



Ohio Revised Code

Section 135.37 Security for repayment of county public moneys.

Effective: September 29, 2015

Legislation: House Bill 64 - 131st General Assembly

(A) Except as provided in section 135.353 or 135.354 of the Revised Code, any institution described in section 135.32 of the Revised Code in receipt of a deposit of public moneys under section 135.33 or 135.35 of the Revised Code shall provide security for the repayment of all public moneys deposited in the public depository by selecting one of the following methods:

(1) Securing all uninsured public deposits of each investing authority separately as set forth in divisions (B) to (I) of this section;

(2) Securing all uninsured public deposits of every public depositor pursuant to section 135.181 or 135.182 of the Revised Code, as applicable, by establishing and pledging to the treasurer of state a single pool of collateral for the benefit of each public depositor at the public depository.

(B) If a public depository elects to provide security pursuant to division (A)(1) of this section, the public depository shall pledge to the investing authority, as security for the repayment of all public moneys deposited in the public depository during the period of designation pursuant to an award made under section 135.33 of the Revised Code or pursuant to section 135.35 of the Revised Code, eligible securities of aggregate market value at all times equal to at least one hundred five per cent of the total amount of the investing authority's uninsured public deposits. Any securities listed in division (D) of section 135.18 of the Revised Code are eligible for such purpose.

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

(D) An institution designated as a public depository shall designate a qualified trustee and place the eligible securities with the trustee for safekeeping. The trustee shall hold the eligible securities in an



account indicating the investing authority's security interest in the securities. The trustee shall report to the investing authority information relating to the securities pledged to secure the public deposits in the manner and frequency requested by the investing authority.

(E) The qualified trustee shall enter into a custodial agreement with the investing authority and public depository in which the trustee agrees to comply with entitlement orders originated by the investing authority without further consent by the public depository or, in the case of collateral held by the public depository in an account at a federal reserve bank, the investing authority shall have the investing authority's security interest marked on the books of the federal reserve bank where the account for the collateral is maintained. If the public depository fails to pay over any part of the public deposits made by the investing authority therein as provided by law, the investing authority shall give written notice of this failure to the qualified trustee holding the securities pledged against its public deposits, and at the same time shall send a copy of this notice to the public depository. Upon receipt of this notice, the trustee shall transfer to the investing authority for sale, the securities that are necessary to produce an amount equal to the public deposits made by the investing authority and not paid over, less the portion of the deposits covered by any federal deposit insurance, plus any accrued interest due on the deposits. The investing authority shall sell any of the bonds or other securities so transferred. When a sale of bonds or other securities has been so made and upon payment to the investing authority of the purchase money, the investing authority shall transfer such bonds or securities whereupon the absolute ownership of such bonds or securities shall pass to the purchasers. Any surplus after deducting the amount due the investing authority and expenses of sale shall be paid to the public depository.

(F) When the public depository has placed 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 investing authority of any such substitution or exchange.

(G) When the public depository has placed eligible securities described in divisions (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 from the investing authority of any such substitution or exchange only if one of the following applies:

(1) The investing authority has authorized the public depository to make such substitution or exchange on a continuing basis during a specified period without prior approval of each substitution or exchange. The authorization may be effected by the investing authority sending to the trustee a written notice stating that substitution may be effected on a continuing basis during a specified period which shall not extend beyond the end of the period of designation during which the notice is given. The trustee may rely upon this notice and upon the period of authorization stated therein and upon the period of designation stated therein.

(2) The public depository notifies the investing authority and the trustee of an intended substitution or exchange, and the investing authority does not object to the trustee as to the eligibility or market value of the securities being substituted within three business days after the date appearing on the notice of proposed substitution. The notice to the investing authority and to the trustee shall be given in writing and delivered electronically. The trustee may assume in any case that the notice has been delivered to the investing authority. In order for objections of the investing authority to be effective, receipt of the objections must be acknowledged in writing by the trustee.

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

(H) The public depository shall notify any investing authority of any substitution or exchange under division (G)(1) or (2) of this section.

(I) Any federal reserve bank or branch thereof located in this state or federal home loan bank, without compliance with Chapter 1111. of the Revised Code and without becoming subject to any other law of this state relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in section 135.03 or 135.32 of the Revised Code that holds a certificate of qualification issued by the superintendent of financial institutions or any institution complying with sections 1111.04, 1111.05, and 1111.06 of the Revised Code is qualified to act as trustee for the safekeeping of securities under



this section, other than those belonging to itself or to an affiliate as defined in section 1101.01 of the Revised Code.

Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure deposits of public moneys, a trustee has 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.

Any charges or compensation of a designated trustee for acting as such under this section shall be paid by the public depository and in no event shall be chargeable to the investing authority or to any officer of the investing authority. The charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the rights to and interests in the securities of the investing authority. The treasurer and the treasurer's bonders or surety shall be relieved from any liability to the investing authority or to the public depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.