

As Introduced

133rd General Assembly

Regular Session

2019-2020

S. B. No. 277

Senator Schuring

Cosponsors: Senators Brenner, Hoagland, Wilson

A BILL

To amend section 135.182 of the Revised Code to
make changes to the Ohio Pooled Collateral
Program.

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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:

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

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(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.

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(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.

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

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section 135.31 of the Revised Code. 18

(B) (1) Not later than July 1, 2017, the treasurer of state 19
shall create the Ohio pooled collateral program. Under this 20
program, each institution designated as a public depository that 21
selects the pledging method prescribed in division (A) (2) of 22
section 135.18 or division (A) (2) of section 135.37 of the 23
Revised Code shall pledge to the treasurer of state a single 24
pool of eligible securities for the benefit of all public 25
depositors at the public depository to secure the repayment of 26
all uninsured public deposits at the public depository, provided 27
that at all times the total market value of the securities so 28
pledged is at least equal to either of the following: 29

(a) One hundred two per cent of the total amount of all 30
uninsured public deposits; 31

(b) An amount determined by rules adopted by the treasurer 32
of state that set forth the criteria for determining the 33
aggregate market value of the pool of eligible securities 34
pledged by a public depository pursuant to division (B) of this 35
section. Such criteria shall include, but are not limited to, 36
prudent capital and liquidity management by the public 37
depository and the safety and soundness of the public depository 38
as determined by a third-party rating organization. 39

(2) The treasurer of state shall monitor the eligibility, 40
market value, and face value of the pooled securities pledged by 41
the public depository. Each public depository shall carry in its 42
accounting records at all times a general ledger or other 43
appropriate account of the total amount of all public deposits 44
to be secured by the pool, as determined at the opening of 45
business each day, and the total market value of securities 46
pledged to secure such deposits, and report such information to 47

the treasurer of state in a manner and frequency as determined 48
by the treasurer of state pursuant to rules adopted by the 49
treasurer of state. A public depositor shall be responsible for 50
periodically confirming the accuracy of its account balances 51
with the treasurer of state; otherwise, the treasurer of state 52
shall be the sole public depositor responsible for monitoring 53
and ensuring the sufficiency of securities pledged under this 54
section. 55

(3) If, on any day, the total market value of the 56
securities pledged by the public depository is less than that 57
specified in division (B) (1) (a) or (b) of this section, 58
whichever is applicable, the public depository shall have two 59
business days to pledge additional eligible securities having a 60
market value sufficient, when combined with the market value of 61
eligible securities already pledged, to satisfy the requirement 62
of division (B) (1) (a) or (b), as applicable, to secure the 63
repayment of all uninsured public deposits at the public 64
depository. 65

(C) The public depository shall designate a qualified 66
trustee approved by the treasurer of state and place with such 67
trustee for safekeeping the eligible securities pledged pursuant 68
to division (B) of this section. The trustee shall hold the 69
eligible securities in an account indicating the treasurer of 70
state's security interest in the eligible securities. The 71
treasurer of state shall give written notice of the trustee to 72
all public depositors for which such securities are pledged. The 73
trustee shall report to the treasurer of state information 74
relating to the securities pledged to secure such public 75
deposits in a manner and frequency as determined by the 76
treasurer of state. 77

(D) In order for a public depository to receive public 78
moneys under this section, the public depository and the 79
treasurer of state shall first execute an agreement that sets 80
forth the entire arrangement among the parties and that meets 81
the requirements described in 12 U.S.C. 1823(e). In addition, 82
the agreement shall authorize the treasurer of state to obtain 83
control of the collateral pursuant to division (D) of section 84
1308.24 of the Revised Code. 85

(E) The securities or other obligations described in 86
division (D) of section 135.18 of the Revised Code shall be 87
eligible as collateral for the purposes of division (B) of this 88
section, provided no such securities or obligations pledged as 89
collateral are at any time in default as to either principal or 90
interest. 91

(F) Any federal reserve bank or branch thereof located in 92
this state or federal home loan bank, without compliance with 93
Chapter 1111. of the Revised Code and without becoming subject 94
to any other law of this state relative to the exercise by 95
corporations of trust powers generally, is qualified to act as 96
trustee for the safekeeping of securities, under this section. 97
Any institution mentioned in section 135.03 or 135.32 of the 98
Revised Code that holds a certificate of qualification issued by 99
the superintendent of financial institutions or any institution 100
complying with sections 1111.04, 1111.05, and 1111.06 of the 101
Revised Code is qualified to act as trustee for the safekeeping 102
of securities under this section, other than those belonging to 103
itself or to an affiliate as defined in section 1101.01 of the 104
Revised Code. 105

