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## STATE BOARD OF DEPOSIT

### Public depositories

- Specifies that a financial institution must have a banking office in Ohio to serve as a public depository.

### Uniform Depository Act

- Specifies that custodial funds that are not part of the state treasury are active deposits for the purposes of the Uniform Depository Act.
- Adds paper checks to the definition of a warrant clearance account.

### Financial transaction devices

#### Definitions

- Redefines “financial transaction device” (FTD) and specifies that the term applies to devices for making payments or transfers of funds denominated in U.S. dollars.
- Defines “processor” as an entity conducting the settlement of an electronic payment or transfer of funds denominated in U.S. dollars.
- Expands “state entity” to include an officer under the authority of a state elected official, and to include entities that deposit funds into an account in the custody of the Treasurer of State.

#### Resolution

- Requires, instead of permits, the Board of Deposit to adopt a resolution authorizing the acceptance of payments by FTD to pay for state expenses, and eliminates certain mandatory content for such resolutions.
- Specifies that the Board’s resolution applies to FTD services related to bank accounts comprising the state treasury and those in the custody of the Treasurer of State that are not part of the state treasury.
- Eliminates the Board’s duty to send a copy of the resolution to each state elected official and state entity authorized to accept payments for state expenses by FTD.
- Eliminates the provision stating that a state entity under the authority of a state elected official that is directly responsible or collecting state expenses is not required to accept payments by FTD, notwithstanding the resolution adopted if the state elected official determines not to accept payments by FTD.
- Eliminates the requirement that each state elected official or state entity provide written notice to the Board’s administrative agent, upon the official’s or entity’s receipt of the Board’s resolution and before accepting payments by FTD, of the official’s or entity’s intent to implement the Board’s resolution.

## **Administrative agent**

- Removes the requirement that the Board's administrative agent must request proposals from at least three financial institutions, issuers of FTDs, or processors of FTDs.
- Requires the Board's administrative agent to request proposals for acceptance, processing, and settlement services pursuant to the Board's resolution.
- Requires the Board's administrative agent to publish electronic public notices regarding requests for proposals on the agent's website instead of a state agency website.
- Increases from ten to 15 calendar days the minimum amount of time, after the initial publication of an administrative agent's request for proposals, after which the request for proposals will be available.
- Eliminates the requirement that the administrative agent send via email the request for proposals to financial institutions, issuers, or processors interested in receiving the request.
- Eliminates the requirement that the administrative agent's notice require that a financial institution, issuer, or processor submit written notice of its interest in the request for proposals.
- Eliminates the Board's duty to review all submitted proposals.
- Permits the Board to authorize an administrative agent to contract, on the Board's behalf, with processors submitting proposals, and permits the agent to enter into one or more contracts for acceptance, processing, and settlement services for state entities and state elected officials.
- Requires the Board's administrative agent to provide notice to a processor when the processor's proposal is rejected.

## **Surcharges and convenience fees**

- Expands, from the Board to state elected officials and state entities, the parties permitted to establish a surcharge or convenience fee on a person making payment by FTD.
- Eliminates the prohibition on surcharge or convenience fees that are not authorized by contract.
- Eliminates the requirement that every state entity accepting payment by FTD post a notice in the entity's office when a surcharge or convenience fee is imposed.
- Eliminates the requirement that a notice that a surcharge or convenience fee is imposed contain a clear statement that a surcharge or convenience fee is nonrefundable.
- Eliminates the provision stating that surcharge or convenience fees are nonrefundable.

## **Limitation of liability**

- Excludes state entities from personal liability immunity and extends personal liability immunity to state elected officials and employees of a state entity or state elected official.

## Public depositories

(R.C. 135.03)

Under Ohio's Uniform Depository Act<sup>34</sup> only eligible financial institutions may hold public deposits. Eligible financial institutions, such as banks, savings associations, savings and loan associations, and savings banks may apply to the State Board of Deposit to serve as a depository of public funds. If selected by the Board, the financial institution is authorized to hold the public funds for a designated period of time.

Current law requires public depositories to be "located in" Ohio. The bill instead specifies that a public depository must have a banking office located in Ohio. Under continuing law, "banking office" means an office or other place established by a bank at which the bank receives money or its equivalent from the public for deposit and conducts a general banking business. "Banking office" does not include any of the following:

1. Any location at which a bank receives, but does not accept, cash or other items for subsequent deposit, such as by mail or armored car service or at a lock box or night depository;
2. Any structure located within 500 yards of an approved banking office of a bank and operated as an extension of the services of the banking office;
3. Any automated teller machine (ATM), remote service unit, or other money transmission device owned, leased, or operated by a bank;
4. Any facility located within the geographical limits of a military installation at which a bank only accepts deposits and cashes checks;
5. Any location at which a bank takes and processes applications for loans and may disburse loan proceeds, but does not accept deposits;
6. Any location at which a bank is engaged solely in providing administrative support services for its own operations or for other depository institutions.<sup>35</sup>

## Uniform Depository Act

(R.C. 135.01)

Under the Uniform Depository Act, "active deposit" means a public deposit necessary to meet current demands on the treasury. The bill expands this definition to also include public deposits necessary to meet current demands on a fund that is in the custody of the Treasurer of State but not part of the state treasury.

