

AN ACT

To amend sections 135.143, 135.71, 135.73, and 135.82 and to repeal sections 135.631 and 135.731 of the Revised Code to expand the Agricultural Linked Deposit Program and the types of obligations in which the Treasurer of State may invest interim funds, and to declare an emergency.

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

SECTION 1. That sections 135.143, 135.71, 135.73, and 135.82 of the Revised Code be amended to read as follows:

Sec. 135.143. (A) The treasurer of state may invest or execute transactions for any part or all of the interim funds of the state in the following classifications of obligations:

(1) United States treasury bills, notes, bonds, or any other obligations or securities issued by the United States treasury or any other obligation guaranteed as to principal and interest by the United States;

(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality;

(3)(a) Bonds, notes, and other obligations of the state of Ohio, including, but not limited to, any obligations issued by the treasurer of state, the Ohio public facilities commission, the Ohio building authority, the Ohio housing finance agency, the Ohio water development authority, ~~and the Ohio turnpike infrastructure commission, the Ohio higher educational facility commission, and state institutions of higher education as defined in section 3345.011 of the Revised Code;~~

(b) Bonds, notes, and other obligations of any state or political subdivision thereof rated in the three highest categories by at least one nationally recognized standard rating service and purchased through a registered securities broker or dealer, provided the treasurer of state is not the sole purchaser of the bonds, notes, or other obligations at original issuance.

(4)(a) Written repurchase agreements with any eligible Ohio financial institution that is a member of the federal reserve system or federal home loan bank, or any registered United States government securities dealer, under the terms of which agreement the treasurer of state purchases and the eligible financial institution or dealer agrees unconditionally to repurchase any of the securities that are listed in division (A)(1), (2), or (6) of this section. The market value of securities subject to these transactions must exceed the principal value of the repurchase agreement by an amount specified by the treasurer of state, and the securities must be delivered into the custody of the treasurer of state or the qualified trustee or agent designated by the treasurer of state. The agreement shall contain the requirement that for each transaction pursuant to the agreement, the participating institution or dealer shall provide all of the following information:

(i) The par value of the securities;

(ii) The type, rate, and maturity date of the securities;

(iii) A numerical identifier generally accepted in the securities industry that designates the securities.

(b) The treasurer of state also may sell any securities, listed in division (A)(1), (2), or (6) of this section, regardless of maturity or time of redemption of the securities, under the same terms and conditions for repurchase, provided that the securities have been fully paid for and are owned by the treasurer of state at the time of the sale.

(5) Securities lending agreements with any eligible financial institution that is a member of the federal reserve system or federal home loan bank or any recognized United States government securities dealer, under the terms of which agreements the treasurer of state lends securities and the eligible financial institution or dealer agrees to simultaneously exchange similar securities or cash, equal value for equal value.

Securities and cash received as collateral for a securities lending agreement are not interim funds of the state. The investment of cash collateral received pursuant to a securities lending agreement may be invested only in such instruments specified by the treasurer of state in accordance with a written investment policy.

(6) Various forms of commercial paper issued by any entity that is organized under the laws of the United States or a state, which notes are rated in the two highest categories by two nationally recognized standard rating services, provided that the total amount invested under this section in any commercial paper at any time shall not exceed forty per cent of the state's total average portfolio, as determined and calculated by the treasurer of state;

(7) Bankers acceptances, maturing in two hundred seventy days or less, provided that the total amount invested in bankers acceptances at any time shall not exceed ten per cent of the state's total average portfolio, as determined and calculated by the treasurer of state;

(8) Certificates of deposit in eligible institutions applying for interim moneys as provided in section 135.08 of the Revised Code, including linked deposits as provided in sections 135.61 to 135.67 of the Revised Code, agricultural linked deposits as provided in sections 135.71 to 135.76 of the Revised Code, business linked deposits as provided in sections 135.77 to 135.774 of the Revised Code, and housing linked deposits as provided in sections 135.81 to 135.87 of the Revised Code;

(9) Negotiable certificates of deposit denominated in United States dollars issued by a nationally or state-chartered bank, a savings association or a federal association, a state or federal credit union, or a federally licensed or state-licensed branch of a foreign bank, which are rated in the two highest categories by two nationally recognized standard rating services, provided that the total amount invested under this section in negotiable certificates of deposit at any time shall not exceed twenty-five per cent of the state's total average portfolio, as determined and calculated by the treasurer of state. Interim funds invested in accordance with division (A)(9) of this section are not limited to institutions applying for interim moneys under section 135.08 of the Revised Code, nor are they subject to any pledging requirements described in sections 135.18, 135.181, or 135.182 of the Revised Code.