(G) The public depository may substitute, exchange, or 106
release eligible securities deposited with the qualified trustee 107

pursuant to this section, provided that such substitution, 108
exchange, or release is effectuated pursuant to written 109
authorization from the treasurer of state, and such action does 110
not reduce the total market value of the securities to an amount 111
that is less than the amount established pursuant to division 112
(B) of this section. 113

(H) Notwithstanding the fact that a public depository is 114
required to pledge eligible securities in certain amounts to 115
secure public deposits, a qualified trustee has no duty or 116
obligation to determine the eligibility, market value, or face 117
value of any securities deposited with the trustee by a public 118
depository. This applies in all situations including, but not 119
limited to, a substitution or exchange of securities, but 120
excluding those situations effectuated by division (I) of this 121
section in which the trustee is required to determine face and 122
market value. 123

(I) The qualified trustee shall enter into a custodial 124
agreement with the treasurer of state and public depository in 125
which the trustee agrees to comply with entitlement orders 126
originated by the treasurer of state without further consent by 127
the public depository or, in the case of collateral held by the 128
public depository in an account at a federal reserve bank, the 129
treasurer of state shall have the treasurer's security interest 130
marked on the books of the federal reserve bank where the 131
account for the collateral is maintained. If the public 132
depository fails to pay over any part of the public deposits 133
made therein as provided by law and secured pursuant to division 134
(B) of this section, the treasurer of state shall give written 135
notice of this failure to the qualified trustee holding the pool 136
of securities pledged against the public deposits, and at the 137
same time shall send a copy of this notice to the public 138

depository. Upon receipt of this notice, the trustee shall 139
transfer to the treasurer of state for sale, the pooled 140
securities that are necessary to produce an amount equal to the 141
public deposits made by the public depositor and not paid over, 142
less the portion of the deposits covered by any federal deposit 143
insurance, plus any accrued interest due on the deposits. The 144
treasurer of state shall sell any of the bonds or other 145
securities so transferred. When a sale of bonds or other 146
securities has been so made and upon payment to the public 147
depositor of the purchase money, the treasurer of state shall 148
transfer such bonds or securities whereupon the absolute 149
ownership of such bonds or securities shall pass to the 150
purchasers. Any surplus after deducting the amount due to the 151
public depositor and expenses of sale shall be paid to the 152
public depository. 153

(J) Any charges or compensation of a qualified trustee for 154
acting as such under this section shall be paid by the public 155
depository and in no event shall be chargeable to the public 156
depositor or to any officer of the public depositor. The charges 157
or compensation shall not be a lien or charge upon the 158
securities deposited for safekeeping prior or superior to the 159
rights to and interests in the securities of the public 160
depositor. The treasurer and the treasurer's bonders or surety 161
shall be relieved from any liability to the public depositor or 162
to the public depository for the loss or destruction of any 163
securities deposited with a qualified trustee pursuant to this 164
section. 165

(K)(1) A public depositor, treasurer, or the public 166
depositor's or treasurer's bonders or surety are not liable for 167
the loss of funds if a public depository fails to comply with 168
the terms set forth in the agreement provided for in division 169

(D) of this section for the appropriate level of collateral, as 170
required under division (B) (1) (a) or (b) of this section, to 171
secure the public deposits made under that agreement. 172

(L) (1) The following information is confidential and not a 173
public record under section 149.43 of the Revised Code: 174

(a) All reports or other information obtained or created 175
about a public depository for purposes of division (B) (1) (b) of 176
this section; 177

(b) The identity of a public depositor's public 178
depository; 179

(c) The identity of a public depository's public 180
depositors. 181

(2) Nothing in this section prevents the treasurer of 182
state from releasing or exchanging such confidential information 183
as required by law or for the operation of the pooled collateral 184
program. 185

~~(I)~~ (M) The treasurer of state may impose reasonable fees, 186
including late fees, upon public depositories participating in 187
the pooled collateral program to defray the actual and necessary 188
expenses incurred by the treasurer in connection with the 189
program. All such fees collected by the treasurer shall be 190
deposited into the state treasury to the credit of the 191
administrative fund created in section 113.20 of the Revised 192
Code. 193

~~(M)~~ (N) The treasurer of state may adopt rules necessary 194
for the implementation of this section and sections 135.18 and 195
135.181 of the Revised Code. Such rules shall be adopted in 196
accordance with Chapter 119. of the Revised Code. 197

Section 2. That existing section 135.182 of the Revised	198
Code is hereby repealed.	199