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S.B. 361
133rd General Assembly

Bill Analysis

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Version: As Passed by the Senate

Primary Sponsor: Sen. Burke

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SUMMARY

- Establishes the Adoption Linked Deposit Program in order to provide lower-cost loans to individuals who are adopting a child to pay for adoption expenses.
- Requires the Treasurer of State to take all steps necessary to implement the program and monitor eligible lending institution and borrower compliance with the program.
- Requires an eligible lending institution that would like to receive an adoption linked deposit to accept and review loan applications using the usual lending standards to determine the credit worthiness of the applicant.
- Requires the lending institution to send loan packages to the Treasurer for approval and requires the Treasurer to accept or reject the loan package based on its evaluation of each borrower and the amount of state funds to be placed with the lending institution.
- Requires the lending institution and the Treasurer to enter into a deposit agreement, if the Treasurer places an adoption linked deposit with the lending institution.
- Permits the Treasurer to determine the maturity of the financial instrument that constitutes the adoption linked deposit, but maturity cannot exceed five years, and may be renewed for up to an additional five years.
- Requires the lending institution to certify with the Treasurer that once an adoption linked deposit has been placed, the institution will lend the funds to each approved borrower listed in the loan package in accordance with the deposit agreement.
- Requires the Treasurer to file an annual report with the Governor, the Speaker of the House, and the President of the Senate on the Adoption Linked Deposit Program.

DETAILED ANALYSIS

Adoption Linked Deposit Program

The bill authorizes the Treasurer of State (Treasurer) to establish an Adoption Linked Deposit Program (program) in order to provide lower-cost loans to individuals in Ohio who are adopting a child to pay for adoption expenses. The bill specifies that the financial costs of adoptions in Ohio have grown and the growth has placed a substantial financial burden on families seeking to adopt. Therefore, it is the public policy of Ohio through the program to create an availability of lower-cost loans to reduce the financial burdens of adoption and to strengthen families in Ohio.¹

The Treasurer will fund the program with adoption linked deposits. Similar to how other linked deposit programs in Ohio operate, the Treasurer will invest state funds in certificates of deposits or other fully collateralized financial institution instruments (financial instruments) at an eligible lending institution and in return the Treasurer will accept a reduced rate-of-return on the investment. In turn, the eligible lending institution agrees to pass the savings on to the approved borrower in the form of an interest-rate reduction. If established, the Treasurer must take all steps necessary to implement the program and monitor compliance of eligible lending institutions and eligible borrowers, including development of guidelines as necessary.²

Loan transaction

Application

First, an eligible lending institution that would like to receive an adoption linked deposit must accept and review loan applications for eligible borrowers using the usual lending standards to determine credit worthiness of the applicant. The *loan* can be an upfront lump sum, line of credit, or any other reasonable arrangement approved by the Treasurer.³

For purposes of the program, an *eligible lending institution* is a financial institution that can make secured or unsecured loans, agrees to participate in the program, and is either a public depository and is eligible under the existing Uniform Depository Act to accept state funds (banks, federal savings associations, savings and loan associations, or savings banks), or is a credit union. An eligible lending institution must comply with Ohio's Uniform Depository Act.⁴

To be considered an *eligible borrower* under the program, the borrower must be an Ohio resident who either (1) was approved to adopt in Ohio following a home study or (2) is pursuing

¹ R.C. 135.791.

² R.C. 135.63, 135.78, 135.79(C) and (D), 135.794(B), and 135.795.

³ R.C. 135.792(A) and 135.79(E).

⁴ R.C. 135.79(B), 135.793(D), 1733.04, and 1733.24.

an adoption through the public foster care system and meets the requirements set by the Department of Job and Family Services.⁵

On the loan application, the eligible borrower must certify that the reduced rate loan will be used exclusively to pay for qualifying adoption expenses. **Qualifying adoption expenses** are expenses incurred to legally adopt a child, such as medical, legal, and living expenses, and include any costs incurred by the eligible borrower proximately relating to the completion and approval of the home study and any other expense as determined by the Treasurer.

A person who makes a false statement on the application is guilty of falsification, which is a first degree misdemeanor.⁶

Loan package

Upon receiving a loan application, the eligible lending institution must certify that the applicant is eligible for the program, certify the present borrowing rate for the applicant, and certify to the Treasurer that the lending institution applied its usual lending standards to determine the credit worthiness of the applicant. Then, the lending institution will forward this loan package, including the amount of the loan requested and any other information the Treasurer requires, to the Treasurer.⁷ A single loan package may be used for multiple applications.

The Treasurer will then accept or reject the loan package or any portion of it based on the Treasurer's evaluation of the borrower as presented in the package and based on the amount of state funds to be placed with the lending institution. If the Treasurer accepts part of or the entire loan package, then the Treasurer can place financial instruments with the lending institution at a rate of return that is below the current market rate, as determined by the Treasurer. The Treasurer can also, when necessary, place financial instruments with the financial institution before acceptance of a loan package.⁸

Deposit agreement

After accepting a loan package, the lending institution and the Treasurer must enter into a deposit agreement, which must include the requirements necessary to carry out the purpose of the program and reflect the prevailing market conditions in the lending institutions area. The agreement must also include provisions regarding the financial instrument to be placed for any maturity considered appropriate by the Treasurer, but the maturity cannot exceed five years. However, the Treasurer can renew the financial instrument for up to an additional five years. Interest must be paid at the times determined by the Treasurer. The agreement may also

⁵ R.C. 135.79(A).

⁶ R.C. 135.79(F) and 135.792(B) and R.C. 2921.13 and 3107.055, not in the bill.

⁷ R.C. 135.792(C).

⁸ R.C. 135.793(A) and (B).

include a specified period of time the lending institution must lend funds after the placement of the adoption linked deposit.⁹

The lending institution must certify with the Treasurer that, once an adoption linked deposit has been placed, the institution will lend the funds to each approved eligible borrower listed in the loan package in accordance with the deposit agreement.¹⁰

Loan to borrower

The loan must be at a rate that reflects a percentage rate reduction below the present borrowing rate applicable to each borrower that is equal to or greater than the percentage rate reduction below market rates at which the financial instrument that constitute the adoption linked deposit were placed.¹¹

Liability

The bill provides that the state and the Treasurer are not liable to any lending institution in any manner for payment of the principal or interest on the loan to an eligible borrower. Any delay in payments or default on the part of a borrower does not in any manner affect the agreement between the lending institution and the Treasurer.¹²

Treasurer's report to Governor

Each February 1st, the Treasurer is required to report to the Governor, the Speaker of the House of Representatives, and the President of the Senate on the program. The report must set forth the adoption linked deposits made by the Treasurer under the program during the preceding calendar year and must include information regarding the nature, terms, and amounts of the loans which the adoption linked deposits were based and the eligible borrowers to which the loans were made.¹³

HISTORY

Action	Date
Introduced	08-31-20
Reported, S. Health, Human Services and Medicaid	09-23-20
Passed Senate (33-0)	09-23-20

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⁹ R.C. 135.793(C).

¹⁰ R.C. 135.794(A).

¹¹ R.C. 135.794(A).

¹² R.C. 135.796.

¹³ R.C. 135.794(C).