



COUNTY ADVISORY BULLETIN

CAB

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February, 2012
Revised September, 2012

CHANGES TO THE COUNTY INVESTMENT LAW

APPLICABLE LEGISLATION: Am. Sub. H. B. 225
Am. Sub. H. B. 487

REVISED CODE SECTIONS: Amends ORC Section 135.35

SPONSORS (OF H. B. 225): Peterson and Landis

Reps. J. Adams, R. Adams, Amstutz, Anielski, Antonio, Baker, Balderson, Barnes, Batchelder, Beck, Blair, Blessing Boose, Brenner, Bubp, Buchy, Carey, Carney, Damschroder, DeGeeter, Derickson, Dovilla, Duffey, Foley, Goodwin, Grossman, Hackett, Hall, Hayes, Henne, Hollington, Huffman, Letson, Maag, Mallory, McClain, McKenney, Milkovich, Newbold, O'Brien, Pillich, Ramos, Ruhl, Schuring, Sears, Slaby, Sprague, Stebelton, Stinziano, Szollosi, Thompson, Uecker, Weddington, Yuko

Sens. Coley, Daniels, Eklund, Hite, LaRose, Lehner, Niehaus, Seitz

SPONSORS (OF H. B. 487): Amstutz

Reps. Beck, Blair, Buchy, Combs, McClain, Sears, Sprague, Stebelton, Terhar, Wachtmann

Sens. Bacon, Coley, Eklund, Jones, Lehner, Niehaus

EFFECTIVE DATES: March 22, 2012
September 10, 2012

GENERAL INFORMATION

H. B. 225 made changes to the county investment law by amending ORC Section 135.35. The changes were supported by CCAO and became effective on March 22, 2012. After the

enactment of these changes, concerns were expressed by a number of county treasurers' and the County Treasurers Association of Ohio (CTAO) took the position to make changes to the law, as amended. It became apparent to CCAO that there was support for these changes by leadership in the Senate and CCAO thus determined to work with the County Treasurers Association to try to find an accommodation. While CCAO does not entirely like the changes in H. B. 487, it was the feeling of staff that a compromise was needed given the level of support for the changes proposed by CTAO.

CTAO worked to return some of the investment provisions to the pre-HB 225 version because it believed the relaxation of restrictions on certain types of investments would put the security of county treasuries at risk. In CTAO's view, the changes in HB 225 returned the investment chapter in significant ways to the way it read in the early 1990s. A number of counties at that time suffered large losses due to the failure of derivative investments and the collapse of the SAFE fund in Cuyahoga County due to in part to an over-reliance on investments in long term paper. Cuyahoga County lost \$115 million, lawsuits followed, and the county treasurer was convicted (later reversed) of dereliction of duty. Significant safeguards were put into the code after that event, and since 1995 there have been no significant investment-related losses in county treasuries.

CTAO remains open to dialogue with CCAO on changes in the investment code, but was concerned that the changes made rather hastily in HB 225 would create the opportunity for an un-prudent amount of risk-taking in county investment policy.

The changes to the law enacted in H. B. 225 (some of which have been changed in H. B. 487) are attached as Exhibit 1. Generally, the changes in the law did the following:

1. Expanded eligible investments for county inactive monies to bonds or other obligations of the state and any political subdivision in the state. Under the former law, counties could only invest in the bonds of other political subdivisions if the political subdivision was located wholly or partly within the county. Under the former law, any such investments had to be specifically approved by the county investment advisory committee, and this provision of law continues to apply.
2. Generally increased the maximum maturity for eligible investments of county inactive monies from 5 to 10 years. Certain exemptions from this 10 year limitation as contained in the former law remain unchanged and will be explained later in greater detail.
3. Allowed up to 25% of the county's total average investment portfolio to mature in more than 10 years. This authority was limited to cases where a majority of the county investment advisory committee voted to allow this extended maturity for up to 25% of the county's total average portfolio. In addition, even if the county investment advisory committee so voted, the county treasurer was authorized, but could not be required by the investment advisory committee, to invest beyond the maximum maturity period authorized under the law (10 years), with certain specific exceptions that will be described in great detail later in this CAB.

The changes to the law enacted in H. B. 487 are attached as Exhibit 2. Following are the changes in H. B. 487, effective September 10, 2012:

1. The provision that generally increased the maximum maturity for eligible investments of county inactive monies to 10 years has been repealed and the former maximum maturity of 5 years has been reinstated.
2. Repeals Division O of ORC Section 135.35 that had been enacted in H. B. 225. Thus, the authority granted in H. B. 225 that allowed up to 25% of the county's average investment portfolio to mature in more than 10 years has been repealed. When read in conjunction with the previous change, the practical limit is that most investments must mature in no more than 5 years.
3. Makes it clear that, if any county has invested in eligible investments with a greater maturity than 5 years, such investments may be held to maturity, assuring that such investments would not have to be sold at a loss because of early redemption.
4. Retains the change made in H.B. 225 allowing county inactive monies to be invested in bonds or other obligations of the state and any political subdivision in the state. Prior to the enactment of H.B. 225, counties could only invest in the bonds of other political subdivisions if the political subdivision was located wholly or partly within the county. Thus, H.B. 487 retains the authority to invest in debt of any political subdivision in the state and continues to allow such investments to mature in more than 5 years if tied to a specific obligation and if specifically approved by the county investment advisory committee.