(10) The state treasurer's investment pool authorized under section 135.45 of the Revised Code;

(11) Debt interests, other than commercial paper described in division (A)(6) of this section,

rated in the three highest categories by two nationally recognized standard rating services and issued by entities that are organized under the laws of the United States or a state, or issued by foreign nations diplomatically recognized by the United States government, or any instrument based on, derived from, or related to such interests, provided that:

(a) The investments in debt interests other than commercial paper shall not exceed in the aggregate twenty-five per cent of the state's portfolio.

(b) The investments in debt interests issued by foreign nations shall not exceed in the aggregate two per cent of the state's portfolio.

The treasurer of state shall invest under division (A)(11) of this section in a debt interest issued by a foreign nation only if the debt interest is backed by the full faith and credit of that foreign nation, and provided that all interest and principal shall be denominated and payable in United States funds.

(c) When added to the investment in commercial paper and negotiable certificates of deposit, the investments in the debt interests of a single issuer shall not exceed in the aggregate five per cent of the state's portfolio.

(d) For purposes of division (A)(11) of this section, a debt interest is rated in the three highest categories by two nationally recognized standard rating services if either the debt interest itself or the issuer of the debt interest is rated, or is implicitly rated, in the three highest categories by two nationally recognized standard rating services.

(e) For purposes of division (A)(11) of this section, the "state's portfolio" means the state's total average portfolio, as determined and calculated by the treasurer of state.

(12) No-load money market mutual funds rated in the highest category by one nationally recognized standard rating service or consisting exclusively of obligations described in division (A) (1), (2), or (6) of this section and repurchase agreements secured by such obligations;

(13) Obligations issued by, or on behalf of, an Ohio political subdivision under Chapter 133. of the Revised Code or Section 12 of Article XVIII, Ohio Constitution, and identified in an agreement described in division (G) of this section;

(14) Obligations issued by the state of Ohio, any political subdivision thereof, or by or on behalf of any nonprofit corporation or association doing business in this state rated in the four highest categories by at least one nationally recognized standard rating service and identified in an agreement described in division (K) of this section.

(B) Whenever, during a period of designation, the treasurer of state classifies public moneys as interim moneys, the treasurer of state shall notify the state board of deposit of such action. The notification shall be given within thirty days after such classification and, in the event the state board of deposit does not concur in such classification or in the investments or deposits made under this section, the board may order the treasurer of state to sell or liquidate any of the investments or deposits, and any such order shall specifically describe the investments or deposits and fix the date upon which they are to be sold or liquidated. Investments or deposits so ordered to be sold or liquidated shall be sold or liquidated for cash by the treasurer of state on the date fixed in such order at the then current market price. Neither the treasurer of state nor the members of the state board of deposit shall be held accountable for any loss occasioned by sales or liquidations of investments or deposits at prices lower than their cost. Any loss or expense incurred in making these sales or

liquidations is payable as other expenses of the treasurer's office.

(C) If any securities or obligations invested in by the treasurer of state pursuant to this section are registrable either as to principal or interest, or both, such securities or obligations shall be registered in the name of the treasurer of state.

(D) The treasurer of state is responsible for the safekeeping of all securities or obligations under this section. Any such securities or obligations may be deposited for safekeeping as provided in section 113.05 of the Revised Code.

(E) Interest earned on any investments or deposits authorized by this section shall be collected by the treasurer of state and credited by the treasurer of state to the proper fund of the state.

