

As Introduced

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H. B. No. 332

Representatives Mathews, T., Hiner

Cosponsors: Representatives Thomas, D., Deeter, Williams, Fischer

To amend sections 135.61, 135.62, 135.621, 135.623,
1733.04, and 1733.24 and to enact section 135.67
of the Revised Code to create the small defense
business linked deposit program.

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

Section 1. That sections 135.61, 135.62, 135.621, 135.623,
1733.04, and 1733.24 be amended and section 135.67 of the
Revised Code be enacted to read as follows:

Sec. 135.61. (A) For the purposes of this section:

(1) "Eligible borrower," "eligible credit union," and
"eligible lending institution" have the same meanings as in
section 135.62 of the Revised Code.

(2) "Eligible participant" and "eligible savings
institution" have the same meanings as in section 135.70 of the
Revised Code.

(B) The treasurer of state may invest in linked deposits
under sections 135.61 to ~~135.66~~ 135.67 and 135.70 to 135.71 of
the Revised Code, provided that at the time any such linked
deposits are placed, purchased, or designated, the combined
amount of investments of public money of the state in linked

deposits of any kind is not more than twelve per cent of the 20
state's total average investment portfolio, as determined by the 21
treasurer of state. When deciding whether to invest in any 22
linked deposits, the treasurer of state shall give priority to 23
the investment, liquidity, and cash flow needs of the state. 24

(C) The treasurer of state may, in accordance with section 25
111.15 of the Revised Code, adopt rules necessary for the 26
implementation and administration of linked deposits authorized 27
by this section, including, but not limited to, the manner in 28
which an eligible lending institution or eligible savings 29
institution is designated, and the manner in which linked 30
deposits are placed, purchased, designated, held, and 31
collateralized. 32

(D) Notwithstanding any contrary provision of the Revised 33
Code, the treasurer of state may require an eligible credit 34
union that holds linked deposits authorized under this section 35
to pay interest at a rate not lower than the product of the 36
interest rate set in the deposit agreement, as required by 37
sections 135.623 and 135.703 of the Revised Code, multiplied by 38
the sum of one plus the treasurer of state's assessment rate. 39
The treasurer of state may, in accordance with section 119.03 of 40
the Revised Code, adopt rules necessary for the implementation 41
of this division. 42

(E) (1) Records of the treasurer of state, an eligible 43
lending institution, or an eligible savings institution are not 44
public records within the meaning of section 149.43 of the 45
Revised Code if any of the following apply: 46

(a) The record is provided by an eligible borrower to an 47
eligible lending institution, or by an eligible participant to 48
an eligible savings institution, to obtain a financial service 49

or product from such institution. 50

(b) The record results from a transaction between the 51
eligible borrower and the eligible lending institution, or the 52
eligible participant and the eligible savings institution, 53
involving a financial product or service. 54

(c) An eligible lending institution or eligible savings 55
institution otherwise obtains the record about an eligible 56
borrower or eligible participant in connection with providing a 57
financial product or service. 58

(2) The records specified in division (E)(1) of this 59
section may include names, addresses, telephone numbers, social 60
security numbers, income, credit scores, information obtained 61
through cookies and other internet collection devices, loan 62
amounts, contributors to a linked deposit savings account, and 63
amounts contributed to, earned by, or distributed from a linked 64
deposit savings account. 65

Sec. 135.62. As used in sections 135.62 to ~~135.66~~ 135.67 66
of the Revised Code: 67

(A) "Discount interest rate" means an interest rate below 68
the prevailing interest rate that the treasurer of state 69
determines eligible lending institutions are willing to pay to 70
hold linked deposits. 71

(B) "Eligible borrower" means a borrower that has met all 72
the requirements necessary to participate in the adoption linked 73
deposit program under section 135.63 of the Revised Code, 74
agricultural linked deposit program under section 135.64 of the 75
Revised Code, small business linked deposit program under 76
section 135.65 of the Revised Code, ~~or~~ home improvement linked 77
deposit program under section 135.66 of the Revised Code, or 78

small defense business linked deposit program under section 79
135.67 of the Revised Code. 80

(C) "Eligible credit union" means, notwithstanding any 81
contrary provision of sections 135.01 to 135.21 of the Revised 82
Code, a federal credit union, a foreign credit union licensed 83
pursuant to section 1733.39 of the Revised Code, or a credit 84
union as defined in section 1733.01 of the Revised Code, located 85
in this state. 86

