

**ADDITIONAL MATERIALS FOR
CITY AND VILLAGE FINANCING PROCEDURES**

Garry E. Hunter
General Council
Ohio Municipal League/Ohio Municipal Attorneys Association
175 S. Third Street, Suite 510
Columbus, Ohio 43215
614.221.4349



1 of 1 DOCUMENT

Page's Ohio Revised Code Annotated
Copyright © 2016 Matthew Bender & Company, Inc., a member of the LexisNexis Group.
All rights reserved.

*** Current with Legislation passed by the 131st General Assembly and filed with the Secretary of State through file 45 (SB 223) with the exception of file 44 (SB 190) ***

Title 1: State Government
Chapter 135: Uniform Depository Act

Go to the Ohio Code Archive Directory

ORC Ann. 135.01 (2016)

Second of two versions of this section.

§ 135.01 Definitions.

Except as otherwise provided in *sections 135.14, 135.143, 135.181, and 135.182 of the Revised Code*, as used in *sections 135.01 to 135.21 of the Revised Code*:

(A) "Active deposit" means a public deposit necessary to meet current demands on the treasury, and that is deposited in any of the following:

(1) A commercial account that is payable or withdrawable, in whole or in part, on demand;

(2) A negotiable order of withdrawal account as authorized in the "Consumer Checking Account Equity Act of 1980," *94 Stat. 146, 12 U.S.C.A. 1832(a)*;

(3) A money market deposit account as authorized in the "Garn-St. Germain Depository Institutions Act of 1982," *96 Stat. 1501, 12 U.S.C. 3503*.

(B) "Auditor" includes the auditor of state and the auditor, or officer exercising the functions of an auditor, of any subdivision.

(C) "Capital funds" means the sum of the following: the par value of the outstanding common capital stock, the par value of the outstanding preferred capital stock, the aggregate par value of all outstanding capital notes and debentures, and the surplus. In the case of an institution having offices in more than one county, the capital funds of such institution, for the purposes of *sections 135.01 to 135.21 of the Revised Code*, relative to the deposit of the public moneys of the subdivisions in one such county, shall be considered to be that proportion of the capital funds of the institution that is represented by the ratio that the deposit liabilities of such institution originating at the office located in the county bears to the total deposit liabilities of the institution.

(D) "Governing board" means, in the case of the state, the state board of deposit; in the case of all school districts and educational service centers except as otherwise provided in this section, the board of education or governing board of a service center, and when the case so requires, the board of commissioners of the sinking fund; in the case of a municipal corporation, the legislative authority, and when the case so requires, the board of trustees of the sinking fund; in the case of a township, the board of township trustees; in the case of a union or joint institution or enterprise of two or more subdivisions not having a treasurer, the board of directors or trustees thereof; and in the case of any other subdivision electing or appointing a treasurer, the directors, trustees, or other similar officers of such subdivision. The governing board of a subdivision electing or appointing a treasurer shall be the governing board of all other subdivisions for

which such treasurer is authorized by law to act. In the case of a county school financing district that levies a tax pursuant to *section 5705.215 of the Revised Code*, the county board of education that serves as its taxing authority shall operate as a governing board. Any other county board of education shall operate as a governing board unless it adopts a resolution designating the board of county commissioners as the governing board for the county school district.

(E) "Inactive deposit" means a public deposit other than an interim deposit or an active deposit.

(F) "Interim deposit" means a deposit of interim moneys. "Interim moneys" means public moneys in the treasury of the state or any subdivision after the award of inactive deposits has been made in accordance with *section 135.07 of the Revised Code*, which moneys are in excess of the aggregate amount of the inactive deposits as estimated by the governing board prior to the period of designation and which the treasurer or governing board finds should not be deposited as active or inactive deposits for the reason that such moneys will not be needed for immediate use but will be needed before the end of the period of designation.

(G) "Permissible rate of interest" means a rate of interest that all eligible institutions mentioned in *section 135.03 of the Revised Code* are permitted to pay by law or valid regulations.

(H) "Warrant clearance account" means an account established by the treasurer of state for the deposit of active state moneys outside the city of Columbus, such account being for the exclusive purpose of clearing state warrants through the banking system to the treasurer.

