

H.B. 35
As Introduced

Topic: Qualifications of the deputy superintendents; assessment authority; examination and other fees; cash transfer from Savings Institutions Fund; confidential information under Ohio Pooled Collateral Program; effective date; conforming change

_____ moved to amend as follows:

- In line 2 of the title, after "135.032," insert "135.182," 1
- In line 29 of the title, after "1121.23," insert "1121.24," 2
- In line 31 of the title, after "1123.01," insert "1123.02,
1123.03," 3
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- In line 57 of the title, delete the first "and"; after
"1121.19," insert "and 1121.29," 5
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- In line 127, after "135.032," insert "135.182," 7
- In line 146, after "1121.23," insert "1121.24," 8
- In line 148, after "1123.01," insert "1123.02, 1123.03," 9
- In line 167 of the title, delete "and"; after "1121.19"
insert ", and 1121.29" 10
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- After line 1521, insert: 12
- "**Sec. 135.182.** (A) As used in this section: 13
- (1) "Public depository" means that term as defined in section 14
135.01 of the Revised Code, but also means an institution that 15

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 section 135.31 of
the Revised Code.

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

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

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

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third-party rating organization.

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(2) The treasurer of state shall monitor the eligibility,
 market value, and face value of the pooled securities pledged by
 the public depository. Each public depository shall carry in its
 accounting records at all times a general ledger or other
 appropriate account of the total amount of all public deposits to
 be secured by the pool, as determined at the opening of business
 each day, and the total market value of securities pledged to
 secure such deposits, and report such information to the treasurer
 of state in a manner and frequency as determined by the treasurer
 of state pursuant to rules adopted by the treasurer of state. A
 public depositor shall be responsible for periodically confirming
 the accuracy of its account balances with the treasurer of state;
 otherwise, the treasurer of state shall be the sole public
 depositor responsible for monitoring and ensuring the sufficiency
 of securities pledged under this section.

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

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(D) In order for a public depository to receive public moneys
 under this section, the public depository and the treasurer of
 state shall first execute an agreement that sets forth the entire

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arrangement among the parties and that meets the requirements 76
described in 12 U.S.C. 1823(e). In addition, the agreement shall 77
authorize the treasurer of state to obtain control of the 78
collateral pursuant to division (D) of section 1308.24 of the 79
Revised Code. 80

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

(F) Any federal reserve bank or branch thereof located in 86
this state or federal home loan bank, without compliance with 87
Chapter 1111. of the Revised Code and without becoming subject to 88
any other law of this state relative to the exercise by 89
corporations of trust powers generally, is qualified to act as 90
trustee for the safekeeping of securities, under this section. Any 91
institution mentioned in section 135.03 or 135.32 of the Revised 92
Code that holds a certificate of qualification issued by the 93
superintendent of financial institutions or any institution 94
complying with sections 1111.04, 1111.05, and 1111.06 of the 95
Revised Code is qualified to act as trustee for the safekeeping of 96
securities under this section, other than those belonging to 97
itself or to an affiliate as defined in section 1101.01 of the 98
Revised Code. 99

(G) The public depository may substitute, exchange, or 100
release eligible securities deposited with the qualified trustee 101
pursuant to this section, provided that such substitution, 102
exchange, or release is effectuated pursuant to written 103
authorization from the treasurer of state, and such action does 104
not reduce the total market value of the securities to an amount 105

that is less than the amount established pursuant to division (B) 106
of this section. 107

(H) Notwithstanding the fact that a public depository is 108
required to pledge eligible securities in certain amounts to 109
secure public deposits, a qualified trustee has no duty or 110
obligation to determine the eligibility, market value, or face 111
value of any securities deposited with the trustee by a public 112
depository. This applies in all situations including, but not 113
limited to, a substitution or exchange of securities, but 114
excluding those situations effectuated by division (I) of this 115
section in which the trustee is required to determine face and 116
market value. 117

