower, 140
and shall, for each borrower, certify the present borrowing rate 141
applicable to each specific eligible borrower; 142

(3) Certify that the eligible lending institution applied 143
all of its usual lending standards to determine the credit 144
worthiness of each eligible borrower. 145

Sec. 135.793. (A) The treasurer of state may accept or 146
reject an adoption linked deposit loan package or any portion 147
thereof, based on the treasurer's evaluation of the eligible 148
borrower included in the package and the amount of state funds 149
to be placed with an eligible lending institution. 150

(B) Upon acceptance of the adoption linked deposit loan 151
package or any portion thereof, the treasurer of state may place 152
certificates of deposit or other financial institution 153
instruments with the eligible lending institution at a rate 154
below current market rates, as determined and calculated by the 155
treasurer of state. When necessary, the treasurer of state may 156
place certificates of deposit or other financial institution 157

instruments prior to acceptance of an adoption linked deposit 158
loan package. 159

(C) (1) The eligible lending institution shall enter into a 160
deposit agreement with the treasurer of state, which shall 161
include requirements necessary to carry out the purpose of 162
sections 135.79 to 135.796 of the Revised Code. Such 163
requirements shall reflect the market conditions prevailing in 164
the eligible lending institution's lending area. 165

(2) The agreement under division (C) (1) of this section 166
may include a specification of the period of time in which the 167
lending institution is to lend funds upon the placement of an 168
adoption linked deposit, and shall include provisions for the 169
certificates of deposit or other financial institution 170
instruments to be placed for any maturity considered appropriate 171
by the treasurer of state not to exceed five years, and may be 172
renewed for up to an additional five years at the option of the 173
treasurer of state. Interest shall be paid at the times 174
determined by the treasurer of state. 175

(D) Eligible lending institutions shall comply fully with 176
Chapter 135. of the Revised Code. 177

Sec. 135.794. (A) Upon the placement of an adoption linked 178
deposit with an eligible lending institution, such institution 179
is required to lend such funds to each approved eligible 180
borrower listed in the adoption linked deposit loan package 181
required by division (C) of section 135.792 of the Revised Code 182
and in accordance with the deposit agreement required by 183
division (C) of section 135.793 of the Revised Code. The loan 184
shall be at a rate that reflects a percentage rate reduction 185
below the present borrowing rate applicable to each borrower 186
that is equal to or greater than the percentage rate reduction 187

below market rates at which the certificates of deposit or other 188
financial institution instruments that constitute the adoption 189
linked deposit were placed. A certification of compliance with 190
this section in the form and manner as prescribed by the 191
treasurer of state shall be required of the eligible lending 192
institution. 193

(B) The treasurer of state shall take any and all steps 194
necessary to implement the adoption linked deposit program and 195
monitor compliance of eligible lending institutions and eligible 196
borrowers, including the development of guidelines as necessary. 197

(C) Annually, by the first day of February, the treasurer 198
of state shall report on the adoption linked deposit program for 199
the preceding calendar year to the governor, the speaker of the 200
house of representative, and the president of the senate. The 201
report shall set forth the adoption linked deposits made by the 202
treasurer of state under the program during the year and shall 203
include information regarding the nature, terms, and amounts of 204
the loans upon which the adoption linked deposits were based and 205
the eligible borrowers to which the loans were made. 206

Sec. 135.795. The treasurer of state may adopt rules 207
necessary for the implementation and administration of sections 208
135.79 to 135.796 of the Revised Code. Such rules shall be 209
adopted in accordance with section 111.15 of the Revised Code. 210

Sec. 135.796. The state and treasurer of state are not 211
liable to any eligible lending institution in any manner for 212
payment of the principle or interest on the loan to an eligible 213
borrower. Any delay in payments or default on the part of an 214
eligible borrower shall not in any manner affect the agreement 215
between the eligible lending institution and the treasurer of 216
state. 217

Sec. 1733.04. (A) In addition to the authority conferred 218
by section 1701.13 of the Revised Code, but subject to any 219
limitations contained in sections 1733.01 to 1733.45 of the 220
Revised Code, and its articles and regulations, a credit union 221
may do any of the following: 222

(1) Make loans as provided in section 1733.25 of the 223
Revised Code; 224

(2) Invest its money as provided in section 1733.30 of the 225
Revised Code; 226

(3) If authorized by the code of regulations, rebate to 227
the borrowing members a portion of the member's interest paid to 228
the credit union; 229

(4) If authorized by the regulations, charge a membership 230
or entrance fee; 231