COUNTY INVESTMENT AUTHORITY AND COUNTY INVESTMENT ADVISORY COMMITTEE (ORC 135.31, 135.34 & 135.341)

Under Ohio law the county treasurer is designated as the investing authority of the county. A county investment advisory committee is also established in each county under law and is composed of:

1. Two county commissioners designated by the board of county commissioners and the county treasurer, or
2. All three county commissioners, the county treasurer and the clerk of the court of common pleas.

The purpose of the county investment advisory committee is to establish written county investment policies. It must meet at least once every three months, to review or revise the investment policies and to advise the county treasurer on the county investments in order to ensure the best and safest return of funds. The committee's policies may establish a limit on the period of time that moneys may be invested in any particular type of investment.

The county investment advisory committee is authorized to contract with an investment advisor, provided that the advisor is licensed by the division of securities or is registered with the securities and exchange commission, and possesses public funds investment management experience, specifically in the area of state and local government investment portfolios, or the advisor is an eligible institution mentioned in ORC Section 135.03.

Finally, the law allows the board of county commissioners to semiannually review the investment procedures of the county treasurer. If it is determined that the county treasurer has failed to invest the inactive moneys of the county as provided by law, or in documented

substantial, material, and continuing disregard of the advice or written policies of the county investment advisory committee, the board of county commissioners provides written notice to the county treasurer of its finding. When, at the time of the next succeeding semiannual review, the commissioners find that such procedures, as included in the written notice, have not been corrected, then the commissioners may designate, by resolution, the board of county commissioners as a whole, one of its members, or one of its employees as the investing authority, and thereafter, until such action is rescinded, the investing authority is as designated by the commissioners.

ELIGIBILITY TO INVEST IN BONDS OR OTHER OBLIGATIONS OF THE STATE OR POLITICAL SUBDIVISIONS (ORC 135.35(A)(4))

Prior to the enactment of H.B. 225, counties were authorized to invest inactive monies in “bonds and other obligations of this state or the political subdivisions of this state, provided that such political subdivisions are located wholly or partly within the same county as the investing authority.” H.B. 225 removed the limitation on investing in political subdivision debt or other obligations located outside of the geographic boundaries of the county. This provision is not affected by the changes enacted in H.B. 487. Counties are thus still authorized to invest in political subdivision debt or other obligations issued by political subdivisions located outside of the county.

MAXIMUM MATURITY OF COUNTY INVESTMENTS LIMITED TO 5 YEARS (ORC 135.35(C))

While H.B. 225 generally increased the maximum maturity of county investments from 5 to 10 years, H.B. 487 reinstated the law to 5 years at the urging of the County Treasurers Association of Ohio. However, there continues to be two primary exceptions from the 5 year maturity limit as follows:

1. Repurchase agreements authorized by ORC Section 135.35.
2. Debt of political subdivisions if the investment is matched to a specific obligation or debt of the county or to a specific obligation or debt of a political subdivision. Under this provision of law, a county, for example, can invest in 20 or 30 year political subdivision debt notwithstanding the general maturity limit of 5 years.

Both of these exceptions still apply to ORC Section 135.35 as amended.

MAXIMUM MATURITY OF INVESTMENTS IN BONDS OR OTHER OBLIGATIONS OF THE STATE OR POLITICAL SUBDIVISION (ORC 135.35(A)(4) & (C))

Prior to the enactment of both H.B. 225 and H.B. 487, a county could invest beyond the maximum maturity limit (5 years) authorized by law in the case where the “investment is matched to a specific obligation or debt of the county or to a specific obligation or debt of a political subdivision of this state located wholly or partly within the county, and the investment is specifically approved by the investment advisory committee.” Thus, even though the law has been changed to allow for the investment in political subdivision debt outside the county, this has not changed the fact that a county can invest in political subdivision debt longer than the maximum 5 year maturity if it is matched to a specific obligation.

In addition, the law continues to require any such investment in debt of political subdivisions to be specifically approved by the county investment advisory committee. In the case of state debt

obligations, the maximum maturity may not exceed 5 years, and investment in state debt obligations are not subject to specific approval by the county investment advisory committee.

