

**As Passed by the Senate**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 277**

**Senator Schuring**

**Cosponsors: Senators Brenner, Hoagland, Wilson, Hackett, Antonio, Blessing,  
Burke, Craig, Dolan, Fedor, Manning, O'Brien, Peterson, Rulli, Sykes, Thomas,  
Yuko**

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**A BILL**

To amend section 135.182 of the Revised Code to 1  
make changes to the Ohio Pooled Collateral 2  
Program. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 135.182 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 135.182.** (A) As used in this section: 6

(1) "Public depository" means that term as defined in 7  
section 135.01 of the Revised Code, but also means an 8  
institution that receives or holds any public deposits as 9  
defined in section 135.31 of the Revised Code. 10

(2) "Public depositor" means that term as defined in 11  
section 135.01 of the Revised Code, but also includes a county 12  
and any municipal corporation that has adopted a charter under 13  
Article XVIII, Ohio Constitution. 14

(3) "Public deposits," "public moneys," and "treasurer" 15  
mean those terms as defined in section 135.01 of the Revised 16

Code, but also have the same meanings as are set forth in 17  
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  
depositories 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  
depositories. 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 Code is hereby repealed. 198  
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