(D) "Eligible lending institution" means a financial 87
institution that is eligible to make loans, agrees to 88
participate in the applicable linked deposit program, and is one 89
of the following: 90

(1) A public depository of state funds, or an eligible 91
credit union designated under division (A) of section 135.12 of 92
the Revised Code; 93

(2) For the agricultural linked deposit program, 94
notwithstanding any contrary provision of sections 135.01 to 95
135.21 of the Revised Code, an institution of the farm credit 96
system organized under the federal "Farm Credit Act of 1971," 85 97
Stat. 583, 12 U.S.C. 2001, as amended. 98

(E) "Homestead" means a dwelling owned and occupied in 99
this state as a single-family primary residence by an individual 100
for the purpose of qualifying for the home improvement linked 101
deposit program. "Homestead" includes a house, condo, a unit in 102
a multiple-unit dwelling, manufactured home or mobile home taxed 103
as real property pursuant to division (B) of section 4503.06 of 104
the Revised Code, or any other building with a residential 105
classification, as allowed by the treasurer of state. 106
"Homestead" includes so much of the land surrounding the 107

dwelling as is reasonably necessary for the use of the dwelling 108
as a residence, as determined by the treasurer of state. 109

(F) "Linked deposit" means a certificate of deposit, a 110
share certificate, other financial institution instrument, or 111
portion of an existing deposit of interim funds made in 112
accordance with section 135.09 of the Revised Code placed, 113
purchased, or designated by the treasurer of state with an 114
eligible lending institution; provided the institution agrees to 115
lend up to the value of such certificate of deposit, share 116
certificate, or other financial institution instrument, or 117
designated portion of an existing deposit to eligible borrowers 118
for applicable linked deposit programs at the rate established 119
in division (A) of section 135.624 of the Revised Code, and in 120
accordance with the deposit agreement provided in section 121
135.623 of the Revised Code. 122

(G) "Linked deposit program" means a program authorized 123
under sections 135.61 to ~~135.66~~ 135.67 of the Revised Code and 124
established by the treasurer of state pursuant to such sections. 125

(H) "Loan" means a contractual agreement under which an 126
eligible lending institution agrees to lend money to an eligible 127
borrower in the form of an upfront lump sum, a line of credit, 128
or any other reasonable arrangement approved by the treasurer of 129
state. 130

(I) "Manufactured home" has the same meaning as in section 131
3781.06 of the Revised Code. 132

(J) "Mobile home" has the same meaning as in section 133
4501.01 of the Revised Code. 134

(K) "Other financial institution instrument" means: 135

(1) For the agricultural linked deposit program under 136

section 135.64 of the Revised Code, an investment by the 137
treasurer of state in bonds, notes, debentures, or other 138
obligations or securities issued by the federal farm credit bank 139
with regard to an eligible lending institution; 140

(2) For all linked deposit programs other than the 141
agricultural linked deposit program, a product that otherwise 142
would pay the prevailing interest rate approved by the treasurer 143
of state, for the purpose of providing eligible borrowers with 144
the benefits of the applicable linked deposit program, and in 145
accordance with the deposit agreement provided in section 146
135.623 of the Revised Code. 147

(L) "Owner" includes a holder of one of the several 148
estates in fee, a vendee in possession under a purchase 149
agreement or a land contract, a mortgagor, a life tenant, one or 150
more tenants with a right of survivorship, tenants in common, a 151
settlor of a revocable or irrevocable inter vivos trust holding 152
the title to a homestead occupied by the settlor as of right 153
under the trust, or any other determination as made by the 154
treasurer of state. 155

(M) "Prevailing interest rate" means a current market 156
interest rate selected by the treasurer of state that eligible 157
lending institutions are willing to pay to hold deposits of the 158
treasurer of state. 159

(N) "Qualifying adoption expense" means any expense 160
incurred to legally adopt a child as described in division (C) 161
of section 3107.055 of the Revised Code, including any costs 162
incurred by the eligible borrower proximately relating to the 163
completion and approval of the home study under section 3107.031 164
of the Revised Code, and any other expense as determined by the 165
treasurer of state. 166

(O) "Treasurer of state's assessment rate" means a rate 167
not exceeding ten per cent that is calculated in a manner 168
determined by the treasurer of state and that seeks to account 169
for the effect that varying tax treatment among different types 170
of financial institutions has on the ability of financial 171
institutions to pay competitive interest rates to hold deposits. 172