ABILITY TO EXTEND MATURITY OF COUNTY'S TOTAL AVERAGE INVESTMENT PORTFOLIO (ORC 135.35(O))

H. B. 225 also allowed up to 25% of the county's total average investment portfolio to mature in more than 10 years. In order for this to be possible the act required a majority vote of the county investment advisory committee. However, even if such approval was granted by the county investment advisory committee, such action only provided authorization to the county treasurer and did not require the county treasurer to invest beyond the 10 year general limit on maturities. This provision that was included in Division O of ORC Section 135.35 has now been repealed by H. B. 487 as has the 10 year maturity limit at the urging of the County Treasurers Association.

Thus, the law now generally limits the maturity of eligible investments to 5 years with the two major exceptions noted previously. However, technically the law still allows the entire portfolio to mature beyond the 5 year limitation if the investments are in political subdivision obligations if the investment is matched to a specific obligation or debt of the county or to a specific obligation or debt of a political subdivision.

EXHIBIT 1

OHIO REVISED CODE SECTION 135.35

AS AMENDED BY SUB. H. B. 225 OF THE 129TH GENERAL ASSEMBLY

EFFECTIVE 3-22-12

Sec. 135.35. (A) The investing authority shall deposit or invest any part or all of the county's inactive moneys and shall invest all of the money in the county public library fund when required by section 135.352 of the Revised Code. The following classifications of securities and obligations are eligible for such deposit or investment:

(1) United States treasury bills, notes, bonds, or any other obligation or security issued by the United States treasury, any other obligation guaranteed as to principal or interest by the United States, or any book entry, zero-coupon United States treasury security that is a direct obligation of the United States.

Nothing in the classification of eligible securities and obligations set forth in divisions (A)(2) to (11) of this section shall be construed to authorize any investment in stripped principal or interest obligations of such eligible securities and obligations.

(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality, including but not limited to, the federal national mortgage association, federal home loan bank, federal farm credit bank, federal home loan mortgage corporation, government national mortgage association, and student loan marketing association. All federal agency securities shall be direct issuances of federal government agencies or instrumentalities.

(3) Time certificates of deposit or savings or deposit accounts, including, but not limited to, passbook accounts, in any eligible institution mentioned in section 135.32 of the Revised Code;

(4) Bonds and other obligations of this state or the political subdivisions of this state, ~~provided that such political subdivisions are located wholly or partly within the same county as the investing authority;~~

(5) No-load money market mutual funds consisting exclusively of obligations described in division (A)(1) or (2) of this section and repurchase agreements secured by such obligations, provided that investments in securities described in this division are made only through eligible institutions mentioned in section 135.32 of the Revised Code;

(6) The Ohio subdivision's fund as provided in section 135.45 of the Revised Code;

(7) Securities lending agreements with any eligible institution mentioned in section 135.32 of the Revised Code that is a member of the federal reserve system or federal home loan bank or with any recognized United States government securities dealer meeting the description in division (J)(1) of this section, under the terms of which agreements the investing

authority lends securities and the eligible institution or dealer agrees to simultaneously exchange similar securities or cash, equal value for equal value.

Securities and cash received as collateral for a securities lending agreement are not inactive moneys of the county or moneys of a county public library fund. The investment of cash collateral received pursuant to a securities lending agreement may be invested only in instruments specified by the investing authority in the written investment policy described in division (K) of this section.

(8) Up to twenty-five per cent of the county's total average portfolio in either of the following investments:

(a) Commercial paper notes issued by an entity that is defined in division (D) of section 1705.01 of the Revised Code and that has assets exceeding five hundred million dollars, to which notes all of the following apply:

(i) The notes are rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services.

(ii) The aggregate value of the notes does not exceed ten per cent of the aggregate value of the outstanding commercial paper of the issuing corporation.

(iii) The notes mature not later than two hundred seventy days after purchase.

(b) Bankers acceptances of banks that are insured by the federal deposit insurance corporation and to which both of the following apply:

(i) The obligations are eligible for purchase by the federal reserve system.

(ii) The obligations mature not later than one hundred eighty days after purchase.

No investment shall be made pursuant to division (A)(8) of this section unless the investing authority has completed additional training for making the investments authorized by division (A)(8) of this section. The type and amount of additional training shall be approved by the auditor of state and may be conducted by or provided under the supervision of the auditor of state.

(9) Up to fifteen per cent of the county's total average portfolio in notes issued by corporations that are incorporated under the laws of the United States and that are operating within the United States, or by depository institutions that are doing business under authority granted by the United States or any state and that are operating within the United States, provided both of the following apply:

(a) The notes are rated in the second highest or higher category by at least two nationally recognized standard rating services at the time of purchase.

(b) The notes mature not later than two years after purchase.