(I) "Public deposit" means public moneys deposited in a public depository pursuant to *sections 135.01 to 135.21 of the Revised Code*.

(J) "Public depository" means an institution which receives or holds any public deposits.

(K) "Public moneys" means all moneys in the treasury of the state or any subdivision of the state, or moneys coming lawfully into the possession or custody of the treasurer of state or of the treasurer of any subdivision. "Public moneys of the state" includes all such moneys coming lawfully into the possession of the treasurer of state; and "public moneys of a subdivision" includes all such moneys coming lawfully into the possession of the treasurer of the subdivision.

(L) "Subdivision" means any municipal corporation, except one which has adopted a charter under Article XVIII, Ohio Constitution, and the charter or ordinances of the chartered municipal corporation set forth special provisions respecting the deposit or investment of its public moneys, or any school district or educational service center, a county school financing district, township, municipal or school district sinking fund, special taxing or assessment district, or other district or local authority electing or appointing a treasurer, except a county. In the case of a school district or educational service center, special taxing or assessment district, or other local authority for which a treasurer, elected or appointed primarily as the treasurer of a subdivision, is authorized or required by law to act as ex officio treasurer, the subdivision for which such a treasurer has been primarily elected or appointed shall be considered to be the "subdivision." The term also includes a union or joint institution or enterprise of two or more subdivisions, that is not authorized to elect or appoint a treasurer, and for which no ex officio treasurer is provided by law.

(M) "Treasurer" means, in the case of the state, the treasurer of state and in the case of any subdivision, the treasurer, or officer exercising the functions of a treasurer, of such subdivision. In the case of a board of trustees of the sinking fund of a municipal corporation, the board of commissioners of the sinking fund of a school district, or a board of directors or trustees of any union or joint institution or enterprise of two or more subdivisions not having a treasurer, such term means such board of trustees of the sinking fund, board of commissioners of the sinking fund, or board of directors or trustees.

(N) "Treasury investment board" of a municipal corporation means the mayor or other chief executive officer, the village solicitor or city director of law, and the auditor or other chief fiscal officer.

(O) "No-load money market mutual fund" means a no-load money market mutual fund to which all of the following apply:

(1) The fund is registered as an investment company under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-1 to 80a-64;

(2) The fund has the highest letter or numerical rating provided by at least one nationally recognized standard rating service;

(3) The fund does not include any investment in a derivative. As used in division (O)(3) of this section, "derivative" means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument. An eligible investment described in *section 135.14* or *135.35 of the Revised Code* with a variable interest rate payment, based upon a single interest payment or single index comprised of other investments provided for in division (B)(1) or (2) of *section 135.14 of the Revised Code*, is not a derivative, provided that such variable rate investment has a maximum maturity of two years.

(P) "Public depositor" means the state or a subdivision, as applicable, that deposits public moneys in a public depository pursuant to *sections 135.01 to 135.21 of the Revised Code*.

(Q) "Uninsured public deposit" means the portion of a public deposit that is not insured by the federal deposit insurance corporation or by any other agency or instrumentality of the federal government.

HISTORY: 132 v S 321 (Eff 6-11-68); 134 v S 113 (Eff 10-12-71); 135 v S 460 (Eff 9-23-74); 139 v H 255 (Eff 11-5-81); 139 v H 230 (Eff 3-15-82); 141 v H 144 (Eff 3-5-87); 142 v S 247 (Eff 11-21-88); 142 v H 584 (Eff 3-17-89); 143 v S 140 (Eff 10-2-89); 143 v H 434 (Eff 4-13-90); 143 v H 777 (Eff 4-26-90); 145 v S 12 (Eff 10-7-93); 146 v H 117 (Eff 9-29-95); 146 v S 81. Eff 9-27-96; 2011 HB 225, § 1, eff. Mar. 22, 2012; 2015 HB 64, § 101.01, effective Sep 29, 2015.



1 of 1 DOCUMENT

Page's Ohio Revised Code Annotated
 Copyright © 2016 Matthew Bender & Company, Inc., a member of the LexisNexis Group.
 All rights reserved.