(I) The qualified trustee shall enter into a custodial 118
agreement with the treasurer of state and public depository in 119
which the trustee agrees to comply with entitlement orders 120
originated by the treasurer of state without further consent by 121
the public depository or, in the case of collateral held by the 122
public depository in an account at a federal reserve bank, the 123
treasurer of state shall have the treasurer's security interest 124
marked on the books of the federal reserve bank where the account 125
for the collateral is maintained. If the public depository fails 126
to pay over any part of the public deposits made therein as 127
provided by law and secured pursuant to division (B) of this 128
section, the treasurer of state shall give written notice of this 129
failure to the qualified trustee holding the pool of securities 130
pledged against the public deposits, and at the same time shall 131
send a copy of this notice to the public depository. Upon receipt 132
of this notice, the trustee shall transfer to the treasurer of 133
state for sale, the pooled securities that are necessary to 134
produce an amount equal to the public deposits made by the public 135
depositor and not paid over, less the portion of the deposits 136

covered by any federal deposit insurance, plus any accrued 137
 interest due on the deposits. The treasurer of state shall sell 138
 any of the bonds or other securities so transferred. When a sale 139
 of bonds or other securities has been so made and upon payment to 140
 the public depositor of the purchase money, the treasurer of state 141
 shall transfer such bonds or securities whereupon the absolute 142
 ownership of such bonds or securities shall pass to the 143
 purchasers. Any surplus after deducting the amount due to the 144
 public depositor and expenses of sale shall be paid to the public 145
 depository. 146

(J) Any charges or compensation of a qualified trustee for 147
 acting as such under this section shall be paid by the public 148
 depository and in no event shall be chargeable to the public 149
 depositor or to any officer of the public depositor. The charges 150
 or compensation shall not be a lien or charge upon the securities 151
 deposited for safekeeping prior or superior to the rights to and 152
 interests in the securities of the public depositor. The treasurer 153
 and the treasurer's bonders or surety shall be relieved from any 154
 liability to the public depositor or to the public depository for 155
 the loss or destruction of any securities deposited with a 156
 qualified trustee pursuant to this section. 157

(K)(1) The following information is confidential and not a 158
public record under section 149.43 of the Revised Code: 159

(a) All reports or other information obtained or created 160
about a public depository for purposes of division (B)(1)(b) of 161
this section; 162

(b) The identity of a public depositor's public depository; 163

(c) The identity of a public depository's public depositors. 164

(2) Nothing in this section prevents the treasurer of state 165

<u>from releasing or exchanging such confidential information as</u>	166
<u>required by law or for the operation of the pooled collateral</u>	167
<u>program."</u>	168
In line 8540, delete ", <u>but</u> " and insert " <u>of</u> "	169
In line 8541, after " <u>year</u> " insert " <u>nor more than two years</u> "	170
In line 8542, after the underlined period insert " <u>The</u>	171
<u>superintendent may, upon the written request of a bank or trust</u>	172
<u>company, grant the bank or trust company a longer period of time</u>	173
<u>in which to bring its affected activities in compliance with the</u>	174
<u>law."</u>	175
In line 8584, after the period insert " <u>The fee for a special</u>	176
<u>examination shall be paid by the bank or trust company examined in</u>	177
<u>accordance with section 1121.29 of the Revised Code."</u>	178
In line 8590, strike through "twenty" and insert " <u>ten</u> "	179
After line 8899, insert:	180
" Sec. 1121.24. (A) <u>If, under Chapters 1101. to 1127. of the</u>	181
<u>Revised Code, a proposed action or transaction is subject to the</u>	182
<u>approval of the superintendent of financial institutions or an</u>	183
<u>opportunity for the superintendent to disapprove, and if the</u>	184
<u>person proposing the action or transaction is required to submit</u>	185
<u>an application or notice to the superintendent, then the</u>	186
<u>application or notice is not complete and the superintendent shall</u>	187
<u>not accept it for processing until the person pays the fee</u>	188
<u>established pursuant to division (C) of section 1121.29 of the</u>	189
<u>Revised Code.</u>	190
<u>(B)(1)</u> If, under Chapters 1101. to 1127. of the Revised Code,	191
a proposed action or transaction is subject to the approval of the	192
superintendent or an opportunity for the superintendent to	193

disapprove and the superintendent must make that determination 194
 within a certain time, and if the person proposing the action or 195
 transaction is required to submit an application or notice to the 196
 superintendent, then the time in which the superintendent must 197
 make the determination does not begin to run until the 198
 superintendent has determined the application or notice is 199
 complete and has accepted it for processing. 200

