

As Reported by the House Small Business Committee

136th General Assembly

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Am. 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, 1
1733.04, and 1733.24 and to enact section 135.67 2
of the Revised Code to create the small defense 3
business linked deposit program. 4

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

Section 1. That sections 135.61, 135.62, 135.621, 135.623, 5
1733.04, and 1733.24 be amended and section 135.67 of the 6
Revised Code be enacted to read as follows: 7

Sec. 135.61. (A) For the purposes of this section: 8

(1) "Eligible borrower," "eligible credit union," and 9
"eligible lending institution" have the same meanings as in 10
section 135.62 of the Revised Code. 11

(2) "Eligible participant" and "eligible savings 12
institution" have the same meanings as in section 135.70 of the 13
Revised Code. 14

(B) The treasurer of state may invest in linked deposits 15
under sections 135.61 to ~~135.66~~ 135.67 and 135.70 to 135.71 of 16
the Revised Code, provided that at the time any such linked 17
deposits are placed, purchased, or designated, the combined 18
amount of investments of public money of the state in linked 19

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 <u>135.67</u> 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 each such eligible borrower, the present borrowing rate;	197 198
(2) That the eligible lending institution applied all of its usual lending standards to determine the credit worthiness of each eligible borrower.	199 200 201
(D) No fee shall be charged to any party for the preparation, processing, or reporting of any application to an eligible lending institution or the treasurer of state for participation in a linked deposit program.	202 203 204 205
Sec. 135.623. (A) An eligible lending institution shall enter into a deposit agreement with the treasurer of state, which shall include requirements necessary to carry out the purposes of sections 135.62 to 135.66 <u>135.67</u> of the Revised Code.	206 207 208 209 210
(B) The deposit agreement shall specify the maturity period of the linked deposit considered appropriate by the treasurer of state, which shall not exceed five years, as well as any other information, terms, or conditions the treasurer of state may require. Interest shall be paid by the eligible lending institution at times determined by the treasurer of state.	211 212 213 214 215 216 217
<u>Sec. 135.67.</u> (A) <u>As used in this section:</u>	218
<u>(1) "Armed forces" has the same meaning as in section 5903.01 of the Revised Code.</u>	219 220
<u>(2) "Gross receipts" has the same meaning as in section 5751.01 of the Revised Code.</u>	221 222
<u>(B) The general assembly finds that the defense industry makes significant contributions to the economic well-being of</u>	223 224

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, including 231
subcontractors for those businesses, through the small defense 232
business linked deposit program. 233

(C) An eligible borrower for the small defense business 234
linked deposit program is any person that has all the following 235
characteristics: 236

(1) Is currently headquartered or domiciled in this state, 237
and has been headquartered or domiciled in this state for at 238
least five years preceding the person's application for 239
participation in the linked deposit program; 240

(2) Maintains offices or operating facilities in this 241
state that comprise not less than fifty-one per cent of the 242
total of all offices and operating facilities maintained by the 243
person; 244

(3) Is a party to, or has been a party to, a contract or 245
subcontract with the armed forces or an agency or 246
instrumentality of the United States government for the 247
provision of goods or services to the armed forces; 248

(4) Has less than fifty million dollars in gross receipts 249
for the twelve months preceding application to the linked 250
deposit program; 251

(5) Is organized for profit. 252

(D) An eligible lending institution for the small defense 253

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

and forming part of a tax-advantaged savings plan that qualifies 282
for specific tax treatment under sections 223, 401(d), 408, 283
408A, and 530 of the Internal Revenue Code, 26 U.S.C. 223, 284
401(d), 408, 408A, and 530, as amended, for its members or 285
groups of its members, provided that the funds of such plans are 286
invested in share accounts or share certificate accounts of the 287
credit union. These services include, but are not limited to, 288
acting as a trustee or custodian for member retirement, 289
education, or health savings accounts. 290

(8) Participate in and pledge assets in connection with 291
the linked deposit programs under sections 135.61 to ~~135.66~~ 292
135.67 of the Revised Code and sections 135.70 to 135.71 of the 293
Revised Code. 294

(B) The authority of a credit union shall be subject to 295
the following: 296

(1) A credit union may not borrow money in excess of 297
twenty-five per cent of its shares and undivided earnings, 298
without prior specific authorization by the superintendent of 299
credit unions. 300

(2) A credit union may not pay a commission or other 301
compensation to any person for securing members or for the sale 302
of its shares, except that reasonable incentives may be made 303
available directly to members or potential members to promote 304
thrift. 305

(C) (1) A credit union may have service facilities other 306
than its home office. 307

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

or headquarters, and in case of a purchase of real estate, the 311
superintendent must first be notified in writing prior to the 312
purchase of the real estate. Nothing herein contained shall be 313
deemed to prohibit a credit union from taking title to real 314
estate in connection with a default in the payment of a loan, 315
provided that title to such real estate shall not be held by the 316
credit union for more than two years without the prior written 317
approval of the superintendent. A credit union also may lease 318
space in any real estate it acquires in accordance with rules 319
adopted by the superintendent. 320

