



## Ohio Revised Code

### Section 131.15 Safekeeping of hypothecated securities.

Effective: September 29, 2015

Legislation: House Bill 64 - 131st General Assembly

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(A) Any depositor enumerated in section 131.11 of the Revised Code shall make ample provisions for the safekeeping of hypothecated securities. The interest thereon, when paid, shall be turned over to the bank or trust company if it is not in default. The depositor may make provisions for the exchange and release of securities and the substitution of other securities or of an undertaking therefor except in those cases where the public depository has deposited eligible securities with a trustee for safekeeping.

(B) When the public depository has deposited eligible securities described in division (D)(1) of section 135.18 of the Revised Code with a trustee for safekeeping, the public depository may at any time substitute or exchange eligible securities described in division (D)(1) of section 135.18 of the Revised Code having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged, without specific authorization from the depositor of any substitution or exchange.

(C) When the public depository has deposited eligible securities described in division (D)(2) to (9) of section 135.18 of the Revised Code with a trustee for safekeeping, the public depository may at any time substitute or exchange eligible securities having a current market value equal to or greater than the current market value of the securities then on deposit and for which they are to be substituted or exchanged without specific authorization of any depositor of any such substitution or exchange only if:

(1) The depositor has authorized the public depository to make such substitutions or exchanges on a continuing basis during a specified period without prior approval of each substitution or exchange. Such authorization may be effected by the depositor sending to the trustee a written notice stating that substitution may be effected on a continuing basis during a specified period that shall not extend beyond the end of the period of designation during which the notice is given. "Period of designation" as used in this section means the period under section 135.12 of the Revised Code for the award of inactive funds of the subdivision of which the depositor is an officer or employee. The trustee may



rely upon such notice and upon the period of authorization stated therein and upon the period of designation stated therein.

(2) No continuing authorization for substitution has been given by the depositor, the public depository notifies the depositor and the trustee of an intended substitution or exchange, and the depositor fails to object to the trustee as to the eligibility or market value of the securities being substituted within ten calendar days after the date appearing on the notice of proposed substitution. The notice to the depositor and to the trustee shall be given in writing and delivered personally or by certified mail with a return receipt requested. The trustee may assume in any case that the notice has been delivered to the depositor. In order for objections of the depositor to be effective, receipt of the objections must be acknowledged in writing by the trustee.

(3) The depositor gives written authorization for a substitution or exchange of specific securities.

(D) The public depository shall notify the depositor of any substitution or exchange under division (C)(1) or (2) of this section. If the depository designates a trustee qualified under section 135.18 of the Revised Code to act as such for the safekeeping of securities, the depositor shall accept the written receipt of the designated trustee, describing the securities that have been deposited with the trustee by the public depository, as and for a hypothecation of such securities and issue to the depository the depositor's written acknowledgment to that effect, keeping a copy thereof in the depositor's office. Thereupon, all such securities pledged and deposited with the trustee are deemed hypothecated and deposited with the depositor, for all the purposes of sections 131.13 to 131.16 of the Revised Code. The trustee shall hold the securities for the account of the depositor and the depository as their respective rights to and interests in such securities under said sections appear and are asserted by written notice to or demand upon the trustee.

Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee shall have no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, without limitation, a substitution or exchange of securities.