(10) No-load money market mutual funds rated in the highest category at the time of purchase by at least one nationally recognized standard rating service and consisting exclusively of obligations described in division (A)(1), (2), or (6) of section 135.143 of the Revised Code;

(11) Debt interests rated at the time of purchase in the three highest categories by two nationally recognized standard rating services and issued by foreign nations diplomatically recognized by the United States government. All interest and principal shall be denominated and payable in United States funds. The investments made under division (A)(11) of this section shall not exceed in the aggregate one per cent of a county's total average portfolio.

The investing authority shall invest under division (A)(11) of this section in a debt interest issued by a foreign nation only if the debt interest is backed by the full faith and credit of that foreign nation, there is no prior history of default, and the debt interest matures not later than five years after purchase. For purposes of division (A)(11) of this section, a debt interest is rated in the three highest categories by two nationally recognized standard rating services if either the debt interest itself or the issuer of the debt interest is rated, or is implicitly rated, at the time of purchase in the three highest categories by two nationally recognized standard rating services.

(12) A current unpaid or delinquent tax line of credit authorized under division (G) of section 135.341 of the Revised Code, provided that all of the conditions for entering into such a line of credit under that division are satisfied, or bonds and other obligations of a county land reutilization corporation organized under Chapter 1724. of the Revised Code, if the county land reutilization corporation is located wholly or partly within the same county as the investing authority.

(B) Nothing in the classifications of eligible obligations and securities set forth in divisions (A)(1) to (11) of this section shall be construed to authorize investment in a derivative, and no investing authority shall invest any county inactive moneys or any moneys in a county public library fund in a derivative. For purposes of this division, "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 this section with a variable interest rate payment, based upon a single interest payment or single index comprised of other eligible investments provided for in division (A)(1) or (2) of this section, is not a derivative, provided that such variable rate investment has a maximum maturity of two years. A treasury inflation-protected security shall not be considered a derivative, provided the security matures not later than five years after purchase.

(C) Except as provided in ~~division~~ divisions (D) and (O) of this section, any investment made pursuant to this section must mature within ~~five~~ ten years from the date of settlement, unless the investment is matched to a specific obligation or debt of the county or to a specific obligation or debt of a political subdivision of this state ~~located wholly or partly within the county,~~ and the investment is specifically approved by the investment advisory committee.

(D) The investing authority may also enter into a written repurchase agreement with any eligible institution mentioned in section 135.32 of the Revised Code or any eligible securities dealer pursuant to division (J) of this section, under the terms of which agreement the investing

authority purchases and the eligible institution or dealer agrees unconditionally to repurchase any of the securities listed in divisions (B)(1) to (5), except letters of credit described in division (B)(2), of section 135.18 of the Revised Code. The market value of securities subject to an overnight written repurchase agreement must exceed the principal value of the overnight written repurchase agreement by at least two per cent. A written repurchase agreement must exceed the principal value of the overnight written repurchase agreement, by at least two per cent. A written repurchase agreement shall not exceed thirty days, and the market value of securities subject to a written repurchase agreement must exceed the principal value of the written repurchase agreement by at least two per cent and be marked to market daily. All securities purchased pursuant to this division shall be delivered into the custody of the investing authority or the qualified custodian of the investing authority or an agent designated by the investing authority. A written repurchase agreement with an eligible securities dealer shall be transacted on a delivery versus payment basis. The agreement shall contain the requirement that for each transaction pursuant to the agreement the participating institution shall provide all of the following information:

(1) The par value of the securities;

(2) The type, rate, and maturity date of the securities;

(3) A numerical identifier generally accepted in the securities industry that designates the securities.

No investing authority shall enter into a written repurchase agreement under the terms of which the investing authority agrees to sell securities owned by the county to a purchaser and agrees with that purchaser to unconditionally repurchase those securities.

(E) No investing authority shall make an investment under this section, unless the investing authority, at the time of making the investment, reasonably expects that the investment can be held until its maturity. The investing authority's written investment policy shall specify the conditions under which an investment may be redeemed or sold prior to maturity.

(F) No investing authority shall pay a county's inactive moneys or moneys of a county public library fund into a fund established by another subdivision, treasurer, governing board, or investing authority, if that fund was established by the subdivision, treasurer, governing board, or investing authority for the purpose of investing or depositing the public moneys of other subdivisions. This division does not apply to the payment of public moneys into either of the following:

(1) The Ohio subdivision's fund pursuant to division (A)(6) of this section;

(2) A fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to the authority provided under section 715.02 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution.

For purposes of division (F) of this section, "subdivision" includes a county.

(G) The use of leverage, in which the county uses its current investment assets as collateral for the purpose of purchasing other assets, is prohibited. The issuance of taxable notes for the purpose of arbitrage is prohibited. Contracting to sell securities not owned by the

county, for the purpose of purchasing such securities on the speculation that bond prices will decline, is prohibited.