*** Current with Legislation passed by the 131st General Assembly and filed with the Secretary of State through file 45 (SB 223) with the exception of file 44 (SB 190) ***

Title 1: State Government
 Chapter 135: Uniform Depository Act
 Public Depositories

[Go to the Ohio Code Archive Directory](#)

ORC Ann. 135.05 (2016)

§ 135.05 Estimate of inactive deposits.

Each governing board shall, at least three weeks prior to the date when it is required by *section 135.12 of the Revised Code* to designate public depositories, by resolution, estimate the aggregate maximum amount of public moneys subject to its control to be awarded and be on deposit as inactive deposits. The state board of deposit shall cause a copy of such resolution, together with a notice of the date on which the meeting of the board for the designation of such depositories will be held and the period for which such inactive deposits will be awarded, to be published once a week for two consecutive weeks in two newspapers of general circulation in each of the three most populous counties. The governing board of each subdivision shall cause a copy of such resolution, together with a notice of the date on which the meeting of the board for the designation of such depositories will be held and the period for which such inactive deposits will be awarded, to be published once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in *section 7.16 of the Revised Code*. If a subdivision is located in more than one county, such publication shall be made in a newspaper of general circulation in the county in which the major part of such subdivision is located, and of general circulation in the subdivision. A written notice stating the aggregate maximum amount to be awarded as inactive deposits of the subdivision shall be given to each eligible depository by the governing board at the time the first publication is made in the newspaper.

All deposits of the public moneys of the state or any subdivision made during the period covered by the designation in excess of the aggregate amount so estimated shall be active deposits or interim deposits. Inactive, interim, and active deposits shall be separately awarded, made, and administered as provided by *sections 135.01 to 135.21 of the Revised Code*.

HISTORY: 132 v S 321. Eff 6-11-68; 2011 HB 153, § 101.01, eff. Sept. 29, 2011.

NOTES:

Section Notes

Amendment Notes

The 2011 amendment, in the first paragraph, substituted "a newspaper of" for "two opposite politics and of" in the third sentence, added "or as provided in *section 7.16 of the Revised Code*" in the third sentence, and substituted "a newspaper of general circulation" for "newspapers published" in the fourth sentence; deleted "inclusive" following "to 135.21" in the second sentence of the second paragraph; and made a stylistic change.

Cross-References to Related Sections

Pledged receipts, *RC* § 133.25.

ATTORNEY GENERAL OPINIONS

The failure of the county commissioners, acting as the governing board, to comply with this section does not invalidate the board's designation of public depositories of county funds when all of the eligible institutions have made application therefor as provided in *R.C. 135.08* and *135.10* and a memorandum of agreement for depositories has been signed by each of the institutions selected and by the county commissioners acting as the governing board: (decided under former analogous section) *1959 OAG No. 860 (1959)*.

In the event the governing board of a subdivision prior to the time for designation of public depositories, as set forth in this section, should determine in the valid exercise of its discretion that no public funds subject to its control will be awarded and on deposit as inactive deposits during the two-year period provided by *GC* § 2296-11 (*R.C. 135.11*), there is no requirement or authority for the publication of the notice provided by this section: (decided under former analogous section) *1937 OAG No. 751 (1937)*.



1 of 1 DOCUMENT

Page's Ohio Revised Code Annotated
Copyright © 2016 Matthew Bender & Company, Inc., a member of the LexisNexis Group.
All rights reserved.

*** Current with Legislation passed by the 131st General Assembly and filed with the Secretary of State through file 45 (SB 223) with the exception of file 44 (SB 190) ***

Title 1: State Government
Chapter 135: Uniform Depository Act
Public Depositories

Go to the Ohio Code Archive Directory

ORC Ann. 135.07 (2016)

§ 135.07 Award of inactive deposits; preference based on interest rate.