Sec. 135.621. (A) An eligible lending institution that 173
desires to receive a linked deposit shall accept and review 174
applications for loans from eligible borrowers for linked 175
deposit programs in which the eligible lending institution 176
participates. The eligible lending institution shall apply all 177
usual lending standards to determine the credit worthiness of 178
each eligible borrower. No loan shall exceed the amount 179
determined by the treasurer of state. 180

(B) An eligible borrower shall certify on its loan 181
application that the reduced rate loan will be used exclusively 182
for the purposes of the applicable linked deposit program, as 183
described in section 135.63, 135.64, 135.65, ~~or~~ 135.66, or 184
135.67 of the Revised Code. Whoever knowingly makes a false 185
statement concerning such application is guilty of the offense 186
of falsification under section 2921.13 of the Revised Code. 187

(C) The eligible lending institution shall forward to the 188
treasurer of state a linked deposit loan package, in the form 189
and manner prescribed by the treasurer of state. The package 190
shall include such information as required by the treasurer of 191
state, including the amount of each loan requested by each 192
eligible borrower and all other information as described in 193
section 135.63, 135.64, 135.65, ~~or~~ 135.66, or 135.67 of the 194
Revised Code for the applicable linked deposit program. The 195
institution shall certify both of the following: 196

(1) That each applicant is an eligible borrower and, for 197
each such eligible borrower, the present borrowing rate; 198

(2) That the eligible lending institution applied all of 199
its usual lending standards to determine the credit worthiness 200
of each eligible borrower. 201

(D) No fee shall be charged to any party for the 202
preparation, processing, or reporting of any application to an 203
eligible lending institution or the treasurer of state for 204
participation in a linked deposit program. 205

Sec. 135.623. (A) An eligible lending institution shall 206
enter into a deposit agreement with the treasurer of state, 207
which shall include requirements necessary to carry out the 208
purposes of sections 135.62 to ~~135.66~~135.67 of the Revised 209
Code. 210

(B) The deposit agreement shall specify the maturity 211
period of the linked deposit considered appropriate by the 212
treasurer of state, which shall not exceed five years, as well 213
as any other information, terms, or conditions the treasurer of 214
state may require. Interest shall be paid by the eligible 215
lending institution at times determined by the treasurer of 216
state. 217

Sec. 135.67. (A) As used in this section: 218

(1) "Armed forces" has the same meaning as in section 219
5903.01 of the Revised Code. 220

(2) "Gross receipts" has the same meaning as in section 221
5751.01 of the Revised Code. 222

(B) The general assembly finds that the defense industry 223
makes significant contributions to the economic well-being of 224

this state. However, various economic challenges, such as 225
tightened capital availability, inflationary pressures, and 226
rising interest rates, can discourage fledgling businesses, 227
particularly small businesses, from taking root in this state 228
and engaging with the defense industry. Accordingly, it is 229
declared to be the public policy of the state to make reduced 230
rate loans available to defense-oriented businesses through the 231
small defense business linked deposit program. 232

(C) An eligible borrower for the small defense business 233
linked deposit program is any person that has all the following 234
characteristics: 235

(1) Is currently headquartered or domiciled in this state, 236
and has been headquartered or domiciled in this state for at 237
least five years preceding the person's application for 238
participation in the linked deposit program; 239

(2) Maintains offices or operating facilities in this 240
state that comprise not less than fifty-one per cent of the 241
total of all offices and operating facilities maintained by the 242
person; 243

(3) Is a party to, or has been a party to, a contract with 244
the armed forces or an agency or instrumentality of the United 245
States government for the provision of goods or services to the 246
armed forces; 247

(4) Has less than twenty-five million dollars in gross 248
receipts for the twelve months preceding application to the 249
linked deposit program; 250

(5) Is organized for profit. 251

(D) An eligible lending institution for the small defense 252
business linked deposit program must be able to make commercial 253

<u>loans.</u>	254
<u>(E) An eligible borrower shall certify on the loan</u>	255
<u>application that the reduced rate loan will be used exclusively</u>	256
<u>in this state to create new jobs, preserve existing jobs and</u>	257
<u>employment opportunities, or materially contribute to the</u>	258
<u>preservation or growth of the eligible borrower's business.</u>	259
Sec. 1733.04. (A) In addition to the authority conferred	260
by section 1701.13 of the Revised Code, but subject to any	261
limitations contained in sections 1733.01 to 1733.45 of the	262
Revised Code, and its articles and regulations, a credit union	263
may do any of the following:	264
(1) Make loans as provided in section 1733.25 of the	265
Revised Code;	266
(2) Invest its money as provided in section 1733.30 of the	267
Revised Code;	268
(3) If authorized by the code of regulations, rebate to	269
the borrowing members a portion of the member's interest paid to	270
the credit union;	271
(4) If authorized by the regulations, charge a membership	272
or entrance fee;	273
(5) Purchase group savings life insurance and group credit	274
life insurance;	275
(6) Make reasonable contributions to any nonprofit civic,	276
charitable, or service organizations;	277
(7) Act as trustee or custodian, for which reasonable	278
compensation may be received, under any written trust instrument	279
or custodial agreement created or organized in the United States	280
and forming part of a tax-advantaged savings plan that qualifies	281