(H) Any securities, certificates of deposit, deposit accounts, or any other documents evidencing deposits or investments made under authority of this section shall be issued in the name of the county with the county treasurer or investing authority as the designated payee. If any such deposits or investments are registerable either as to principal or interest, or both, they shall be registered in the name of the treasurer.

(I) The investing authority shall be responsible for the safekeeping of all documents evidencing a deposit or investment acquired under this section, including, but not limited to, safekeeping receipts evidencing securities deposited with a qualified trustee, as provided in section 135.37 of the Revised Code, and documents confirming the purchase of securities under any repurchase agreement under this section shall be deposited with a qualified trustee, provided, however, that the qualified trustee shall be required to report to the investing authority, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security, and that if the participating institution is a designated depository of the county for the current period of designation, the securities that are the subject of the repurchase agreement may be delivered to the treasurer or held in trust by the participating institution on behalf of the investing authority.

Upon the expiration of the term of office of an investing authority or in the event of a vacancy in the office for any reason, the officer or the officer's legal representative shall transfer and deliver to the officer's successor all documents mentioned in this division for which the officer has been responsible for safekeeping. For all such documents transferred and delivered, the officer shall be credited with, and the officer's successor shall be charged with, the amount of moneys evidenced by such documents.

(J)(1) All investments, except for investments in securities described in divisions (A)(5), (6), and (12) of this section, shall be made only through a member of the national association of securities dealers, through a bank, savings bank, or savings and loan association regulated by the superintendent of financial institutions, or through an institution regulated by the comptroller of the currency, federal deposit insurance corporation, or board of governors of the federal reserve system.

(2) Payment for investments shall be made only upon the delivery of securities representing such investments to the treasurer, investing authority, or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee.

(K)(1) Except as otherwise provided in division (K)(2) of this section, no investing authority shall make an investment or deposit under this section, unless there is on file with the auditor of state a written investment policy approved by the investing authority. The policy shall require that all entities conducting investment business with the investing authority shall sign the investment policy of that investing authority. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, initiating transactions with the investing authority by giving advice or making investment recommendations shall sign the investing authority's investment policy thereby acknowledging their agreement to abide by the policy's contents. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, executing

transactions initiated by the investing authority, having read the policy's contents, shall sign the investment policy thereby acknowledging their comprehension and receipt.

(2) If a written investment policy described in division (K)(1) of this section is not filed on behalf of the county with the auditor of state, the investing authority of that county shall invest the county's inactive moneys and moneys of the county public library fund only in time certificates of deposits or savings or deposit accounts pursuant to division (A)(3) of this section, no-load money market mutual funds pursuant to division (A)(5) of this section, or the Ohio subdivision's fund pursuant to division (A)(6) of this section.

(L)(1) The investing authority shall establish and maintain an inventory of all obligations and securities acquired by the investing authority pursuant to this section. The inventory shall include a description of each obligation or security, including type, cost, par value, maturity date, settlement date, and any coupon rate.

(2) The investing authority shall also keep a complete record of all purchases and sales of the obligations and securities made pursuant to this section.

(3) The investing authority shall maintain a monthly portfolio report and issue a copy of the monthly portfolio report describing such investments to the county investment advisory committee, detailing the current inventory of all obligations and securities, all transactions during the month that affected the inventory, any income received from the obligations and securities, and any investment expenses paid, and stating the names of any persons effecting transactions on behalf of the investing authority.

(4) The monthly portfolio report shall be a public record and available for inspection under section 149.43 of the Revised Code.

(5) The inventory and the monthly portfolio report shall be filed with the board of county commissioners. The monthly portfolio report also shall be filed with the treasurer of state.

(M) An investing authority may enter into a written investment or deposit agreement that includes a provision under which the parties agree to submit to nonbinding arbitration to settle any controversy that may arise out of the agreement, including any controversy pertaining to losses of public moneys resulting from investment or deposit. The arbitration provision shall be set forth entirely in the agreement, and the agreement shall include a conspicuous notice to the parties that any party to the arbitration may apply to the court of common pleas of the county in which the arbitration was held for an order to vacate, modify, or correct the award. Any such party may also apply to the court for an order to change venue to a court of common pleas located more than one hundred miles from the county in which the investing authority is located.

For purposes of this division, "investment or deposit agreement" means any agreement between an investing authority and a person, under which agreement the person agrees to invest, deposit, or otherwise manage, on behalf of the investing authority, a county's inactive moneys or moneys in a county public library fund, or agrees to provide investment advice to the investing authority.

(N) An investment held in the county portfolio on September 27, 1996, that was a legal investment under the law as it existed before September 27, 1996, may be held until maturity, or if the investment does not have a maturity date the investment may be held until five years from

September 27, 1996, regardless of whether the investment would qualify as a legal investment under the terms of this section as amended.

