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OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 115
134th General Assembly

Final Analysis

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SUMMARY

- Gives a public depository in the Ohio Pooled Collateral Program two business days to pledge additional securities to satisfy the minimum collateral requirement if the value of its existing pledged securities falls below that minimum.
- Exempts a public depositor, treasurer, or the public depositor's or treasurer's bonders or surety from liability for the loss of funds due to a public depository's failure to maintain sufficient pledged collateral.

DETAILED ANALYSIS

Ohio Pooled Collateral Program

The Ohio Pooled Collateral Program (OPCP) is a program administered by the Ohio Treasurer of State with the purpose of protecting government deposits, both state and local, by streamlining the process of pledging collateral to secure public deposits. The Treasurer's office is the sole administrator of the program and is responsible for managing the pledged collateral.¹

Under continuing law, a public depository, an institution that receives or holds public moneys, such as a qualified bank, must provide security for the repayment of those deposits in one of two ways. First, it may secure any uninsured public deposits of each public depositor separately at 105% at all times. Or, it may participate in the OPCP and secure any uninsured

¹ R.C. 135.182 and R.C. 135.01 and 135.31, not in the act, and Ohio Pooled Collateral System, Ohio Treasurer of State, <https://tos.ohio.gov/ohio-pooled-collateral-system/>.

public deposits by establishing and pledging to the Treasurer of State a single pool of collateral for the benefit of every public depositor at the public depository.²

In other words, it may secure the deposits of each depositor separately or together. If it chooses the latter, it must follow the requirements of the OPCP. The OPCP requires that at all times, the total market value of the pledged securities equal at least 102% of all uninsured public deposits at that institution or an amount determined by rules adopted by the Treasurer of State.³

The act makes two changes to the OPCP related to minimum collateral requirements and liability.

Collateral

First, the act adds a requirement that if, on any day, the total market value of the securities pledged by the public depository is less than the applicable minimum requirement, the depository has two business days to pledge additional eligible securities having a market value sufficient, when combined with the market value of eligible securities already pledged, to satisfy the minimum requirement to secure the repayment of all uninsured public deposits at the public depository.⁴ In other words, if the public funds become under-collateralized, the public depository has a two-day grace period to correct the problem and still be in compliance with OPCP. Two common reasons for under-collateralization are an unexpected increase in public deposits at the public depository or a decrease in the value of the existing pledged collateral due to market conditions.⁵

Liability

The second change made by the act relates to liability for loss of funds. Under continuing law, in order to accept public moneys, a public depository must, in addition to pledging collateral as described above, enter into an agreement with the Treasurer of State that meets certain requirements.⁶ The act explicitly exempts a public depositor, treasurer (whether the Treasurer of State or the treasurer of a political subdivision), or the public depositor's or treasurer's bonders or surety from liability for the loss of funds if a public depository fails to comply with the agreement's terms regarding the appropriate level of collateral.⁷

² R.C. 135.18 and 135.37, not in the act.

³ R.C. 135.182(B).

⁴ R.C. 135.182(B)(3).

⁵ Robert Sprague, Ohio Treasurer, *Ohio Pooled Collateral System (OPCS): Public Unit Best Practices*, http://ohiocountytreasurers.org/aws/CTAO/asset_manager/get_file/391265?ver=1365.

⁶ R.C. 135.182(D).

⁷ R.C. 135.182(K) and 135.01.

HISTORY

Action	Date
Introduced	03-03-21
Reported, S. Financial Institutions & Technology	05-11-21
Passed Senate (33-0)	06-02-21
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