for specific tax treatment under sections 223, 401(d), 408, 282
408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223, 283
401(d), 408, 408A, and 530, as amended, for its members or 284
groups of its members, provided that the funds of such plans are 285
invested in share accounts or share certificate accounts of the 286
credit union. These services include, but are not limited to, 287
acting as a trustee or custodian for member retirement, 288
education, or health savings accounts. 289

(8) Participate in and pledge assets in connection with 290
the linked deposit programs under sections 135.61 to ~~135.66~~ 291
135.67 of the Revised Code and sections 135.70 to 135.71 of the 292
Revised Code. 293

(B) The authority of a credit union shall be subject to 294
the following: 295

(1) A credit union may not borrow money in excess of 296
twenty-five per cent of its shares and undivided earnings, 297
without prior specific authorization by the superintendent of 298
credit unions. 299

(2) A credit union may not pay a commission or other 300
compensation to any person for securing members or for the sale 301
of its shares, except that reasonable incentives may be made 302
available directly to members or potential members to promote 303
thrift. 304

(C) (1) A credit union may have service facilities other 305
than its home office. 306

(2) Real estate may be acquired by lease, purchase, or 307
otherwise as necessary and to the extent required for use of the 308
credit union presently and in the future operation of its office 309
or headquarters, and in case of a purchase of real estate, the 310

superintendent must first be notified in writing prior to the 311
purchase of the real estate. Nothing herein contained shall be 312
deemed to prohibit a credit union from taking title to real 313
estate in connection with a default in the payment of a loan, 314
provided that title to such real estate shall not be held by the 315
credit union for more than two years without the prior written 316
approval of the superintendent. A credit union also may lease 317
space in any real estate it acquires in accordance with rules 318
adopted by the superintendent. 319

(D) (1) As used in division (D) of this section: 320

(a) "School" means an elementary or secondary school. 321

(b) "Student" means a child enrolled in a school. 322

(c) "Student branch" means the designation provided to the 323
credit union for the in-school services and financial education 324
offered to students. 325

(2) A credit union, upon agreement with a school board, in 326
the case of a public school, or the governing authority, in the 327
case of a nonpublic school, and with the permission of the 328
superintendent, may open and maintain a student branch. 329

(3) Notwithstanding any other provision of this section, 330
any student enrolled in the school maintaining a student branch 331
who is not otherwise qualified for membership in the credit 332
union maintaining the student branch is qualified to be a member 333
of that student branch. 334

(4) The student's membership in the student branch expires 335
upon the student's graduation from secondary school. 336

(5) The student branch is for the express use of students 337
and may not be used by faculty, staff, or lineal ancestors or 338

descendants of students. 339

(6) Faculty, staff, or lineal ancestors or descendants of 340
students are not eligible for membership in the credit union 341
maintaining the student branch unless otherwise qualified by 342
this section to be members. 343

(7) The superintendent may adopt rules appropriate to the 344
formation and operation of student branches. 345

(E) A credit union may guarantee the signature of a member 346
in connection with a transaction involving tangible or 347
intangible property in which a member has or seeks to acquire an 348
interest. 349

Sec. 1733.24. (A) A credit union is authorized to receive 350
funds for deposit in share accounts, share draft accounts, and 351
share certificates from its members, from other credit unions, 352
and from an officer, employee, or agent of the federal, state, 353
or local governments, or political subdivisions of the state, in 354
accordance with such terms, rates, and conditions as may be 355
established by its board of directors, and for purposes of the 356
linked deposit programs created under sections 135.61 to ~~135.66~~ 357
135.67 of the Revised Code and sections 135.70 to 135.71 of the 358
Revised Code. 359