(O) Upon a majority affirmative vote of the county investment advisory committee in support of such action, an investment authority may invest up to twenty-five per cent of the county's total average portfolio of investments made under this section in securities and obligations that mature on a date that is more than ten years from the date of settlement.

EXHIBIT 2

OHIO REVISED CODE SECTION 135.35

AS AMENDED BY

AM. SUB. H. B. 487 OF THE 129TH GENERAL ASSEMBLY

EFFECTIVE 9-10-12

Sec. 135.35. (A) The investing authority shall deposit or invest any part or all of the county's inactive moneys and shall invest all of the money in the county public library fund when required by section 135.352 of the Revised Code. The following classifications of securities and obligations are eligible for such deposit or investment:

(1) United States treasury bills, notes, bonds, or any other obligation or security issued by the United States treasury, any other obligation guaranteed as to principal or interest by the United States, or any book entry, zero-coupon United States treasury security that is a direct obligation of the United States.

Nothing in the classification of eligible securities and obligations set forth in divisions (A)(2) to (11) of this section shall be construed to authorize any investment in stripped principal or interest obligations of such eligible securities and obligations.

(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality, including, but not limited to, the federal national mortgage association, federal home loan bank, federal farm credit bank, federal home loan mortgage corporation, government national mortgage association, and student loan marketing association. All federal agency securities shall be direct issuances of federal government agencies or instrumentalities.

(3) Time certificates of deposit or savings or deposit accounts, including, but not limited to, passbook accounts, in any eligible institution mentioned in section 135.32 of the Revised Code;

(4) Bonds and other obligations of this state or the political subdivisions of this state;

(5) No-load money market mutual funds consisting exclusively of obligations described in division (A)(1) or (2) of this section and repurchase agreements secured by such obligations, provided that investments in securities described in this division are made only through eligible institutions mentioned in section 135.32 of the Revised Code;

(6) The Ohio subdivision's fund as provided in section 135.45 of the Revised Code;

(7) Securities lending agreements with any eligible institution mentioned in section 135.32 of the Revised Code that is a member of the federal reserve system or federal home loan bank or with any recognized United States government securities dealer meeting the description in division (J)(1) of this section, under the terms of which agreements the investing

authority lends securities and the eligible institution or dealer agrees to simultaneously exchange similar securities or cash, equal value for equal value.

Securities and cash received as collateral for a securities lending agreement are not inactive moneys of the county or moneys of a county public library fund. The investment of cash collateral received pursuant to a securities lending agreement may be invested only in instruments specified by the investing authority in the written investment policy described in division (K) of this section.

(8) Up to twenty-five per cent of the county's total average portfolio in either of the following investments:

(a) Commercial paper notes issued by an entity that is defined in division (D) of section 1705.01 of the Revised Code and that has assets exceeding five hundred million dollars, to which notes all of the following apply:

(i) The notes are rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services.

(ii) The aggregate value of the notes does not exceed ten per cent of the aggregate value of the outstanding commercial paper of the issuing corporation.

(iii) The notes mature not later than two hundred seventy days after purchase.

(b) Bankers acceptances of banks that are insured by the federal deposit insurance corporation and to which both of the following apply:

(i) The obligations are eligible for purchase by the federal reserve system.

(ii) The obligations mature not later than one hundred eighty days after purchase.

No investment shall be made pursuant to division (A)(8) of this section unless the investing authority has completed additional training for making the investments authorized by division (A)(8) of this section. The type and amount of additional training shall be approved by the auditor of state and may be conducted by or provided under the supervision of the auditor of state.

(9) Up to fifteen per cent of the county's total average portfolio in notes issued by corporations that are incorporated under the laws of the United States and that are operating within the United States, or by depository institutions that are doing business under authority granted by the United States or any state and that are operating within the United States, provided both of the following apply:

(a) The notes are rated in the second highest or higher category by at least two nationally recognized standard rating services at the time of purchase.

(b) The notes mature not later than two years after purchase.

(10) No-load money market mutual funds rated in the highest category at the time of purchase by at least one nationally recognized standard rating service and consisting exclusively of obligations described in division (A)(1), (2), or (6) of section 135.143 of the Revised Code;

(11) Debt interests rated at the time of purchase in the three highest categories by two nationally recognized standard rating services and issued by foreign nations diplomatically recognized by the United States government. All interest and principal shall be denominated and payable in United States funds. The investments made under division (A)(11) of this section shall not exceed in the aggregate one per cent of a county's total average portfolio.