(2) Division ~~(A)~~(B)(1) of this section does not prohibit 201
 either of the following: 202

(a) The superintendent from denying, or issuing a disapproval 203
 of, an application or notice, prior to the superintendent's 204
 acceptance of the application or notice for processing, on the 205
 basis that the person who submitted the application or notice 206
 failed to include all of the items and address all of the issues 207
 required for the application or notice, if both of the following 208
 apply: 209

(i) The superintendent advised the person that the 210
 application or notice was incomplete. 211

(ii) After being advised by the superintendent that the 212
 application or notice was incomplete, the person did not, within a 213
 reasonable period of time, complete the application or notice. 214

(b) The superintendent from denying, or issuing a disapproval 215
 of, an application or notice on the basis that the person who 216
 submitted the application or notice failed to provide the 217
 information necessary for the superintendent to adequately 218
 consider the application or notice after the superintendent's 219
 acceptance of the application or notice for processing, if both of 220
 the following apply: 221

(i) After having begun processing the application or notice, 222
 the superintendent determined and advised the person that 223

additional information was necessary to adequately consider the application or notice. 224
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(ii) After being advised by the superintendent that additional information was necessary to adequately consider the application or notice, the person did not, within a reasonable period of time, provide that information. 226
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~~(B)~~(C) A determination by the superintendent that an application or notice is complete and is accepted for processing means only that the application or notice, on its face, appears to include all of the items and to address all of the matters that are required. A determination by the superintendent that an application or notice is complete and is accepted for processing is not an assessment of the substance of the application or notice, or of the sufficiency of the information provided." 230
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After line 8919, insert: 238

"Sec. 1121.29. (A)(1) Each bank, savings and loan association, and savings bank subject to inspection and examination by the superintendent of financial institutions and transacting business on the thirty-first day of December, or their successors in interest, shall pay to the treasurer of state assessments as provided in this section. The superintendent shall make each assessment based on the total assets as shown on the books of the bank, savings and loan association, or savings bank as of the thirty-first day of December of the previous year. The superintendent shall collect the assessment on an annual or periodic basis, as provided by the superintendent. All assessments shall be paid within fourteen days after receiving an invoice for payment of the assessment. 239
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(2) After determining the budget of the division of financial 252

institutions for examination and regulation of banks, savings and 253
loan associations, and savings banks, but prior to establishing 254
the schedule of assessments under this division necessary to fund 255
that budget, the superintendent shall consider any necessary cash 256
reserves and any amounts collected but not yet expended or 257
encumbered by the superintendent in the previous fiscal year's 258
budget and remaining in the banks fund pursuant to division (C) of 259
section 1121.30 of the Revised Code. 260

(3) The superintendent shall establish the actual schedule of 261
assessments on an annual basis, present the schedule to the 262
banking commission for confirmation, and forward copies of the 263
current year's schedule to banks, savings and loan associations, 264
and savings banks doing business under authority granted by the 265
superintendent, or their successors in interest. 266

If during the period between the banking commission's 267
confirmation of the schedule of assessments and the completion of 268
the fiscal year in which those assessments will be collected, the 269
banking commission determines additional money is required to 270
adequately fund the operations of the division of financial 271
institutions for that fiscal year, the banking commission may, by 272
the affirmative vote of two-thirds of its members, increase the 273
schedule of assessments for that fiscal year. The superintendent 274
shall promptly notify each bank, savings and loan association, and 275
savings bank of the increased assessment, and each bank, savings 276
and loan association, and savings bank shall pay the increased 277
assessment as made and invoiced by the superintendent. 278

(4) A bank, savings and loan association, or savings bank 279
authorized by the superintendent to commence business in the 280
period between assessments shall pay the actual reasonable costs 281
of the division's examinations and visitations. The bank, savings 282

and loan association, or savings bank shall pay the costs within 283
fourteen days after receiving an invoice for payment. 284

