

**As Reported by the House Finance Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 374**

**Representative Schuring**

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**A BILL**

To amend section 135.182 of the Revised Code to  
authorize the Treasurer of State to determine by  
rule the total market value of securities that  
must be pledged to secure the repayment of all  
uninsured public deposits at a particular public  
depository, to make other changes relative to  
the Ohio Pooled Collateral Program, and to  
declare an emergency.

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

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

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

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

(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.

(3) "Public deposits," "public moneys," and "treasurer" 20  
mean those terms as defined in section 135.01 of the Revised 21  
Code, but also have the same meanings as are set forth in 22  
section 135.31 of the Revised Code. 23

(B) (1) Not later than July 1, 2017, the treasurer of state 24  
shall create the Ohio pooled collateral program. Under this 25  
program, each institution designated as a public depository that 26  
selects the pledging method prescribed in division (A) (2) of 27  
section 135.18 or division (A) (2) of section 135.37 of the 28  
Revised Code shall pledge to the treasurer of state a single 29  
pool of eligible securities for the benefit of all public 30  
depositories at the public depository to secure the repayment of 31  
all uninsured public deposits at the public depository, provided 32  
that at all times the total market value of the securities so 33  
pledged is at least equal to ~~one~~ either of the following: 34

(a) One hundred two per cent of the total amount of all 35  
uninsured public deposits; 36

(b) An amount determined by rules adopted by the treasurer 37  
of state that set forth the criteria for determining the 38  
aggregate market value of the pool of eligible securities 39  
pledged by a public depository pursuant to division (B) of this 40  
section. Such criteria shall include, but are not limited to, 41  
prudent capital and liquidity management by the public 42  
depository and the safety and soundness of the public depository 43  
as determined by a third-party rating organization. ~~The~~ 44

(2) The treasurer of state shall monitor the eligibility, 45  
market value, and face value of the pooled securities pledged by 46  
the public depository. Each public depository shall carry in its 47  
accounting records at all times a general ledger or other 48  
appropriate account of the total amount of all public deposits 49

to be secured by the pool, as determined at the opening of 50  
business each day, and the total market value of securities 51  
pledged to secure such deposits, and report such information to 52  
the treasurer of state in a manner and frequency as determined 53  
by the treasurer of state pursuant to rules adopted by the 54  
treasurer of state. A public depositor shall be responsible for 55  
periodically confirming the accuracy of its account balances 56  
with the treasurer of state; otherwise, the treasurer of state 57  
shall be the sole public depositor responsible for monitoring 58  
and ensuring the sufficiency of securities pledged under this 59  
section. 60

(C) The public depository shall designate a qualified 61  
trustee approved by the treasurer of state and place with such 62  
trustee for safekeeping the eligible securities pledged pursuant 63  
to division (B) of this section. The trustee shall hold the 64  
eligible securities in an account indicating the treasurer of 65  
state's security interest in the eligible securities. The 66  
treasurer of state shall give written notice of the trustee to 67  
all public depositors for which such securities are pledged. The 68  
trustee shall report to the treasurer of state information 69  
relating to the securities pledged to secure such public 70  
deposits in a manner and frequency as determined by the 71  
treasurer of state. 72

(D) In order for a public depository to receive public 73  
moneys under this section, the public depository and the 74  
treasurer of state shall first execute an agreement that sets 75  
forth the entire arrangement among the parties and that meets 76  
the requirements described in 12 U.S.C. 1823(e). In addition, 77  
the agreement shall authorize the treasurer of state to obtain 78  
control of the collateral pursuant to division (D) of section 79  
1308.24 of the Revised Code. 80

(E) The securities or other obligations described in 81  
division (D) of section 135.18 of the Revised Code shall be 82  
eligible as collateral for the purposes of division (B) of this 83  
section, provided no such securities or obligations pledged as 84  
collateral are at any time in default as to either principal or 85  
interest. 86