Additionally, the bill expands the definition of "warrant clearance account" to include accounts established by the Treasurer of State for the deposit of active state moneys for the purposes of clearing state paper checks through the banking system.

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<sup>34</sup> R.C. Chapter 135.

<sup>35</sup> R.C. 135.03 and 1101.01, not in the bill.

## Financial transaction devices

(R.C. 113.40)

### Definitions

The bill changes the definition of the defined term “financial transaction device” (FTD) to exclude specific references to certain automated clearinghouse network entries and specifies that the term applies to devices for making payments or transfers of funds denominated in U.S. dollars.

The bill adds “processor” as “an entity conducting the settlement of an electronic payment or transfer of funds, which shall be denominated in United States dollars.”

The bill expands “state entity” to include an officer under the authority of a state elected official, and entities that deposit funds into an account in the custody of the Treasurer of State (TOS).

Finally, the bill makes conforming changes throughout the section to reflect the modifications to the defined terms.

### Board of Deposit

The Board of Deposit is organized under the TOS’s office and is charged with certain duties related to the acceptance of payments made by FTD to pay for state expenses. The bill makes several changes to the Board’s duties, as well as to those of the Board’s administrative agent.

### Resolution

The bill requires, rather than permits, the Board to adopt a resolution authorizing the acceptance of payments by FTD to pay for state expenses, and eliminates the following content for such resolutions that is required under existing law:

- A designation of state elected officials and state entities authorized to accept payments by FTD;
- A list of state expenses that may be paid by the use of a FTD;
- Specific identification of FTDs that a state elected official or state entity may authorize as acceptable means of payment;
- The amount authorized as a surcharge or convenience fee for persons using a FTD;
- A specific requirement for the payment of a penalty if a payment made by means of a FTD is returned or dishonored.

The bill adds language specifying that the resolution applies to FTD services related to all bank accounts comprising the state treasury, as well as those in the custody of the TOS that are not part of the state treasury. The bill eliminates the Board’s duty to transmit a copy of the resolution to each state elected official and state entity authorized to accept payments for state expenses by FTD, as well as the requirement that state elected officials and state entities provide a written notice of intent to adopt the Board’s resolution to the Board’s administrative agent.

Under existing law, if a state entity under the authority of a state elected official is directly responsible for collecting state expenses, and the state elected official determines not to accept payments by FTD, the entity is not required to accept payments by FTD notwithstanding the Board's resolution. The bill eliminates this provision, removing a state elected official's discretion to reject payments by FTD by a state entity under the official's authority.

### **Administrative agent**

Under continuing law, the TOS serves as the Board's administrative agent to solicit proposals. The bill specifies that the proposals solicited must be for "financial transaction device services." Under existing law, the administrative agent must request proposals from at least three financial institutions, issuers of financial transaction devices, or processors of financial transactions devices. The bill eliminates the three-requests requirement and adds language specifying that the request for proposals be "for acceptance, processing, and settlement services."

Under the bill, the administrative agent must publish an electronic notice regarding requests for proposals on the agent's website instead of on a state agency website as required under existing law. The bill increases, from ten to 15 days, the minimum amount of time after the initial publication of the request for proposals after which the request for proposals will be available. It also eliminates the administrative agent's duty to email the request for proposals to financial institutions, issuers, or processors.

Under existing law, the Board itself, after reviewing all submitted proposals and considering its administrative agent's recommendation, may choose to contract with processors and must provide notice to a processor when the processor's proposal is rejected. The bill transfers the authority to contract to the administrative agent, as well as the duty to notify a processor of a rejected proposal, and eliminates the Board's duty to review all submitted proposals.

### **Surcharges and convenience fees**

The bill transfers the authority to establish surcharge and convenience fees on a person making payment by FTD from the Board to state elected officials and state entities. The bill expands the state's ability to impose surcharge and convenience fees on persons making payment by FTD by eliminating the requirement that the authority to impose such fees be provided for under contract.

Under continuing law, when a surcharge or convenience fee is imposed, state entities must notify each person making payment about the surcharge or fee. The bill eliminates the requirement that every state entity accepting payment by a FTD post a notice in the entity's office when a surcharge or convenience fee is imposed. The bill eliminates existing language stating that surcharge and convenience fees are not refundable and eliminates the requirement that each notice contain a statement that the surcharge or fee is nonrefundable.

### **Limitation of liability**

Existing law provides personal liability immunity to state entities and employees for the final collection of FTD payments. The bill eliminates this immunity for state entities and extends

it to state elected officials. The bill adds language specifying that the employees covered under this immunity are those employed by “a state entity or state elected official.”