The investing authority shall invest under division (A)(11) of this section in a debt interest issued by a foreign nation only if the debt interest is backed by the full faith and credit of that foreign nation, there is no prior history of default, and the debt interest matures not later than five years after purchase. For purposes of division (A)(11) of this section, a debt interest is rated in the three highest categories by two nationally recognized standard rating services if either the debt interest itself or the issuer of the debt interest is rated, or is implicitly rated, at the time of purchase in the three highest categories by two nationally recognized standard rating services.

(12) A current unpaid or delinquent tax line of credit authorized under division (G) of section 135.341 of the Revised Code, provided that all of the conditions for entering into such a line of credit under that division are satisfied, or bonds and other obligations of a county land reutilization corporation organized under Chapter 1724. of the Revised Code, if the county land reutilization corporation is located wholly or partly within the same county as the investing authority.

(B) Nothing in the classifications of eligible obligations and securities set forth in divisions (A)(1) to (11) of this section shall be construed to authorize investment in a derivative, and no investing authority shall invest any county inactive moneys or any moneys in a county public library fund in a derivative. For purposes of this division, "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 this section with a variable interest rate payment, based upon a single interest payment or single index comprised of other eligible investments provided for in division (A)(1) or (2) of this section, is not a derivative, provided that such variable rate investment has a maximum maturity of two years. A treasury inflation-protected security shall not be considered a derivative, provided the security matures not later than five years after purchase.

(C) Except as provided in ~~divisions~~ division (D) and ~~(O)~~ of this section, any investment made pursuant to this section must mature within ~~ten~~ five years from the date of settlement, unless the investment is matched to a specific obligation or debt of the county or to a specific obligation or debt of a political subdivision of this state, and the investment is specifically approved by the investment advisory committee.

(D) The investing authority may also enter into a written repurchase agreement with any eligible institution mentioned in section 135.32 of the Revised Code or any eligible securities dealer pursuant to division (J) of this section, under the terms of which agreement the investing

authority purchases and the eligible institution or dealer agrees unconditionally to repurchase any of the securities listed in divisions (B)(1) to (5), except letters of credit described in division (B)(2), of section 135.18 of the Revised Code. The market value of securities subject to an overnight written repurchase agreement must exceed the principal value of the overnight written repurchase agreement by at least two per cent. A written repurchase agreement must exceed the principal value of the overnight written repurchase agreement, by at least two per cent. A written repurchase agreement shall not exceed thirty days, and the market value of securities subject to a written repurchase agreement must exceed the principal value of the written repurchase agreement by at least two per cent and be marked to market daily. All securities purchased pursuant to this division shall be delivered into the custody of the investing authority or the qualified custodian of the investing authority or an agent designated by the investing authority. A written repurchase agreement with an eligible securities dealer shall be transacted on a delivery versus payment basis. The agreement shall contain the requirement that for each transaction pursuant to the agreement the participating institution shall provide all of the following information:

- (1) The par value of the securities;
- (2) The type, rate, and maturity date of the securities;
- (3) A numerical identifier generally accepted in the securities industry that designates the securities.

No investing authority shall enter into a written repurchase agreement under the terms of which the investing authority agrees to sell securities owned by the county to a purchaser and agrees with that purchaser to unconditionally repurchase those securities.

(E) No investing authority shall make an investment under this section, unless the investing authority, at the time of making the investment, reasonably expects that the investment can be held until its maturity. The investing authority's written investment policy shall specify the conditions under which an investment may be redeemed or sold prior to maturity.

(F) No investing authority shall pay a county's inactive moneys or moneys of a county public library fund into a fund established by another subdivision, treasurer, governing board, or investing authority, if that fund was established by the subdivision, treasurer, governing board, or investing authority for the purpose of investing or depositing the public moneys of other subdivisions. This division does not apply to the payment of public moneys into either of the following:

- (1) The Ohio subdivision's fund pursuant to division (A)(6) of this section;
- (2) A fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to the authority provided under section 715.02 of the Revised Code or Section 4 of Article XVIII, Ohio Constitution.

For purposes of division (F) of this section, "subdivision" includes a county.

(G) The use of leverage, in which the county uses its current investment assets as collateral for the purpose of purchasing other assets, is prohibited. The issuance of taxable notes for the purpose of arbitrage is prohibited. Contracting to sell securities not owned by the

county, for the purpose of purchasing such securities on the speculation that bond prices will decline, is prohibited.

(H) Any securities, certificates of deposit, deposit accounts, or any other documents evidencing deposits or investments made under authority of this section shall be issued in the name of the county with the county treasurer or investing authority as the designated payee. If any such deposits or investments are registrable either as to principal or interest, or both, they shall be registered in the name of the treasurer.