(D) (1) As used in division (D) of this section: 321

(a) "School" means an elementary or secondary school. 322

(b) "Student" means a child enrolled in a school. 323

(c) "Student branch" means the designation provided to the 324
credit union for the in-school services and financial education 325
offered to students. 326

(2) A credit union, upon agreement with a school board, in 327
the case of a public school, or the governing authority, in the 328
case of a nonpublic school, and with the permission of the 329
superintendent, may open and maintain a student branch. 330

(3) Notwithstanding any other provision of this section, 331
any student enrolled in the school maintaining a student branch 332
who is not otherwise qualified for membership in the credit 333
union maintaining the student branch is qualified to be a member 334
of that student branch. 335

(4) The student's membership in the student branch expires 336
upon the student's graduation from secondary school. 337

(5) The student branch is for the express use of students 338

and may not be used by faculty, staff, or lineal ancestors or 339
descendants of students. 340

(6) Faculty, staff, or lineal ancestors or descendants of 341
students are not eligible for membership in the credit union 342
maintaining the student branch unless otherwise qualified by 343
this section to be members. 344

(7) The superintendent may adopt rules appropriate to the 345
formation and operation of student branches. 346

(E) A credit union may guarantee the signature of a member 347
in connection with a transaction involving tangible or 348
intangible property in which a member has or seeks to acquire an 349
interest. 350

Sec. 1733.24. (A) A credit union is authorized to receive 351
funds for deposit in share accounts, share draft accounts, and 352
share certificates from its members, from other credit unions, 353
and from an officer, employee, or agent of the federal, state, 354
or local governments, or political subdivisions of the state, in 355
accordance with such terms, rates, and conditions as may be 356
established by its board of directors, and for purposes of the 357
linked deposit programs created under sections 135.61 to ~~135.66~~ 358
135.67 of the Revised Code and sections 135.70 to 135.71 of the 359
Revised Code. 360

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

minimum investment, conditions of repurchase, and other 368
appropriate standards or combinations thereof. In the event the 369
articles of incorporation of the credit union indicate the 370
authorized number of shares to be unlimited, the designation of 371
classification of shares and share accounts of the credit union 372
may be effected by the board of directors, subject to the 373
approval of the superintendent, and does not require amendment 374
of the articles of incorporation. All shares of the credit union 375
shall have a par value per share as set by the board of 376
directors. Redemptions and liquidating dividends shall be 377
prorated to each member on the basis of the price paid the 378
credit union for such share, irrespective of the class of such 379
shares. 380

(C) (1) Each credit union shall have one class of shares 381
designated as "membership share." The membership shares, or if a 382
credit union has but one class of shares, then all of the shares 383
of the credit union, shall have a par value as set by the board 384
of directors. 385

(2) Two or more persons that are eligible for membership 386
that have jointly subscribed for one or more shares under a 387
joint account each may be admitted to membership. 388

(D) A credit union need not issue certificates for any or 389
all of its classes of shares but irrespective of whether 390
certificates are issued, a registry of shares must be kept, 391
including all of the transactions of the credit union pertaining 392
to such shares. 393

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

different types of share draft accounts, and may permit the 398
owners of such share draft accounts to make withdrawals by 399
negotiable or transferable instruments or other orders for the 400
purpose of making transfers to third parties. 401

(F) Unless otherwise provided by written agreement of the 402
parties, the rights, responsibilities, and liabilities attaching 403
to a share draft withdrawn from, transferred to, or otherwise 404
handled by a credit union are defined in and governed by 405
Chapters 1303. and 1304. of the Revised Code, as if the credit 406
union were a bank. 407

(G) Unless otherwise provided in the articles or 408
regulations, a member may designate any person or persons to own 409
or hold shares, or share accounts with the member in joint 410
tenancy with right of survivorship and not as tenants in common. 411

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

contained shall be a valid and sufficient release and discharge 428
of the credit union in connection with any such share or share 429
accounts. 430

(I) (1) Except as otherwise provided in the articles or 431
regulations, and subject to the provisions thereof, a minor may 432
purchase shares, share accounts, or other depository 433
instruments, and except for qualification as a voting member, 434
the credit union may deal with the minor with respect to shares, 435
share accounts, or other depository instruments owned by the 436
minor as if the minor were a person of legal age. 437

(2) If shares, share accounts, or other depository 438
instruments are issued in the name of a minor, redemption of any 439
part or all of the shares or withdrawal of funds by payment to 440
the minor of the shares or funds and any declared dividends or 441
interest releases the credit union from all obligation to the 442
minor as to the shares reduced or funds withdrawn. 443

(J) The regulations may require advance written notice of 444
a member's intention to withdraw the member's shares. Such 445
advance notice shall not exceed sixty days. 446

(K) Notwithstanding any provision of law to the contrary, 447
funds deposited in a share account, share certificate, or in any 448
other manner pursuant to a program offered by a credit union to 449
promote consumer savings do not constitute valuable 450
consideration for purposes of a scheme of chance under Chapter 451
2915. of the Revised Code. 452

Section 2. That existing sections 135.61, 135.62, 135.621, 453
135.623, 1733.04, and 1733.24 of the Revised Code are hereby 454
repealed. 455