
TREASURER OF STATE

Credit unions as public depositories

- Creates the Business Linked Deposit Program under which the Treasurer of State may purchase share certificates issued by credit unions to facilitate lending to eligible small businesses.
- Permits credit unions to participate in the ongoing Agricultural Linked Deposit Program.

Administration of linked deposit programs

- Requires the Treasurer to adopt rules addressing the participation of eligible lending institutions in business and agricultural linked deposit programs, including the manner in which the linked deposits are placed, held, and collateralized.
- Permits the Treasurer to require an eligible lending institution that holds public deposits under a linked deposit program to pay interest at a rate not lower than the product of the "prevailing interest rate" multiplied by the sum of one plus the "treasurer's assessment rate."
- Defines "prevailing interest rate" as a current interest rate benchmark selected by the Treasurer that banks are willing to pay to hold deposits for a specific time period.
- Defines "treasurer's assessment rate" as a number not exceeding 10% that is calculated in a manner determined by the Treasurer and that seeks to account for the effect that varying tax treatment among different types of financial institutions has on the ability of financial institutions to pay competitive interest rates to hold deposits.

Ohio Pooled Collateral Program

- Authorizes the Treasurer to impose reasonable fees on public depositories participating in the Ohio Pooled Collateral Program to defray the Program's costs.
- Specifies that certain information obtained or created about a public depository for purposes of the Program is confidential.
- Permits the Treasurer to adopt rules necessary to implement the Program in connection with the other methods by which public depositories provide security for the repayment of public deposits.



Ohio Subdivision's Fund

- Permits the Treasurer to invest money held in the Ohio Subdivision's Fund also in separately managed accounts, and pooled accounts of that Fund, rather than just in the Treasurer's investment pool.
- Requires a treasurer, governing board, or investing authority of a subdivision to have an agreement with the Treasurer in order to invest subdivision public money in the separately managed account or pooled account.
- Prohibits subdivision public money investment in a pooled account that does not maintain the highest rating if no agreement has been entered into with the Treasurer.
- Provides that the continuing law 25% investment limit on debt interests other than commercial paper does not apply to investments of subdivision excess reserves under the agreement.
- Relieves the Treasurer and the Treasurer's bonders or surety for the loss of any state or subdivision interim moneys invested as the act provides if the loss is due to (1) a public depository failure or (2) an investment made pursuant to law.
- Requires the Treasurer to adopt rules to implement the separately managed account and pooled account requirements.

Credit unions as public depositories

Linked deposit programs

(R.C. 1733.04 and 1733.24)

The act expands the financial institutions that are authorized to hold public money by allowing credit unions to participate in the Business Linked Deposit Program, which the act creates, and in the ongoing Agricultural Linked Deposit Program.



Business linked deposits

(R.C. 135.77, 135.771, 135.772, 135.773, and 135.774)

The act creates the Business Linked Deposit Program, under which the Treasurer of State may purchase share certificates issued by the following types of credit unions to facilitate lending to eligible small businesses:

- (1) A federal credit union located in Ohio;
- (2) A credit union that is chartered under the laws of another state, is located in Ohio, and is licensed by the Superintendent of Credit Unions as a foreign credit union;
- (3) An Ohio-chartered credit union located in Ohio.

The stated purpose for the Program is to foster economic growth and development within Ohio's small businesses and to protect Ohio jobs.

The act adopts the following definitions for this purpose:

"Eligible small business" means any person that:

- (1) Is domiciled in Ohio;
- (2) Maintains offices and operating facilities exclusively in Ohio and transacts business in Ohio;
- (3) Employs fewer than 150 employees, the majority of whom are Ohio residents;
- (4) Is organized for profit; **and**
- (5) Is able to save or create one full-time job or two part-time jobs in Ohio for every \$50,000 borrowed.

"Full-time job" means a job with regular hours of service totaling at least 40 hours per week or any other standard of service accepted as full-time by the employee's employer.

"Part-time job" means a job with regular hours of service totaling fewer than 40 hours per week or any other standard of service accepted as part-time by the employee's employer.



Loan application, package, and agreement

An eligible credit union that desires to receive a business linked deposit must accept and review loan applications from eligible small businesses, and forward a linked deposit loan package to the Treasurer. The Treasurer may accept or reject the package, or any portion of it, and then enter into a deposit agreement with respect to an accepted package. The act sets the monetary limit of a loan issued under the Program at \$400,000.

Loan rates

Once the business linked deposit has been placed with an eligible credit union, the credit union must lend the funds to each approved and eligible small business listed in the loan package in accordance with the deposit agreement. The loan must be at a rate that reflects the following reduction below the present borrowing rate applicable to each eligible small business:

- (1) 3% if the present borrowing rate is greater than 5%;
- (2) 2.1% if the present borrowing rate is equal to or less than 5%.

Administration and compliance

The Treasurer must take any and all steps necessary to implement the Program and monitor compliance of eligible credit unions and eligible small businesses, including the development of guidelines as necessary. The Treasurer also must require eligible credit unions to complete a certification of compliance in the form and manner prescribed by the Treasurer.

Immunity for payment of loans

The state of Ohio and the Treasurer are not liable to any eligible credit union in any manner for payment of the principal or interest on a loan made to an eligible small business under the act. Any delay in payments or default on the part of an eligible small business does not in any manner affect the deposit agreement between the eligible credit union and the Treasurer.

State interim funds

(R.C. 135.143 and 135.63)

The Uniform Depository Law authorizes the Treasurer to invest the interim funds of the state in specified classifications of obligations. Under that authority, the Treasurer may invest in certificates of deposit of eligible institutions applying for



interim moneys under the Law. The act expands these permissible investments to include the new business linked deposits.