(F) Whenever investments or deposits acquired under this section mature and become due and payable, the treasurer of state shall present them for payment according to their tenor, and shall collect the moneys payable thereon. The moneys so collected shall be treated as public moneys subject to sections 135.01 to 135.21 of the Revised Code.

(G) The treasurer of state and any entity issuing obligations referred to in division (A)(13) of this section, which obligations mature within one year from the original date of issuance, may enter into an agreement providing for:

(1) The purchase of those obligations by the treasurer of state on terms and subject to conditions set forth in the agreement;

(2) The payment to the treasurer of state of a reasonable fee as consideration for the agreement of the treasurer of state to purchase those obligations; provided, however, that the treasurer of state shall not be authorized to enter into any such agreement with a board of education of a school district that has an outstanding obligation with respect to a loan received under authority of section 3313.483 of the Revised Code.

(H) For purposes of division (G) of this section, a fee shall not be considered reasonable unless it is set to recover only the direct costs, a reasonable estimate of the indirect costs associated with the purchasing of obligations under division (G) of this section and any reselling of the obligations or any interest in the obligations, including interests in a fund comprised of the obligations, and the administration thereof. No money from the general revenue fund shall be used to subsidize the purchase or resale of these obligations.

(I) All money collected by the treasurer of state from the fee imposed by division (G) of this section shall be deposited to the credit of the state political subdivision obligations fund, which is hereby created in the state treasury. Money credited to the fund shall be used solely to pay the treasurer of state's direct and indirect costs associated with purchasing and reselling obligations under division (G) of this section.

(J) As used in this section, "political subdivision" means a county, township, municipal corporation, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.

(K)(1) The treasurer of state and any entity issuing obligations referred to in division (A)(14) of this section, which obligations have a demand feature to tender the obligation at par plus accrued interest, may enter into an agreement providing for the following:

(a) The purchase of the obligations by the treasurer of state on terms and subject to conditions set forth in the agreement;

(b) Payment to the treasurer of state of a fee as consideration for the agreement of the treasurer of state to purchase the obligations.

(2) The treasurer of state shall not enter into agreements under division (K)(1) of this section for obligations that, in the aggregate, exceed ten per cent of the state's total average portfolio, as determined and calculated by the treasurer of state.

(3) For purposes of division (A)(14) of this section, an obligation is rated in the four highest categories by at least one nationally recognized standard rating service if either the debt interest itself or the obligor of the debt interest is rated in the four highest categories by at least one nationally recognized standard rating service.

(4) All money collected by the treasurer of state from the fee imposed by division (K) of this section shall be deposited to the credit of the state securities tender program fund, which is hereby created in the state treasury. The amount of income from the state securities tender program credited to the state securities tender program fund shall not exceed one per cent of the average par value of obligations subject to agreements under division (K)(1) of this section. All other such income shall be credited to the general revenue fund. The treasurer of state may use the state securities tender program fund solely for operations of the office of the treasurer of state.

(L)(1) The treasurer of state and a state university or college issuing obligations under section 3345.12 of the Revised Code may enter into an agreement providing for the following:

(a) The purchase of those obligations by the treasurer of state pursuant to division (A)(3)(a) of this section on terms and subject to conditions set forth in the agreement;

(b) The department of higher education to withhold, in the event the state university or college does not pay bond service charges on the obligations when due, appropriated funds allocated to the state university or college in an amount sufficient to pay bond service charges on the obligations, less any amounts deposited for that purpose under the bond proceedings. Upon the request of the treasurer of state, the department of higher education shall promptly pay to the treasurer of state the amounts withheld.

(2) For purposes of division (L)(1) of this section, "obligations," "state university or college," "bond service charges," and "bond proceedings" have the same meanings as in section 3345.12 of the Revised Code.

Sec. 135.71. As used in sections 135.71 to 135.76 of the Revised Code:

(A) "Eligible agricultural business" means any person engaged in agriculture that has all of the following characteristics:

(1) Is headquartered and domiciled in this state;

(2) Maintains land or facilities for agricultural purposes in this state provided that the land or facilities within this state comprise not less than fifty-one per cent of the total of all lands or facilities maintained by the person;

(3) Is either organized for profit or as an agricultural cooperative as defined in section 1729.01 of the Revised Code.