(B)(1) Whenever in the judgment of the superintendent the 285
condition or conduct of a bank renders it necessary to make 286
additional examinations and follow-up visitations within the 287
examination cycle beyond the minimum required by division (A) of 288
section 1121.10 of the Revised Code, the superintendent shall 289
charge the bank for the additional examinations and follow-up 290
visitations as provided in division (C) of this section. The bank 291
shall pay the fee charged within fourteen days after receiving an 292
invoice for payment. 293

(2) The superintendent shall charge a bank for any 294
examination of the bank's operations as a trust company and data 295
processing facility in accordance with division (C) of this 296
section whether that examination is the only examination of the 297
bank in the examination cycle or in addition to other examinations 298
of the bank's operations. 299

(C) The superintendent shall periodically establish a 300
schedule of fees to be paid for examinations, applications, 301
certifications, and notices considered necessary by the 302
superintendent. 303

(D)(1) The superintendent may waive any fees provided for in 304
division (C) of this section to protect the interests of 305
depositors and for other fair and reasonable purposes as 306
determined by the superintendent. 307

(2) The fees established by the superintendent pursuant to 308
division (C) of this section for processing applications and 309
notices and conducting and processing examinations shall be 310
reasonable considering the direct and indirect costs to the 311
division, as determined by the superintendent, of processing the 312

applications and for conducting and processing the examinations. 313

(E) The superintendent may determine and charge reasonable fees for furnishing and certifying copies of documents filed with the division and for any expenses incurred by the division in the publication or serving of required notices. 314
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(F) Assessments and examination and application fees charged and collected pursuant to this section are not refundable. Any fee charged pursuant to this section shall be paid within fourteen days after receiving an invoice for payment of the fee. 318
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(G) The superintendent shall pay all assessments and fees charged pursuant to this section and all forfeitures required to be paid to the superintendent into the state treasury to the credit of the banks fund." 322
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After line 9660, insert: 326

"**Sec. 1123.02.** (A) The banking commission shall hold regular meetings at the times and places it fixes, and shall meet at any time on call of the deputy superintendent for banks upon two days' notice unless the commission by resolution provides for a shorter notice." 327
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(B)(1) A majority of the full commission constitutes a quorum, and action taken by a majority of those present at a meeting at which there is a quorum constitutes the action of the commission. 332
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(2) Notwithstanding division (B)(1) of this section, a meeting of the commission may be held by teleconference if provisions are made for public attendance at a specific location connected with the teleconference. 336
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(C) No member shall participate before the commission in a 340

proceeding involving any bank of which the member is, or was at 341
any time in the preceding twelve months, a member of the board of 342
directors, an officer, an employee, or a shareholder. A member may 343
refrain from participating in a proceeding before the commission 344
for any other cause the member considers sufficient. 345

(D) The commission may, by a majority vote of those present 346
at a meeting at which there is a quorum, adopt and amend bylaws 347
and rules the commission, in its judgment, considers necessary and 348
proper. The commission shall select one of its members as 349
secretary, who shall keep a record of all its proceedings. 350

Sec. 1123.03. The banking commission shall do all of the 351
following: 352

(A) Make recommendations to the deputy superintendent for 353
banks and the superintendent of financial institutions on the 354
business of banking; 355

(B) Consider and make recommendations on any matter the 356
superintendent or deputy superintendent submits to the commission 357
for that purpose; 358

(C) Pass upon and determine any matter the superintendent or 359
deputy superintendent submits to the commission for determination; 360

(D) Consider and determine whether to confirm the annual 361
schedule of assessments proposed by the superintendent in 362
accordance with section 1121.29 of the Revised Code; 363

(E) Determine whether to increase the schedule of assessments 364
as provided in division (A)(3) of section 1121.29 of the Revised 365
Code; 366

(F) Determine, as provided in division (D) of section 1121.12 367
of the Revised Code, both of the following: 368