Agricultural linked deposits

(R.C. 135.71)

The act expands the eligible lending institutions for the Agricultural Linked Deposit Program to include:

- (1) A federal credit union located in Ohio;
- (2) A credit union that is chartered under the laws of another state, is located in Ohio, and is licensed by the Superintendent of Credit Unions as a foreign credit union;
- (3) An Ohio-chartered credit union located in Ohio.

Administration of linked deposit programs

(R.C. 135.78)

The act requires the Treasurer to adopt rules addressing the participation of lending institutions in the business and agricultural linked deposit programs, including the manner in which an eligible lending institution is designated and the manner in which the linked deposits are placed, held, and collateralized. Participation of eligible lending institutions in these programs cannot begin until those rules have been adopted.

The Treasurer, in the Treasurer's sole discretion, may require an eligible lending institution that holds public deposits under any of the state linked deposit programs (the Linked Deposit Program, the Short-term Installment Loan Linked Deposit Program, the Agricultural Linked Deposit Program, and the Business Linked Deposit Program) to pay interest at a rate not lower than the product of the "prevailing interest rate" multiplied by the sum of one plus the "treasurer's assessment rate." For this purpose:

"Prevailing interest rate" is a current interest rate benchmark, selected by the Treasurer, that banks are willing to pay to hold deposits for a specific time period, as measured by a third-party organization.

"Treasurer's assessment rate" means a number, not exceeding 10%, that is calculated in a manner determined by the Treasurer and that seeks to account for the effect that varying tax treatment among different types of financial institutions has on their ability to pay competitive interest rates to hold deposits.



Further, the act authorizes the Treasurer to adopt rules under the Administrative Procedure Act as necessary to implement this provision.

Ohio Pooled Collateral Program

(R.C. 135.182)

Ongoing law requires the Treasurer to create the Ohio Pooled Collateral Program not later than July 1, 2017. Under the Program, a public depository may pledge to the Treasurer a single pool of securities to secure the repayment of all uninsured public deposits at that public depository. The total market value of the pledged securities must equal at least:

(1) 102% of the total amount of uninsured public deposits; or

(2) An amount determined by rules adopted by the Treasurer that set forth criteria for determining the necessary aggregate market value, such as prudent capital and liquidity management by the public depository and its safety and soundness.

Confidentiality of information

The act states that the following information is confidential and not a public record:

- All reports or other information obtained or created about a public depository for purposes of the determination made under (2), above;
- The identity of a public depositor's public depository;
- The identity of a public depository's public depositors.

The act does not, however, prevent the Treasurer from releasing or exchanging the confidential information as required by law or for the operation of the Program.

Fees to defray cost of Program

The act permits the Treasurer to impose reasonable fees, including late fees, on public depositories participating in the Program to defray the actual and necessary expenses incurred by the Treasurer in connection with it.

Rulemaking

The Treasurer is authorized by the act to adopt rules under the Administrative Procedure Act necessary for the implementation of the Program in connection with the



other methods by which public depositories provide security for the repayment of public deposits.

Ohio Subdivision's Fund

Investment in pooled and separately managed accounts

(R.C. 135.45(A) and (G))

The act permits the Treasurer to invest the public moneys of a subdivision held in the Ohio Subdivision's Fund in separately managed accounts and pooled accounts, including the Treasurer's investment pool. A "subdivision" in this context generally refers to local authorities such as municipal corporations, counties, school districts, and "any governmental entity for which the fund is a permissible investment."¹⁶⁹ "Public moneys of a subdivision" includes all moneys lawfully in the subdivision treasurer's possession.

Prior law required the Treasurer to invest the Ohio Subdivision's Fund as the Treasurer's investment pool.

Subdivision investments: less than highest rating

(R.C. 135.45(B))

The act prohibits a treasurer, governing board, or investing authority of a subdivision from investing public money in a pooled account of the Ohio Subdivision's Fund if the pool does not maintain the highest letter or numerical rating provided by at least one nationally recognized standard rating service. This limitation does not apply if the subdivision has an agreement with the Treasurer (described below). Phrased differently, the act requires the highest rating only when (1) the subdivision invests its public money in such a *pooled* account, and (2) the subdivision does not have an agreement with the Treasurer. Prior law simply prohibited investment of public moneys of a subdivision in the Ohio Subdivision's Fund if the Fund did not maintain the highest letter or numerical rating.

Agreement with the Treasurer

(R.C. 135.45(C) and (G))

The act permits a treasurer, governing board, or investing authority of a subdivision that wishes to invest public money in a separately managed account or

¹⁶⁹ Presumably the "Fund" referred to is the "Ohio Subdivision's Fund," but this may need further clarification (R.C. 135.45(G)).



pooled account of the Ohio Subdivision's Fund to enter into an agreement with the Treasurer that establishes the manner in which the money is to be invested.

The act also provides that the 25% investment limit imposed by continuing law on debt interests other than commercial paper does not apply to investments of subdivision excess reserves under the agreement. "Excess reserves" are the amount of a subdivision's public moneys that exceed the average of a subdivision's annual operating expenses in the immediately preceding three fiscal years.

Relief from liability

(R.C. 135.45(F))

The act relieves the Treasurer and the Treasurer's bonders or surety for the loss of any state or subdivision interim moneys invested as the act provides if the loss is due to (1) the failure of the public depository or (2) an investment made pursuant to law.¹⁷⁰

Rules

(R.C. 135.45(D))

The act requires the Treasurer to adopt rules to implement the separately managed account and pooled account requirements in the act.

¹⁷⁰ R.C. 135.19, not in the act.