(B) "Eligible lending institution" means a financial institution that is eligible to make commercial loans, agrees to participate in the agricultural linked deposit program, and is any of the following:

(1) Is 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, is an institution of the farm credit system organized under the federal "Farm Credit Act of 1971," 85 Stat. 583, 12 U.S.C.A. 2001, as amended;

(3) Notwithstanding sections 135.01 to 135.21 of the Revised Code, is 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) "Agricultural linked deposit" means a certificate of deposit placed by the treasurer of state with an eligible lending institution under section 135.74 of the Revised Code, share certificates issued by an eligible lending institution that are purchased by the treasurer of state, or an investment in bonds, notes, debentures, or other obligations or securities issued by the federal farm credit bank with regard to an eligible lending institution.

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

Sec. 135.73. (A) An eligible lending institution that desires to receive an agricultural linked deposit shall accept and review applications for loans from eligible agricultural businesses. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible agricultural business. No loan shall exceed ~~one hundred fifty thousand dollars~~ an amount determined by the treasurer of state.

(B) An eligible agricultural business shall certify on its loan application that the reduced rate loan will be used exclusively for agricultural purposes on land or in facilities owned or operated by the business in this state and that the loan will materially contribute to the preservation of the business. 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) In considering which eligible agricultural businesses to include in the agricultural linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the immediacy of a business's financial need for the loan to meet planting deadlines. The institution may also consider the economic needs of the area in which the business is located and other factors it considers appropriate to determine the relative financial need of the business.

(D) The eligible lending institution shall forward to the treasurer of state an agricultural linked deposit loan package, in the form and manner prescribed by the treasurer of state. The package shall include information regarding the amount of the loan requested by each eligible agricultural business and such other information regarding each business as the treasurer of state requires. The institution shall certify that each applicant is an eligible agricultural business, and shall, for each business, certify the present borrowing rate applicable to each specific eligible agricultural business.

Sec. 135.82. (A) The general assembly finds that there exists in this state a lack of affordable financing options to promote solutions to a number of housing issues, including, but not limited to, home improvement, home restoration, energy efficiency, retention of historic significance, controlling urban sprawl, neighborhood revitalization, affordable housing, home ownership for persons unable to secure conventional financing, urban development, and economic revitalization of a residential area as a result of a natural disaster or other catastrophic occurrence. Accordingly, it is declared to be the public policy of the state through housing linked deposits to create an availability

of lower cost funds to inject needed capital into local residential communities.

(B) Pursuant to the findings and declarations of division (A) of this section and subject to the amount authorized to be invested in linked deposits pursuant to ~~sections~~ section 135.63 and ~~135.631~~ of the Revised Code, both of the following apply:

(1) Housing linked deposits are authorized under which the state partners with eligible governmental subdivisions in accordance with section 135.83 of the Revised Code to provide, pursuant to section 135.84 of the Revised Code, an availability of lower cost funds for lending purposes that materially will contribute to the solutions addressing housing issues, described in division (A) of this section, across the state.

(2) In the absence of an eligible governmental subdivision linked deposit program, the treasurer of state may develop an application process and procedures and eligibility requirements for participation in a housing linked deposit program that provides, pursuant to section 135.84 of the Revised Code, an availability of lower cost funds for lending purposes that materially will contribute to the solutions addressing housing issues, described in division (A) of this section, across the state.

SECTION 2. That existing sections 135.143, 135.71, 135.73, and 135.82 of the Revised Code are hereby repealed.

SECTION 3. That sections 135.631 and 135.731 of the Revised Code are hereby repealed.

SECTION 4. The amendment of sections 135.71, 135.73, and 135.82 and the repeal of sections 135.631 and 135.731 of the Revised Code in this act are hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to provide financial assistance to persons in agriculture when the application window opens in the first quarter of next year. Therefore, those amendments and repeals shall go into immediate effect.

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 _____