Each governing board, in proceeding to award the inactive deposits of public moneys subject to its control to public depositories, shall estimate the probable amount of public moneys to be so deposited in and among the eligible public depositories applying therefor at the beginning of the period. Such board shall award the inactive deposits of public moneys subject to its control to the eligible institution or institutions offering to pay the highest rate of interest permissible at the commencement of the period of designation on like time certificates of deposit or savings or deposit accounts, in the amount, as to each, specified in the application of the institution therefor. If two or more eligible institutions offer to pay the same permissible highest rate of interest on like time certificates of deposit or savings or deposit accounts on amounts so specified, which in the aggregate exceed the estimated amount to be deposited at the beginning of the period, or the maximum amount thereof subject to deposit at any time during such period, the inactive deposits shall be divided and awarded among such eligible public depositories in proportion to their respective capital funds. If the aggregate amount of inactive public deposits as specified in the applications made therefor by the institution offering to pay the highest such permissible rate of interest thereon is less than the amount of public moneys to be initially so deposited, or the maximum amount required to be deposited during the period, as so estimated, the board shall award the remainder of such inactive deposits to the eligible institution offering to pay the next such highest permissible rate of interest thereon in the amount specified in its application. If the amounts so specified in the applications of two or more institutions offering to pay the same next highest permissible rate of interest on like time certificates of deposit or savings or deposit accounts are in the aggregate in excess of such remaining estimated or probable amount to be so deposited, then such remainder shall be divided among and awarded to each of such institutions in proportion to their respective capital funds. In case the aggregate amount of inactive public deposits as specified in the applications made therefor is less than the public moneys thereof to be initially deposited or the maximum amount required to be deposited during the period, as estimated by the board, such governing board may invite applications for the excess amount from eligible institutions and may designate and award such excess amount to such eligible institutions offering the highest permissible rate of interest on like time certificates of deposit or savings or deposit accounts.

This section does not require or permit any public depository to receive and have at any one time a greater amount of public moneys than that specified in the application of such depository. When, by reason of such limitation or otherwise, the amount of inactive public moneys deposited or to be deposited in a public depository, pursuant to an award made under this section, is reduced or withdrawn, as the case requires, the amount of such reduction, or the sum so withdrawn, shall be deposited in another eligible institution offering to pay a rate of interest on like time certificates of deposit or savings or deposit accounts as high as that offered by the institution from which such amount has been withheld or withdrawn, to the extent such other institution has applied therefor and is eligible to receive the same; and there-

after, or if there is no such eligible institution, the amount so withheld or withdrawn shall be deposited or invested as determined by the governing board in accordance with *sections 135.01 to 135.21 of the Revised Code*.

HISTORY: 132 v S 321 (Eff 6-11-68); 141 v H 144. Eff 3-5-87.

NOTES:

Cross-References to Related Sections

Interim deposit defined, *RC § 135.01*.

Notes to Decisions

Conflict of interest Interest rates Mandamus to compel award to highest bidder

Conflict of interest

The fact that a township trustee is a director in a bank does not disqualify such bank as a township depository if such bank makes the highest bid for township funds: *Richardson v. Trustees*, 18 Ohio Dec. 806, 6 Ohio N.P. 505 (1908).

Interest rates

The county treasurer must deposit full amount of bid with bank offering highest interest, before depositing in another bank: *State ex rel. Second Nat. Bank v. Harkelrode*, 34 Ohio App. 279, 170 N.E. 882 (1930).

Mandamus to compel award to highest bidder

Mandamus will lie to compel the county commissioners to designate the highest bidder as the depository of county funds, if such bidder has substantially complied with the requirements of the statutes upon that subject: *Commissioners v. State ex rel. Commercial State Bank*, 91 Ohio St. 145, 110 N.E. 254 (1914).



1 of 1 DOCUMENT

Page's Ohio Revised Code Annotated
Copyright © 2016 Matthew Bender & Company, Inc., a member of the LexisNexis Group.
All rights reserved.

*** Current with Legislation passed by the 131st General Assembly and filed with the Secretary of State through file 45 (SB 223) with the exception of file 44 (SB 190) ***

Title 1: State Government
Chapter 135: Uniform Depository Act
Public Depositories

Go to the Ohio Code Archive Directory

ORC Ann. 135.08 (2016)

§ 135.08 Application for interim deposits.

Each eligible institution desiring to be a public depository of interim deposits of the public moneys of the state or of the interim deposits of the public moneys of the subdivision shall, not more than thirty days prior to the date fixed by *section 135.12 of the Revised Code* for the designation of public depositories, make application therefor in writing to the proper governing board. Such application shall specify the maximum amount of such public moneys which the applicant desires to receive and have on deposit as interim deposits at any one time during the period covered by the designation, provided that it shall not apply for more than thirty per cent of its total assets as revealed by its latest report to the superintendent of financial institutions, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the board of governors of the federal reserve system, and the rate of interest which the applicant will pay thereon, subject to the limitations of *sections 135.01 to 135.21 of the Revised Code*.

