

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

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

Sec. 135.63. The treasurer of state may invest in linked deposits under sections 135.61 to 135.67, short-term installment loan linked deposits under sections 135.68 to 135.70, agricultural linked deposits under sections 135.71 to 135.76, business linked deposits under sections 135.77 to 135.774, adoption linked deposits under sections 135.79 to 135.796, housing linked deposits under sections 135.81 to 135.87, assistive technology device linked deposits under sections 135.91 to 135.97, and SaveNOW linked deposits under sections 135.101 to 135.106 of the Revised Code, provided that at the time of placement of any such linked deposit the combined amount of investments in all such linked deposits is not more than twelve per cent of the state's total average investment portfolio as determined by the treasurer of state. When deciding whether to invest in any such linked deposits, the treasurer of state shall give priority to the investment, liquidity, and cash flow needs of the state.

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

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

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

(3) "Treasurer's assessment rate" means a number not exceeding ten per cent that is calculated in a manner determined by the treasurer of state 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.

(B) The treasurer of state shall, in accordance with Chapter 111. of the Revised Code, adopt rules addressing the participation of eligible lending institutions in the agricultural linked deposit program under sections 135.71 to 135.76 of the Revised Code ~~and~~ the business linked deposit program under sections 135.77 to 135.774 of the Revised Code, and the adoption linked deposit program under sections 135.79 to 135.796 of the Ohio Revised Code, including, but not limited to, the manner in which an eligible lending institution is designated and the linked deposits are placed,

held, and collateralized. Participation of eligible lending institutions in those linked deposit programs shall not begin until these rules have been adopted.

(C) Notwithstanding any provision of law to the contrary, the treasurer of state may require an eligible lending institution that holds public deposits under sections 135.61 to 135.67, 135.68 to 135.70, 135.71 to 135.76, ~~or 135.77 to 135.774~~, or 135.79 to 135.796 of the Revised Code, and any institution mentioned in section 135.03 of the Revised Code that holds public deposits under sections 135.71 to 135.76 of the Revised Code, 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. The treasurer may adopt rules necessary for the implementation of this division. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

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

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

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

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

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

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

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

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

(D) "Other financial institution instrument" means a fully collateralized product that otherwise would pay market rates of interest approved by the treasurer of state.

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

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

Sec. 135.791. The general assembly finds that the financial costs of adoption in this state have grown and the growth has placed a substantial financial burden on families seeking to adopt in

this state. Accordingly, it is declared to be the public policy of the state through the adoption linked deposit program to create an availability of lower-cost loans to reduce the financial burdens of adoption and to strengthen families in this state.

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

(B)(1) An eligible borrower shall certify on the borrower's loan application that the reduced rate loan will be used exclusively to pay for qualifying adoption expenses.

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

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

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

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

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

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

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

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

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

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

Sec. 135.794. (A) Upon the placement of an adoption linked deposit with an eligible lending institution, such institution is required to lend such funds to each approved eligible borrower listed in the adoption linked deposit loan package required by division (C) of section 135.792 of the Revised Code and in accordance with the deposit agreement required by division (C) of section 135.793 of the Revised Code. The loan shall be at a rate that reflects a percentage rate reduction below the

present borrowing rate applicable to each borrower that is equal to or greater than the percentage rate reduction below market rates at which the certificates of deposit or other financial institution instruments that constitute the adoption linked deposit were placed. A certification of compliance with this section in the form and manner as prescribed by the treasurer of state shall be required of the eligible lending institution.

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

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

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

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

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

- (1) Make loans as provided in section 1733.25 of the Revised Code;
- (2) Invest its money as provided in section 1733.30 of the Revised Code;
- (3) If authorized by the code of regulations, rebate to the borrowing members a portion of the member's interest paid to the credit union;
- (4) If authorized by the regulations, charge a membership or entrance fee;
- (5) Purchase group savings life insurance and group credit life insurance;
- (6) Make reasonable contributions to any nonprofit civic, charitable, or service organizations;
- (7) Act as trustee or custodian, for which reasonable compensation may be received, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a tax-advantaged savings plan that qualifies for specific tax treatment under sections 223, 401(d), 408, 408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223, 401(d), 408, 408A, and 530, as amended, for its members or groups of its members, provided that the funds of such plans are invested in share accounts or share certificate accounts of the credit union. These services include, but are not limited to, acting as a trustee or custodian for member retirement, education, or health savings accounts.