(5) Purchase group savings life insurance and group credit 232
life insurance; 233

(6) Make reasonable contributions to any nonprofit civic, 234
charitable, or service organizations; 235

(7) Act as trustee or custodian, for which reasonable 236
compensation may be received, under any written trust instrument 237
or custodial agreement created or organized in the United States 238
and forming part of a tax-advantaged savings plan that qualifies 239
for specific tax treatment under sections 223, 401(d), 408, 240
408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223, 241
401(d), 408, 408A, and 530, as amended, for its members or 242
groups of its members, provided that the funds of such plans are 243
invested in share accounts or share certificate accounts of the 244
credit union. These services include, but are not limited to, 245
acting as a trustee or custodian for member retirement, 246

education, or health savings accounts. 247

(8) Participate in and pledge assets in connection with 248
the business linked deposit program under sections 135.77 to 249
135.774 of the Revised Code~~and,~~ the agricultural linked deposit 250
program under sections 135.71 to 135.76 of the Revised Code, and 251
the adoption linked deposit program under sections 135.79 to 252
135.796 of the Revised Code. 253

(B) The authority of a credit union shall be subject to 254
the following: 255

(1) A credit union may not borrow money in excess of 256
twenty-five per cent of its shares and undivided earnings, 257
without prior specific authorization by the superintendent of 258
credit unions. 259

(2) A credit union may not pay a commission or other 260
compensation to any person for securing members or for the sale 261
of its shares, except that reasonable incentives may be made 262
available directly to members or potential members to promote 263
thrift. 264

(C) (1) A credit union may have service facilities other 265
than its home office. 266

(2) Real estate may be acquired by lease, purchase, or 267
otherwise as necessary and to the extent required for use of the 268
credit union presently and in the future operation of its office 269
or headquarters, and in case of a purchase of real estate, the 270
superintendent must first be notified in writing prior to the 271
purchase of the real estate. Nothing herein contained shall be 272
deemed to prohibit a credit union from taking title to real 273
estate in connection with a default in the payment of a loan, 274
provided that title to such real estate shall not be held by the 275

credit union for more than two years without the prior written 276
approval of the superintendent. A credit union also may lease 277
space in any real estate it acquires in accordance with rules 278
adopted by the superintendent. 279

(D) (1) As used in division (D) of this section: 280

(a) "School" means an elementary or secondary school. 281

(b) "Student" means a child enrolled in a school. 282

(c) "Student branch" means the designation provided to the 283
credit union for the in-school services and financial education 284
offered to students. 285

(2) A credit union, upon agreement with a school board, in 286
the case of a public school, or the governing authority, in the 287
case of a nonpublic school, and with the permission of the 288
superintendent, may open and maintain a student branch. 289

(3) Notwithstanding any other provision of this section, 290
any student enrolled in the school maintaining a student branch 291
who is not otherwise qualified for membership in the credit 292
union maintaining the student branch is qualified to be a member 293
of that student branch. 294

(4) The student's membership in the student branch expires 295
upon the student's graduation from secondary school. 296

(5) The student branch is for the express use of students 297
and may not be used by faculty, staff, or lineal ancestors or 298
descendents of students. 299

(6) Faculty, staff, or lineal ancestors or descendents of 300
students are not eligible for membership in the credit union 301
maintaining the student branch unless otherwise qualified by 302
this section to be members. 303

(7) The superintendent may adopt rules appropriate to the 304
formation and operation of student branches. 305

(E) A credit union may guarantee the signature of a member 306
in connection with a transaction involving tangible or 307
intangible property in which a member has or seeks to acquire an 308
interest. 309

Sec. 1733.24. (A) A credit union is authorized to receive 310
funds for deposit in share accounts, share draft accounts, and 311
share certificates from its members, from other credit unions, 312
and from an officer, employee, or agent of the federal, state, 313
or local governments, or political subdivisions of the state, in 314
accordance with such terms, rates, and conditions as may be 315
established by its board of directors, and for purposes of the 316
agricultural linked deposit program created under sections 317
135.71 to 135.76 of the Revised Code ~~and~~, the business linked 318
deposit program created under sections 135.77 to 135.774 of the 319
Revised Code, and the adoption linked deposit program under 320
sections 135.79 to 135.796 of the Revised Code. 321