Each application shall be accompanied by a financial statement of the applicant, under oath of its cashier, treasurer, or other officer, in such detail as to show the capital funds of the applicant, as of the date of its latest report to the superintendent of financial institutions, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the board of governors of the federal reserve system, and adjusted to show any changes therein made prior to the date of the application. Such application may be combined with an application for designation as a public depository of inactive deposits, active deposits, or both.

HISTORY: 132 v S 321 (Eff 6-11-68); 135 v S 141 (Eff 1-1-75); 136 v H 45 (Eff 5-12-75); 140 v H 707, Eff 12-13-84; 153 v H 1, § 101.01, eff. 10-16-09.

NOTES:

Section Notes

Amendment Notes

153 v H 1, effective October 16, 2009, rewrote the second sentence of the first paragraph; and substituted "financial institutions, ... federal reserve system" for "banks, superintendent of building and loan associations, federal home loan bank board, or comptroller of the currency" in the first sentence of the second paragraph.

Cross-References to Related Sections

Biennial application of depositories, *RC* § 135.12.



1 of 1 DOCUMENT

Page's Ohio Revised Code Annotated
Copyright © 2016 Matthew Bender & Company, Inc., a member of the LexisNexis Group.
All rights reserved.

*** Current with Legislation passed by the 131st General Assembly and filed with the Secretary of State through file 45 (SB 223) with the exception of file 44 (SB 190) ***

Title 1: State Government
Chapter 135: Uniform Depository Act
Public Depositories

Go to the Ohio Code Archive Directory

ORC Ann. 135.09 (2016)

§ 135.09 Award of interim deposits.

Interim deposits may be awarded by the treasurer or governing board as interim moneys become available.

The treasurer or the governing board shall award the interim deposits of public moneys subject to its control to the eligible institution or institutions which offer to pay the highest permissible rate of interest on interim deposits in like time certificates of deposit or savings or deposit accounts.

Whenever, during the period of designation, the treasurer or governing board considers the terms of the applications for interim deposits in force no longer reflect prevailing interest rates in the market, the board, by resolution, may determine this fact and request new bids for interim deposits from eligible institutions. Each application shall be in writing and made prior to the date set by the governing board, specifying the maximum amount of public moneys the applicant desires to receive and have on deposit as interim deposits at any one time during the remaining period of designation and the rate of interest the applicant will pay thereon, subject to the limitations of *sections 135.01 to 135.21 of the Revised Code*.

HISTORY: 132 v S 321 (Eff 6-11-68); 139 v H 255 (Eff 11-5-81); 141 v H 144. Eff 3-5-87.

NOTES:

Cross-References to Related Sections

Interim moneys, investment of, *RC* § 135.14.

Pledged receipts, *RC* § 133.25.



1 of 1 DOCUMENT

Page's Ohio Revised Code Annotated
Copyright © 2016 Matthew Bender & Company, Inc., a member of the LexisNexis Group.
All rights reserved.

*** Current with Legislation passed by the 131st General Assembly and filed with the Secretary of State through file 45 (SB 223) with the exception of file 44 (SB 190) ***

Title 1: State Government
Chapter 135: Uniform Depository Act
Public Depositories

Go to the Ohio Code Archive Directory

ORC Ann. 135.10 (2016)

§ 135.10 Application for active deposits.

Each eligible institution desiring to be a public depository of the active deposits of the public moneys of the state or of a subdivision shall, not more than thirty days prior to the date fixed by *section 135.12 of the Revised Code* for the designation of such public depositories, make application therefor in writing to the proper governing board. If desired, such application may specify the maximum amount of such public moneys which the applicant desires to receive and have on deposit at any one time during the period covered by the designation. Each application shall be accompanied by a financial statement of the applicant, under oath of its cashier, treasurer, or other officer, in such detail as to show the capital funds of the applicant, as of the date of its latest report to the superintendent of banks or comptroller of the currency, and adjusted to show any changes therein prior to the date of the application. Such application may be combined with an application for designation as a public depository of inactive deposits, interim deposits, or both.