(I) The investing authority shall be responsible for the safekeeping of all documents evidencing a deposit or investment acquired under this section, including, but not limited to, safekeeping receipts evidencing securities deposited with a qualified trustee, as provided in section 135.37 of the Revised Code, and documents confirming the purchase of securities under any repurchase agreement under this section shall be deposited with a qualified trustee, provided, however, that the qualified trustee shall be required to report to the investing authority, auditor of state, or an authorized outside auditor at any time upon request as to the identity, market value, and location of the document evidencing each security, and that if the participating institution is a designated depository of the county for the current period of designation, the securities that are the subject of the repurchase agreement may be delivered to the treasurer or held in trust by the participating institution on behalf of the investing authority.

Upon the expiration of the term of office of an investing authority or in the event of a vacancy in the office for any reason, the officer or the officer's legal representative shall transfer and deliver to the officer's successor all documents mentioned in this division for which the officer has been responsible for safekeeping. For all such documents transferred and delivered, the officer shall be credited with, and the officer's successor shall be charged with, the amount of moneys evidenced by such documents.

(J)(1) All investments, except for investments in securities described in divisions (A)(5), (6), and (12) of this section, shall be made only through a member of the national association of securities dealers, through a bank, savings bank, or savings and loan association regulated by the superintendent of financial institutions, or through an institution regulated by the comptroller of the currency, federal deposit insurance corporation, or board of governors of the federal reserve system.

(2) Payment for investments shall be made only upon the delivery of securities representing such investments to the treasurer, investing authority, or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee.

(K)(1) Except as otherwise provided in division (K)(2) of this section, no investing authority shall make an investment or deposit under this section, unless there is on file with the auditor of state a written investment policy approved by the investing authority. The policy shall require that all entities conducting investment business with the investing authority shall sign the investment policy of that investing authority. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, initiating transactions with the investing authority by giving advice or making investment recommendations shall sign the investing authority's investment policy thereby acknowledging their agreement to abide by the policy's contents. All brokers, dealers, and financial institutions, described in division (J)(1) of this section, executing

transactions initiated by the investing authority, having read the policy's contents, shall sign the investment policy thereby acknowledging their comprehension and receipt.

(2) If a written investment policy described in division (K)(1) of this section is not filed on behalf of the county with the auditor of state, the investing authority of that county shall invest the county's inactive moneys and moneys of the county public library fund only in time certificates of deposits or savings or deposit accounts pursuant to division (A)(3) of this section, no-load money market mutual funds pursuant to division (A)(5) of this section, or the Ohio subdivision's fund pursuant to division (A)(6) of this section.

(L)(1) The investing authority shall establish and maintain an inventory of all obligations and securities acquired by the investing authority pursuant to this section. The inventory shall include a description of each obligation or security, including type, cost, par value, maturity date, settlement date, and any coupon rate.

(2) The investing authority shall also keep a complete record of all purchases and sales of the obligations and securities made pursuant to this section.

(3) The investing authority shall maintain a monthly portfolio report and issue a copy of the monthly portfolio report describing such investments to the county investment advisory committee, detailing the current inventory of all obligations and securities, all transactions during the month that affected the inventory, any income received from the obligations and securities, and any investment expenses paid, and stating the names of any persons effecting transactions on behalf of the investing authority.

(4) The monthly portfolio report shall be a public record and available for inspection under section 149.43 of the Revised Code.

(5) The inventory and the monthly portfolio report shall be filed with the board of county commissioners. The monthly portfolio report also shall be filed with the treasurer of state.

(M) An investing authority may enter into a written investment or deposit agreement that includes a provision under which the parties agree to submit to nonbinding arbitration to settle any controversy that may arise out of the agreement, including any controversy pertaining to losses of public moneys resulting from investment or deposit. The arbitration provision shall be set forth entirely in the agreement, and the agreement shall include a conspicuous notice to the parties that any party to the arbitration may apply to the court of common pleas of the county in which the arbitration was held for an order to vacate, modify, or correct the award. Any such party may also apply to the court for an order to change venue to a court of common pleas located more than one hundred miles from the county in which the investing authority is located.

For purposes of this division, "investment or deposit agreement" means any agreement between an investing authority and a person, under which agreement the person agrees to invest, deposit, or otherwise manage, on behalf of the investing authority, a county's inactive moneys or moneys in a county public library fund, or agrees to provide investment advice to the investing authority.

(N) (1) An investment held in the county portfolio on September 27, 1996, that was a legal investment under the law as it existed before September 27, 1996, may be held until maturity, or if the investment does not have a maturity date the investment may be held until five

years from September 27, 1996, regardless of whether the investment would qualify as a legal investment under the terms of this section as amended.

~~(O) Upon a majority affirmative vote of the county investment advisory committee in support of such action, an investment authority may invest up to twenty-five per cent of the county's total average portfolio of investments made under this section in securities and obligations that mature on a date that is more than ten years from the date of settlement.~~

(2) An investment held in the county portfolio on the effective date of this amendment that was a legal investment under the law as it existed before the effective date of this amendment may be held until maturity.