

AUDITOR OF STATE BULLETIN 2000-011
July 24, 2000

TO: VILLAGE CLERK-TREASURERS
VILLAGE FINANCE DIRECTORS
CITY AUDITORS
CITY FINANCE DIRECTORS
CITY TREASURERS
COUNTY AUDITORS
COUNTY COMMISSIONERS
COUNTY TREASURERS
TOWNSHIP CLERKS
SCHOOL DISTRICT TREASURERS
J.V.S.D. TREASURERS
EDUCATIONAL SERVICE CENTER TREASURERS
PORT AUTHORITY FISCAL OFFICERS
LIBRARY TREASURERS
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: Investment & Deposit Changes and Sub. H.B. 473

The purpose of this bulletin is to discuss several changes to the investment and depository laws for subdivisions investing and depositing funds pursuant to Ohio Rev. Code Chapter 135. Those changes are made by Sub. H.B. 473 (the Act), effective 6/15/00.

PUBLIC DEPOSITORY COLLATERAL REQUIREMENTS
(Sections 135.18, 135.181, and 135.37)

The Act eliminates the authority of a subdivision or county treasurer to *require* a public depository to deposit surety company bonds as collateral for public deposits and adds surety bonds to the list of securities that *may* be pledged as collateral for public deposits. Such surety bonds must be issued by a corporate surety licensed and authorized to issue surety bonds pursuant to Chapter 3929 of the Ohio Rev. Code and qualified to provide surety bonds to the federal government pursuant to 31 U.S.C. § 9304.

In addition, the Act eliminates the separate lists of securities eligible as specifically pledged or pooled collateral for public deposits. Instead, the Act provides that the single list of securities specified in Ohio Rev. Code § 135.18 and surety bonds are eligible as either pooled or specifically pledged collateral.

Finally, the Act changes the requirement that the total value of pooled securities equals 110% to a requirement that the market value equals 105% of public funds deposited with that public depository, including FDIC or other insured amounts. Similarly, the Act provides that if pooled securities are substituted, exchanged, or released by a public depository the total market value of

pooled securities may not be less than 105% of public funds deposited with that public depository, including FDIC or other insured amounts.

COMMERCIAL PAPER AND BANKERS ACCEPTANCES **(Sections 135.14(B)(7) and 135.35(A)(8))**

Under prior law only counties and school districts were permitted to invest in bankers acceptances and commercial paper. The Act creates uniform requirements for all subdivision treasurers and county treasurers. The Act permits up to 25% of interim moneys available for investment by political subdivisions other than counties, or for counties up to 25% of a county's total average portfolio, to be invested in either commercial paper or bankers acceptances after meeting specified requirements.

For commercial paper, the Act requires that the notes be issued by an entity that has assets exceeding \$500 million and is a for-profit corporation existing under the laws of any state or a business association, real estate investment trust, common law trust, unincorporated business, for profit organization, or a limited liability company existing under the laws of the United States or of any state. Commercial paper notes issued by these entities must have the following qualifications:

- (1) the notes must be rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services;
- (2) the aggregate value of the notes must not exceed 10% of the aggregate value of the outstanding commercial paper of the issuing corporation; and
- (3) the notes must mature not later than 180 days after purchase.

With respect to bankers acceptances, the Act requires that the acceptances be issued by banks that are insured by the Federal Deposit Insurance Corporation (FDIC) and that both of the following apply:

- (1) the obligations are eligible for purchase by the Federal Reserve System, and
- (2) the obligations must mature not later than 180 days after the purchase.

The Act prohibits the treasurer or governing board of a subdivision or a county treasurer from investing in either commercial paper or bankers acceptances if the treasurer has not completed additional training for making these investments. The type and amount of this additional training must be approved by the Auditor of State and may be conducted by or provided under the supervision of the Auditor of State.

REPURCHASE AGREEMENTS **(Sections 135.14(D) and (E) and 135.35(C) and (D))**

The Act expands the types of securities that are eligible for repurchase agreements by political

subdivisions and county treasurers. Subdivisions are now authorized to invest in repurchase agreements in the instruments listed in divisions B(1) to B(5), except letters of credit, of Ohio Rev. Code § 135.18. County treasurers may invest in repurchase agreements in the instruments listed in divisions B(1) to B(5), except letters of credit, of Ohio Rev. Code § 135.18. In addition, the Act eliminates the requirement that instruments underlying a repurchase agreement entered into by a county treasurer or subdivision mature within five years unless matched to a specific obligation.

INVESTMENT ADVISORS

(Section 135.14(N))

The Act provides that a treasurer or governing board of a political subdivision or a county investment advisory committee is authorized to retain the services of an investment advisor, provided the advisor is:

- (1) licensed as an investment advisor by the Division of Securities or is Registered with the Securities and Exchange Commission, and
- (2) possesses experience in public funds investment management, specifically in the area of state and local government investment portfolios.

As an alternative to (1) and (2) above, the Act allows the advisor be an institution eligible to be a depository under Ohio Rev. Code § 135.03.

MATURITY LIMITS FOR COUNTY INVESTMENTS

(Section 135.35(C))

Under the Act, an investment by a county treasurer that is approved by the investment advisory committee and is matched to a specific obligation or debt of a political subdivision located wholly or partly within the county is exempt from the general requirement that investments mature within five years.

COUNTY INVESTMENT RECORDKEEPING AND REPORTING

(Section 135.35(L))

The Act eliminates the requirement that a county treasurer make a quarterly investment report to the county investment advisory committee. Instead the monthly portfolio report required by Ohio Rev. Code § 135.35(L) must be supplied to the committee. In addition, the monthly portfolio report and inventory are no longer required to be on a form approved by the Auditor of State, but they remain public records.

COUNTY DEPOSITORY DESIGNATION

(Section 135.33)

The Act changes the depository designation period for *county* public depositories from two years to four years.

If you have any questions, please contact the Auditor of State's Legal Division at 1-800-282-0370.