(8) Participate in and pledge assets in connection with the business linked deposit program under sections 135.77 to 135.774 of the Revised Code ~~and~~ the agricultural linked deposit program under sections 135.71 to 135.76 of the Revised Code, and the adoption linked deposit program under

sections 135.79 to 135.796 of the Revised Code.

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

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

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

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

(2) Real estate may be acquired by lease, purchase, or otherwise as necessary and to the extent required for use of the credit union presently and in the future operation of its office or headquarters, and in case of a purchase of real estate, the superintendent must first be notified in writing prior to the purchase of the real estate. Nothing herein contained shall be deemed to prohibit a credit union from taking title to real estate in connection with a default in the payment of a loan, provided that title to such real estate shall not be held by the credit union for more than two years without the prior written approval of the superintendent. A credit union also may lease space in any real estate it acquires in accordance with rules adopted by the superintendent.

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

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

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

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

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

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

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

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

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

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

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

Sec. 1733.24. (A) A credit union is authorized to receive funds for deposit in share accounts, share draft accounts, and share certificates from its members, from other credit unions, and from an officer, employee, or agent of the federal, state, or local governments, or political subdivisions of the state, in accordance with such terms, rates, and conditions as may be established by its board of

directors, and for purposes of the agricultural linked deposit program created under sections 135.71 to 135.76 of the Revised Code ~~and the business linked deposit program created under sections 135.77 to 135.774 of the Revised Code, and the adoption linked deposit program under sections 135.79 to 135.796 of the Revised Code.~~

(B) The shares and share accounts of the credit union may be of one or more classes, as designated by the board of directors, subject to approval of the superintendent of credit unions based on rules that shall assure equitable distribution of dividends among classes, considering costs and advantages of each class to the members of the credit union, including without limitation special services rendered, length of ownership, minimum investment, conditions of repurchase, and other appropriate standards or combinations thereof. In the event the articles of incorporation of the credit union indicate the authorized number of shares to be unlimited, the designation of classification of shares and share accounts of the credit union may be effected by the board of directors, subject to the approval of the superintendent, and does not require amendment of the articles of incorporation. All shares of the credit union shall have a par value per share as set by the board of directors. Redemptions and liquidating dividends shall be prorated to each member on the basis of the price paid the credit union for such share, irrespective of the class of such shares.

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

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

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

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

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

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

(H) Shares or share accounts may be issued in the name of a custodian under the Ohio transfers to minors act, a member in trust for a beneficiary, a fiduciary or custodian in trust for a member beneficiary, or a fiduciary or custodian in trust upon the death of a member. Redemption of such shares or payment of such share accounts to a member, to the extent of the payment, discharges the liability of the credit union to the member and the beneficiary, and the credit union shall be under no obligation to see to the application of the payment. Unless prior to the death of a member, the

member has notified the credit union in writing in a form approved by the credit union of a different beneficiary to receive the proceeds of such shares or share accounts, then the proceeds shall be paid to the beneficiary or to the beneficiary's parent or legal representative. Any payment made pursuant to written instructions of the member or pursuant to the provisions herein contained shall be a valid and sufficient release and discharge of the credit union in connection with any such share or share accounts.

(I)(1) Except as otherwise provided in the articles or regulations, and subject to the provisions thereof, a minor may purchase shares, share accounts, or other depository instruments, and except for qualification as a voting member, the credit union may deal with the minor with respect to shares, share accounts, or other depository instruments owned by the minor as if the minor were a person of legal age.

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

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

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

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

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____