(B) The shares and share accounts of the credit union may 360
be of one or more classes, as designated by the board of 361
directors, subject to approval of the superintendent of credit 362
unions based on rules that shall assure equitable distribution 363
of dividends among classes, considering costs and advantages of 364
each class to the members of the credit union, including without 365
limitation special services rendered, length of ownership, 366
minimum investment, conditions of repurchase, and other 367

appropriate standards or combinations thereof. In the event the 368
articles of incorporation of the credit union indicate the 369
authorized number of shares to be unlimited, the designation of 370
classification of shares and share accounts of the credit union 371
may be effected by the board of directors, subject to the 372
approval of the superintendent, and does not require amendment 373
of the articles of incorporation. All shares of the credit union 374
shall have a par value per share as set by the board of 375
directors. Redemptions and liquidating dividends shall be 376
prorated to each member on the basis of the price paid the 377
credit union for such share, irrespective of the class of such 378
shares. 379

(C) (1) Each credit union shall have one class of shares 380
designated as "membership share." The membership shares, or if a 381
credit union has but one class of shares, then all of the shares 382
of the credit union, shall have a par value as set by the board 383
of directors. 384

(2) Two or more persons that are eligible for membership 385
that have jointly subscribed for one or more shares under a 386
joint account each may be admitted to membership. 387

(D) A credit union need not issue certificates for any or 388
all of its classes of shares but irrespective of whether 389
certificates are issued, a registry of shares must be kept, 390
including all of the transactions of the credit union pertaining 391
to such shares. 392

(E) A credit union is authorized to maintain share draft 393
accounts in accordance with rules prescribed by the 394
superintendent. The credit union may pay dividends on share 395
draft accounts, may pay dividends at different rates on 396
different types of share draft accounts, and may permit the 397

owners of such share draft accounts to make withdrawals by 398
negotiable or transferable instruments or other orders for the 399
purpose of making transfers to third parties. 400

(F) Unless otherwise provided by written agreement of the 401
parties, the rights, responsibilities, and liabilities attaching 402
to a share draft withdrawn from, transferred to, or otherwise 403
handled by a credit union are defined in and governed by 404
Chapters 1303. and 1304. of the Revised Code, as if the credit 405
union were a bank. 406

(G) Unless otherwise provided in the articles or 407
regulations, a member may designate any person or persons to own 408
or hold shares, or share accounts with the member in joint 409
tenancy with right of survivorship and not as tenants in common. 410

(H) Shares or share accounts may be issued in the name of 411
a custodian under the Ohio transfers to minors act, a member in 412
trust for a beneficiary, a fiduciary or custodian in trust for a 413
member beneficiary, or a fiduciary or custodian in trust upon 414
the death of a member. Redemption of such shares or payment of 415
such share accounts to a member, to the extent of the payment, 416
discharges the liability of the credit union to the member and 417
the beneficiary, and the credit union shall be under no 418
obligation to see to the application of the payment. Unless 419
prior to the death of a member, the member has notified the 420
credit union in writing in a form approved by the credit union 421
of a different beneficiary to receive the proceeds of such 422
shares or share accounts, then the proceeds shall be paid to the 423
beneficiary or to the beneficiary's parent or legal 424
representative. Any payment made pursuant to written 425
instructions of the member or pursuant to the provisions herein 426
contained shall be a valid and sufficient release and discharge 427

of the credit union in connection with any such share or share 428
accounts. 429

(I) (1) Except as otherwise provided in the articles or 430
regulations, and subject to the provisions thereof, a minor may 431
purchase shares, share accounts, or other depository 432
instruments, and except for qualification as a voting member, 433
the credit union may deal with the minor with respect to shares, 434
share accounts, or other depository instruments owned by the 435
minor as if the minor were a person of legal age. 436

(2) If shares, share accounts, or other depository 437
instruments are issued in the name of a minor, redemption of any 438
part or all of the shares or withdrawal of funds by payment to 439
the minor of the shares or funds and any declared dividends or 440
interest releases the credit union from all obligation to the 441
minor as to the shares reduced or funds withdrawn. 442

(J) The regulations may require advance written notice of 443
a member's intention to withdraw the member's shares. Such 444
advance notice shall not exceed sixty days. 445

(K) Notwithstanding any provision of law to the contrary, 446
funds deposited in a share account, share certificate, or in any 447
other manner pursuant to a program offered by a credit union to 448
promote consumer savings do not constitute valuable 449
consideration for purposes of a scheme of chance under Chapter 450
2915. of the Revised Code. 451

Section 2. That existing sections 135.61, 135.62, 135.621, 452
135.623, 1733.04, and 1733.24 of the Revised Code are hereby 453
repealed. 454