(F) Any federal reserve bank or branch thereof located in 87  
this state or federal home loan bank, without compliance with 88  
Chapter 1111. of the Revised Code and without becoming subject 89  
to any other law of this state relative to the exercise by 90  
corporations of trust powers generally, is qualified to act as 91  
trustee for the safekeeping of securities, under this section. 92  
Any institution mentioned in section 135.03 or 135.32 of the 93  
Revised Code that holds a certificate of qualification issued by 94  
the superintendent of financial institutions or any institution 95  
complying with sections 1111.04, 1111.05, and 1111.06 of the 96  
Revised Code is qualified to act as trustee for the safekeeping 97  
of securities under this section, other than those belonging to 98  
itself or to an affiliate as defined in section 1101.01 of the 99  
Revised Code. 100

(G) The public depository may substitute, exchange, or 101  
release eligible securities deposited with the qualified trustee 102  
pursuant to this section, provided that such substitution, 103  
exchange, or release is effectuated pursuant to written 104  
authorization from the treasurer of state, and such action does 105  
not reduce the total market value of the securities to an amount 106  
that is less than the amount established pursuant to division 107  
(B) of this section. 108

(H) Notwithstanding the fact that a public depository is 109  
required to pledge eligible securities in certain amounts to 110

secure public deposits, a qualified trustee has no duty or 111  
obligation to determine the eligibility, market value, or face 112  
value of any securities deposited with the trustee by a public 113  
depository. This applies in all situations including, but not 114  
limited to, a substitution or exchange of securities, but 115  
excluding those situations effectuated by division (I) of this 116  
section in which the trustee is required to determine face and 117  
market value. 118

(I) The qualified trustee shall enter into a custodial 119  
agreement with the treasurer of state and public depository in 120  
which the trustee agrees to comply with entitlement orders 121  
originated by the treasurer of state without further consent by 122  
the public depository or, in the case of collateral held by the 123  
public depository in an account at a federal reserve bank, the 124  
treasurer of state shall have the treasurer's security interest 125  
marked on the books of the federal reserve bank where the 126  
account for the collateral is maintained. If the public 127  
depository fails to pay over any part of the public deposits 128  
made therein as provided by law and secured pursuant to division 129  
(B) of this section, the treasurer of state shall give written 130  
notice of this failure to the qualified trustee holding the pool 131  
of securities pledged against the public deposits, and at the 132  
same time shall send a copy of this notice to the public 133  
depository. Upon receipt of this notice, the trustee shall 134  
transfer to the treasurer of state for sale, the pooled 135  
securities that are necessary to produce an amount equal to the 136  
public deposits made by the public depositor and not paid over, 137  
less the portion of the deposits covered by any federal deposit 138  
insurance, plus any accrued interest due on the deposits. The 139  
treasurer of state shall sell any of the bonds or other 140  
securities so transferred. When a sale of bonds or other 141

securities has been so made and upon payment to the public 142  
depositor of the purchase money, the treasurer of state shall 143  
transfer such bonds or securities whereupon the absolute 144  
ownership of such bonds or securities shall pass to the 145  
purchasers. Any surplus after deducting the amount due to the 146  
public depositor and expenses of sale shall be paid to the 147  
public depository. 148

(J) Any charges or compensation of a qualified trustee for 149  
acting as such under this section shall be paid by the public 150  
depository and in no event shall be chargeable to the public 151  
depositor or to any officer of the public depositor. The charges 152  
or compensation shall not be a lien or charge upon the 153  
securities deposited for safekeeping prior or superior to the 154  
rights to and interests in the securities of the public 155  
depositor. The treasurer and the treasurer's bonders or surety 156  
shall be relieved from any liability to the public depositor or 157  
to the public depository for the loss or destruction of any 158  
securities deposited with a qualified trustee pursuant to this 159  
section. 160

**Section 2.** That existing section 135.182 of the Revised 161  
Code is hereby repealed. 162

**Section 3.** This act is hereby declared to be an emergency 163  
measure necessary for the immediate preservation of the public 164  
peace, health, and safety. The reason for such necessity is that 165  
financial institutions are required to comply with certain 166  
aspects of the federal rule on liquidity coverage ratio (LCR) by 167  
January 1, 2016, and the Treasurer of State needs time to adopt 168  
appropriate rules to ensure Ohio financial institutions will be 169  
compliant. Therefore, this act shall go into immediate effect. 170