(B) The shares and share accounts of the credit union may 322
be of one or more classes, as designated by the board of 323
directors, subject to approval of the superintendent of credit 324
unions based on rules that shall assure equitable distribution 325
of dividends among classes, considering costs and advantages of 326
each class to the members of the credit union, including without 327
limitation special services rendered, length of ownership, 328
minimum investment, conditions of repurchase, and other 329
appropriate standards or combinations thereof. In the event the 330
articles of incorporation of the credit union indicate the 331
authorized number of shares to be unlimited, the designation of 332
classification of shares and share accounts of the credit union 333

may be effected by the board of directors, subject to the 334
approval of the superintendent, and does not require amendment 335
of the articles of incorporation. All shares of the credit union 336
shall have a par value per share as set by the board of 337
directors. Redemptions and liquidating dividends shall be 338
prorated to each member on the basis of the price paid the 339
credit union for such share, irrespective of the class of such 340
shares. 341

(C) (1) Each credit union shall have one class of shares 342
designated as "membership share." The membership shares, or if a 343
credit union has but one class of shares, then all of the shares 344
of the credit union, shall have a par value as set by the board 345
of directors. 346

(2) Two or more persons that are eligible for membership 347
that have jointly subscribed for one or more shares under a 348
joint account each may be admitted to membership. 349

(D) A credit union need not issue certificates for any or 350
all of its classes of shares but irrespective of whether 351
certificates are issued, a registry of shares must be kept, 352
including all of the transactions of the credit union pertaining 353
to such shares. 354

(E) A credit union is authorized to maintain share draft 355
accounts in accordance with rules prescribed by the 356
superintendent. The credit union may pay dividends on share 357
draft accounts, may pay dividends at different rates on 358
different types of share draft accounts, and may permit the 359
owners of such share draft accounts to make withdrawals by 360
negotiable or transferable instruments or other orders for the 361
purpose of making transfers to third parties. 362

(F) Unless otherwise provided by written agreement of the 363
parties, the rights, responsibilities, and liabilities attaching 364
to a share draft withdrawn from, transferred to, or otherwise 365
handled by a credit union are defined in and governed by 366
Chapters 1303. and 1304. of the Revised Code, as if the credit 367
union were a bank. 368

(G) Unless otherwise provided in the articles or 369
regulations, a member may designate any person or persons to own 370
or hold shares, or share accounts with the member in joint 371
tenancy with right of survivorship and not as tenants in common. 372

(H) Shares or share accounts may be issued in the name of 373
a custodian under the Ohio transfers to minors act, a member in 374
trust for a beneficiary, a fiduciary or custodian in trust for a 375
member beneficiary, or a fiduciary or custodian in trust upon 376
the death of a member. Redemption of such shares or payment of 377
such share accounts to a member, to the extent of the payment, 378
discharges the liability of the credit union to the member and 379
the beneficiary, and the credit union shall be under no 380
obligation to see to the application of the payment. Unless 381
prior to the death of a member, the member has notified the 382
credit union in writing in a form approved by the credit union 383
of a different beneficiary to receive the proceeds of such 384
shares or share accounts, then the proceeds shall be paid to the 385
beneficiary or to the beneficiary's parent or legal 386
representative. Any payment made pursuant to written 387
instructions of the member or pursuant to the provisions herein 388
contained shall be a valid and sufficient release and discharge 389
of the credit union in connection with any such share or share 390
accounts. 391

(I) (1) Except as otherwise provided in the articles or 392

regulations, and subject to the provisions thereof, a minor may 393
purchase shares, share accounts, or other depository 394
instruments, and except for qualification as a voting member, 395
the credit union may deal with the minor with respect to shares, 396
share accounts, or other depository instruments owned by the 397
minor as if the minor were a person of legal age. 398

(2) If shares, share accounts, or other depository 399
instruments are issued in the name of a minor, redemption of any 400
part or all of the shares or withdrawal of funds by payment to 401
the minor of the shares or funds and any declared dividends or 402
interest releases the credit union from all obligation to the 403
minor as to the shares reduced or funds withdrawn. 404

(J) The regulations may require advance written notice of 405
a member's intention to withdraw the member's shares. Such 406
advance notice shall not exceed sixty days. 407

(K) Notwithstanding any provision of law to the contrary, 408
funds deposited in a share account, share certificate, or in any 409
other manner pursuant to a program offered by a credit union to 410
promote consumer savings do not constitute valuable 411
consideration for purposes of a scheme of chance under Chapter 412
2915. of the Revised Code. 413

Section 2. That existing sections 135.63, 135.78, 1733.04, 414
and 1733.24 of the Revised Code are hereby repealed. 415