HISTORY: 132 v S 321. Eff 6-11-68.

NOTES:

ATTORNEY GENERAL OPINIONS

A political subdivision is not required at law to make an advertisement for a depository of active deposits: *1966 Ohio Op. Att'y Gen. No. 104 (1966)*.

If there is in the treasury of the county a sum of money in addition to the amount for which depositories have already been provided, and the board of county commissioners desires to place the same in an active depository, it may receive new applications from qualified financial institutions, including those to whom active deposits have already been awarded: *1958 OAG No. 1899 (1958)*.



1 of 1 DOCUMENT

Page's Ohio Revised Code Annotated
Copyright © 2016 Matthew Bender & Company, Inc., a member of the LexisNexis Group.
All rights reserved.

*** Current with Legislation passed by the 131st General Assembly and filed with the Secretary of State through file 45 (SB 223) with the exception of file 44 (SB 190) ***

Title 1: State Government
Chapter 135: Uniform Depository Act
Public Depositories

Go to the Ohio Code Archive Directory

ORC Ann. 135.04 (2016)

First of two versions of this section.

§ 135.04 Eligibility for certain deposits; warrant clearance accounts; minority banks.

(A) Any institution mentioned in *section 135.03 of the Revised Code* is eligible to become a public depository of the active deposits, inactive deposits, and interim deposits of public moneys of the state subject to the requirements of *sections 135.01 to 135.21 of the Revised Code*.

(B) To facilitate the clearance of state warrants to the state treasury, the state board of deposit may delegate the authority to the treasurer of state to establish warrant clearance accounts in any institution mentioned in *section 135.03 of the Revised Code* located in areas where the volume of warrant clearances justifies the establishment of an account as determined by the treasurer of state. The balances maintained in such warrant clearance accounts shall be at sufficient levels to cover the activity generated by such accounts on an individual basis. Any financial institution in the state that has a warrant clearance account established by the treasurer of state shall, not more than ten days after the close of each quarter, prepare and transmit to the treasurer of state an analysis statement of such account for the quarter then ended. Such statement shall contain such information as determined by the state board of deposit, and this information shall be used in whole or in part by the treasurer of state in determining the level of balances to be maintained in such accounts.

(C) Each governing board shall award the active deposits of public moneys subject to its control to the eligible institutions in accordance with this section, except that no such public depository shall thereby be required to take or permitted to receive and have at any one time a greater amount of active deposits of such public moneys than that specified in the application of such depository. When, by reason of such limitation or otherwise, the amount of active public moneys deposited or to be deposited in a public depository, pursuant to an award made under this section, is reduced or withdrawn, as the case requires, the amount of such reduction or the sum so withdrawn shall be deposited in another eligible institution applying therefor, or if there is no such eligible institution, then the amount so withheld or withdrawn shall be awarded or deposited for the remainder of the period of designation in accordance with *sections 135.01 to 135.21 of the Revised Code*.

(D) Any institution mentioned in *section 135.03 of the Revised Code* is eligible to become a public depository of the inactive and interim deposits of public moneys of a subdivision. In case the aggregate amount of inactive or interim deposits applied for by such eligible institutions is less than the aggregate maximum amount of such inactive or interim deposits as estimated to be deposited pursuant to *sections 135.01 to 135.21 of the Revised Code*, the governing board of the subdivision may designate as a public depository of the inactive or interim deposits of the public moneys thereof,

one or more institutions of a kind mentioned in *section 135.03 of the Revised Code*, subject to the requirements of *sections 135.01 to 135.21 of the Revised Code*.

(E) Any institution mentioned in *section 135.03 of the Revised Code* is eligible to become a public depository of the active deposits of public moneys of a subdivision. In case the aggregate amount of active deposits of the public moneys of the subdivision applied for by such eligible institutions is less than the aggregate maximum amount to be deposited as such, as estimated by the governing board, said board may designate as a public depository of the active deposits of the public moneys of the subdivision, one or more institutions of the kind mentioned in *section 135.03 of the Revised Code*, subject to the requirements of *sections 135.01 to 135.21 of the Revised Code*.