(1) Whether there is reasonable cause to believe that there is a significant risk of imminent material harm to the bank;	369 370
(2) Whether the examination of the bank holding company is necessary to fully determine the risk to the bank, or to determine how best to address the risk to the bank."	371 372 373
In line 10283, before "The" insert " <u>(A)</u> "	374
In line 10286, before "The" insert " <u>(B)</u> "	375
In line 10287, reinsert the stricken comma	376
In line 10288, strike through "and a deputy superintendent for"	377 378
In line 10289, strike through everything before "shall" and insert " <u>who</u> "; strike through "have" and insert " <u>possess</u> "; after "least" insert " <u>one of the following qualifications prior to the deputy superintendent's appointment:</u> "	379 380 381 382
<u>(1) Not less than"</u>	383
In line 10290, strike through everything after "experience"	384
Strike through line 10291	385
In line 10292, strike through "banks"; strike through "or credit"	386 387
In line 10293, strike through "unions" and insert " <u>as a senior level officer in a bank, savings and loan association, or savings bank, a bank holding company, or a savings and loan holding company or as a senior level manager or senior professional with a primary business of, or professional focus on, auditing or providing professional advice to such institutions;</u> "	388 389 390 391 392 393
<u>(2) Not less than five years of experience as a senior level supervisor in the examination or regulation of banks, savings and</u>	394 395

<u>loan associations, or savings banks;</u>	396
<u>(3) Not less than a total of five years of experience in any</u>	397
<u>combination of the positions described in divisions (B)(1) and (2)</u>	398
<u>of this section"</u>	399
After line 10293, insert:	400
<u>"(C) The superintendent shall appoint a deputy superintendent</u>	401
<u>for credit unions, who shall possess at least one of the following</u>	402
<u>qualifications prior to the deputy superintendent's appointment:</u>	403
<u>(1) Not less than five years of experience as a senior level</u>	404
<u>officer in a credit union or as a senior level manager or senior</u>	405
<u>professional with a primary business of, or professional focus on,</u>	406
<u>auditing or providing professional advice to credit unions;</u>	407
<u>(2) Not less than five years of experience as a senior level</u>	408
<u>supervisor in the examination or regulation of credit unions;</u>	409
<u>(3) Not less than a total of five years of experience in any</u>	410
<u>combination of the positions described in divisions (C)(1) and (2)</u>	411
<u>of this section."</u>	412
In line 10294, before "The" insert " <u>(D)</u> "; strike through	413
"also"	414
In line 10295, strike through "have" and insert " <u>possess</u> ";	415
after " <u>least</u> " insert " <u>one of the following qualifications prior to</u>	416
<u>the deputy superintendent's appointment:</u>	417
<u>(1) Not less than"</u>	418
In line 10296, strike through "in" and insert " <u>as an owner,</u>	419
<u>officer, or senior level manager of</u> "; strike through "of the"	420
In line 10297, strike through everything after "companies"	421
In line 10298, strike through "regulation of banks,"	422

In line 10299, strike through "credit unions, or consumer
finance companies" and insert ", as a senior level manager of a
mortgage banking affiliate of a bank, savings and loan
association, savings bank, bank holding company, or savings and
loan holding company, or as a senior level manager or senior
professional with a primary business of, or professional focus on,
auditing or providing professional advice to consumer finance
companies;"

(2) Not less than five years of experience as a senior level
supervisor in the examination or regulation of consumer finance
companies;

(3) Not less than a total of five years of experience in any
combination of the positions described in divisions (D)(1) and (2)
of this section"

In line 10300, before "The" insert "(E)"

In line 12849, after "135.032," insert "135.182,"

In line 12868, after "1121.23," insert "1121.24,"

In line 12870, after "1123.01," insert "1123.02, 1123.03,"

In line 12941, after "4." insert:

"CASH TRANSFER FROM SAVINGS INSTITUTION FUND

On the effective date of this section, or as soon as possible
thereafter, the Director of Budget and Management, upon the
written request of the Director of the Department of Commerce, may
transfer the cash balance in the Savings Institution Fund (Fund
5450) to the Banks Fund (Fund 5440). Upon completion of the
transfer, Fund 5450 is hereby abolished.

Section 5."; delete "and"; after "3" insert ", and 4"; after
"act" insert ", except for sections 135.182, 1121.24, 1121.29,

1121.30, and 1123.03 of the Revised Code," 451

In line 12942, delete "July" and insert "January"; after the 452
period insert "Sections 135.182, 1121.24, 1121.29, 1121.30, and 453
1123.03 of the Revised Code, as amended or enacted by this act, 454
shall take effect at the earliest time permitted by law." 455

In line 12943, delete "5." and insert "6." 456

The motion was _____ agreed to.