(F) (1) The governing board of the state or of a subdivision may designate one or more minority banks as public depositories of its inactive, interim, or active deposits of public moneys designated as federal funds. Except for *section 135.18 or 135.181 of the Revised Code*, Chapter 135. of the Revised Code does not apply to the application for, or the award of, such deposits. As used in this division, "minority bank" means a bank that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, ethnic, or racial background, chronic economic circumstances, or other similar cause. Such persons include, but are not limited to, Afro-Americans, Puerto Ricans, Spanish-speaking Americans, and American Indians.

(2) In enacting this division, the general assembly finds that:

- (a) Certain commercial banks are owned or controlled by minority Americans;
- (b) Minority banks are an important source of banking services in their communities;
- (c) Minority banks have been unsuccessful in competing under Chapter 135. of the Revised Code for the award of federal funds;
- (d) This division contains safeguards for the protection of the general public and the banking industry, since it provides the governing board of the state or political subdivision with permissive authority in the award of deposits; limits the authority of the governing board to the award of federal funds; and subjects minority banks to certain limitations of Chapter 135. of the Revised Code, including the requirement that, as in the case of every financial institution subject to Chapter 135. of the Revised Code, a minority bank pledge certain securities for repayment of the deposits.

(3) The purpose of this division is to recognize that the state has a substantial and compelling interest in encouraging the establishment, development, and stability of minority banks by facilitating their access to the award of federal funds, while ensuring the protection of the general public and the banking industry.

(G) The governing board of a subdivision shall award the first twenty-five thousand dollars of the active deposits of public moneys subject to its control to the eligible institution or institutions applying or qualifying therefor on the basis of the operating needs of the subdivision and shall award the active deposits of public moneys subject to its control in excess of twenty-five thousand dollars to the eligible institution or institutions applying or qualifying therefor.

HISTORY: 132 v S 321 (Eff 6-11-68); 134 v S 113 (Eff 10-12-71); 138 v H 70 (Eff 9-12-79); 139 v H 230 (Eff 3-15-82); 146 v H 251 (Eff 11-24-95); 146 v S 81 (Eff 9-27-96); 146 v H 627. Eff 12-2-96.

NOTES:

Section Notes

Amendment Notes

The 2015 amendment by HB 64, inserted "or 135.182" in the first sentence of (F)(1); and made a related change.

Cross-References to Related Sections

Pledged receipts, *RC* § 133.25.

ATTORNEY GENERAL OPINIONS

Under the uniform depository act the awarding of active deposits can be made only to eligible and qualifying institutions that file an application for such award: *1969 Ohio Op. Att'y Gen. No. 114 (1969)*.

Pursuant to *R.C. 135.08* and *135.45*, if moneys which have been paid into the Ohio Subdivision's Fund are to be deposited in a financial institution, they must be deposited in an institution designated pursuant to *R.C. 135.12* by the State Board of Deposit in the most recent biennial designation of depositories for state moneys unless the institution is exempted from such requirements as a bank that is owned or controlled by one or more socially or economically disadvantaged persons, as provided for under *R.C. 135.04(G)(1)*: *1989 Ohio Op. Att'y Gen. No. 094 (1989)*.

RESOLUTION 2071

A RESOLUTION ESTIMATING THE AMOUNT OF INTERIM MONIES FOR DEPOSIT IN PUBLIC DEPOSITORIES; DIRECTING THE TREASURER TO TAKE PERIODIC APPLICATION AND TO AWARD INTERIM DEPOSITS AS MONIES BECOME AVAILABLE AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NELSONVILLE, OHIO:

1. That the City of Nelsonville, Ohio, hereby declares that it will have during the five year period from March 7, 2016 to March 6, 2021 a maximum amount of City monies available to be awarded as interim deposits of Five Million Dollars (\$5,000,000.00).
2. That the Treasurer of the City of Nelsonville shall accept periodic applications from eligible banks and savings and loan associations, pursuant to Ohio Revised Code Chapter 135, as interim monies become available.
3. That the Treasurer of the City of Nelsonville shall award interim deposits to the eligible institution or institutions which offer to pay the highest permissible rate of interest.
4. That the Treasurer of the City of Nelsonville shall notify the Nelsonville Council Finance Committee by letter on or before February 19, 2016 of the maximum amount of interim monies the City of Nelsonville will have before the next quintuple period.
5. This resolution is being passed as an emergency measure pursuant to O.R.C. 731.30 because the immediate passage of the Resolution is necessary so that the requirement of the Ohio Uniform Depository Act can be met, and this Resolution shall be in full force and effect upon its adoption.

Duly enacted by Council upon first reading under suspension of the rules this 8th day of February, 2016.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: February 8, 2016

RESOLUTION

A RESOLUTION DECLARING THE INTENT OF THE CITY COUNCIL TO DESIGNATE THE PUBLIC DEPOSITORIES FOR THE ACTIVE FUNDS OF THE CITY OF NELSONVILLE; THE TERM FOR RECEIVING APPLICATIONS; AND THE TIME FOR DESIGNATION AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NELSONVILLE, OHIO:

1. That the City of Nelsonville, Ohio, hereby declares its intent to designate the public depositories for the active funds of the City of Nelsonville for a five year period from March 7, 2016 to March 6, 2021.
2. That application from any eligible banks, pursuant to Ohio Revised Code Chapter 135 for quintuple designation as active depository, shall be received by the City Council from the 10th day of February until the 18th day of February, 2016, with adequate notice of this Resolution being given, pursuant to Ohio Revised Code Section 135.10 and 135.12.
3. That the designation of depository or depositories shall be made for a period of five years commencing on the 7th day of March 2016.
4. That the Council of the City of Nelsonville, Ohio, shall meet in regular session on Monday, February 22, 2016, and designate a depository or depositories.
5. This resolution is being passed as an emergency measure pursuant to O.R.C. 731.30 because the immediate passage of the Resolution is necessary so that the requirement of the Ohio Uniform Depository Act can be met, and this Resolution shall be in full force and effect upon its adoption.

Duly enacted by Council upon first reading under suspension of the rules this 8th of February, 2016.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: February 8, 2016

RESOLUTION

A RESOLUTION DESIGNATING DEPOSITORIES FOR ACTIVE MONIES FOR DEPOSIT IN PUBLIC DEPOSITORIES PURSUANT TO OHIO REVISED CODE CHAPTER 135; AND DECLARING AN EMERGENCY.

WHEREAS, March 7, 2016 is the day to designate the financial institutions to be public depositories for the active monies of this City, and this Council finds the notices for said applications were given as required by law; and

WHEREAS, the applications hereinafter described were all that had been received, and they applied for said monies to be deposited in them as follows:

1. Peoples Bank, Nelsonville, Ohio
Maximum Amount: \$5,000,000.00
2. Nelsonville Home and Saving Bank
Maximum Amount: \$1,000,000.00
3. Citizens Bank, Nelsonville, Ohio
Maximum Amount: \$5,000,000.00
4. First National Bank, Nelsonville, Ohio
Maximum Amount: \$2,000,000.00
5. Century National Bank
Maximum Amount: \$5,000,000.00

WHEREAS, this Council finds the sureties and securities tendered by these financial institutions are proper;

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NELSONVILLE, OHIO:

1. That the active deposits of public monies of the City of Nelsonville, Ohio are hereby awarded in accordance with Ohio Revised Code 135.04 (G) as follows:
 1. First \$25,000.00 to Peoples Bank of Nelsonville, Ohio on the basis of operating needs of the City of Nelsonville;
 2. The balance of active money may be deposited in any iof the following banks: Peoples Bank of Nelsonville, Ohio, Nelsonville Home and Saving Bank, Nelsonville, Ohio, Citizens Bank of Nelsonville, Ohio, First National Bank, Nelsonville, Ohio, and Century National Bank, Nelsonville, Ohio based upon criteria established by the Treasurer of the City of Nelsonville, but shall not exceed the amount specified in each bank's application.
2. This Ordinance is being passed as an emergency measure on first reading pursuant to Ohio Revised Code Section 731.30 because the

immediate passage of the Ordinance is necessary to allow the timely
awarding of the depository agreements.

Duly enacted by Council upon first reading under suspension of the rules this
22th day of February, 2016.

NELSONVILLE CITY COUNCIL

President of Council

Clerk of Council

First Reading: February 22, 2016