STATE BOARD OF DEPOSIT

Public depositories

- Specifies that a financial institution must have a banking office in Ohio to serve as a public depository.

Financial transaction devices (FTDs)

Definitions

- Redefines "financial transaction device" (FTD) and specifies that the term applies to devices for making payments or transfers of funds denominated in U.S. dollars.
- Defines "processor" as an entity conducting the settlement of an electronic payment or transfer of funds denominated in U.S. dollars.
- Expands "state entity" to include an officer under the authority of a state elected official, and to include entities that deposit funds into an account in the custody of the Treasurer of State (TOS).
- Defines "administrative agent of the board of deposit" to mean the TOS.
- Changes the defined term "state expenses" to "revenue" and expands it to include charges, tolls, court-ordered restitution, judgments, and other amounts owed to the state.

Resolution

- Requires, instead of permits, the State Board of Deposit (BDP) to adopt a resolution authorizing the collection, receipt, and acceptance by the state of revenue, gifts, donations, or bequests made by a FTD.
- Specifies that BDP's resolution applies to FTD services related to bank accounts comprising the state treasury and those in the custody of TOS that are not part of the state treasury.
- Eliminates BDP's duty to send a copy of the resolution to each state elected official and state entity authorized to accept payments for state expenses by FTD.
- Eliminates law authorizing a state entity under the authority of a state elected official to decline to accept payments by FTD.
- Eliminates the requirement that each state elected official or state entity provide written notice to BDP's administrative agent of the official's or entity's intent to implement BDP's resolution.

Administrative agent

- Removes the requirement that BDP's administrative agent request proposals from at least three financial institutions, issuers of FTDs, or processors of FTDs.

- Requires BDP's administrative agent to request proposals for acceptance, processing, and settlement services pursuant to BDP's resolution.
- Requires BDP's administrative agent to publish electronic public notices regarding requests for proposals on the agent's website instead of a state agency website.
- Increases from ten to 15 days the minimum amount of time, after the initial publication of an administrative agent's request for proposals, after which the request for proposals will be available.
- Requires that the administrative agent's request for proposals detail the services subject to the request.
- Eliminates the requirement that the administrative agent send via email the request for proposals to financial institutions, issuers, or processors interested in receiving the request.
- Eliminates the requirement that the administrative agent's notice require that a financial institution, issuer, or processor submit written notice of its interest in the request for proposals.
- Eliminates BDP's duty to review all submitted proposals.
- Permits BDP to authorize an administrative agent to contract, on BDP's behalf, with processors submitting proposals, and permits the agent to enter into one or more contracts for payment, collection, acceptance, processing, receipt, and settlement services for state entities and state elected officials.
- Requires BDP's administrative agent to provide notice to a processor when the processor's proposal is rejected.
- Gives TOS authority to contract as necessary to fulfill its obligations as BDP's administrative agent.

Surcharges and convenience fees

- Allows state elected officials and state entities to establish a surcharge or convenience fee on a person making payment by FTD.
- Eliminates the prohibition on surcharge or convenience fees that are not authorized by contract.
- Eliminates the requirement that every state entity accepting payment by FTD post a notice in the entity's office when a surcharge or convenience fee is imposed.
- Eliminates the requirement that a notice of a surcharge or convenience fee contain a clear statement that the surcharge or convenience fee is nonrefundable.
- Eliminates law stating that surcharge or convenience fees are nonrefundable.
- Changes the types of deficient payment a person is liable for under the provision and specifies that the person is liable to a state elected official or state entity.

Limitation of liability

- Excludes state entities from personal liability immunity and extends personal liability immunity to state elected officials and employees of a state entity or state elected official.

Warrant clearance accounts

- Adds paper checks to the definition of a warrant clearance account.

Public depositories

(R.C. 135.03)

Under Ohio's Uniform Depository Act[43] only eligible financial institutions may hold public deposits. Eligible financial institutions, such as banks, savings associations, savings and loan associations, and savings banks may apply to the State Board of Deposit (BDP) to serve as a depository of public funds of the state, or to the governing board of a subdivision to serve as a depository of public funds of the subdivision. If selected, the financial institution is authorized to hold the public funds for a designated period of time.

Prior law required public depositories to be "located in" Ohio. The act instead specifies that a public depository must have a banking office located in Ohio. Under continuing law, "banking office" means an office or other place established by a bank at which the bank receives money or its equivalent from the public for deposit and conducts a general banking business. "Banking office" does not include any of the following:

- Any location at which a bank receives, but does not accept, cash or other items for subsequent deposit, such as by mail or armored car service or at a lock box or night depository;
- Any structure located within 500 yards of an approved banking office of a bank and operated as an extension of the services of the banking office;
- Any automated teller machine (ATM), remote service unit, or other money transmission device owned, leased, or operated by a bank;
- Any facility located within the geographical limits of a military installation at which a bank only accepts deposits and cashes checks;
- Any location at which a bank takes and processes applications for loans and may disburse loan proceeds, but does not accept deposits;
- Any location at which a bank is engaged solely in providing administrative support services for its own operations or for other depository institutions.[44]

[43] R.C. Chapter 135.

[44] R.C. 135.03 and 1101.01, not in the act.

Financial transaction devices (FTDs)

(R.C. 113.40)

Definitions

The act changes the definition of "financial transaction device" (FTD) to exclude references to certain automated clearinghouse network entries, and specifies that the term applies to devices for making payments or transfers of funds denominated in U.S. dollars.

The act changes the defined term "state expenses" to "revenue" and expands the definition to include charges, tolls, court-ordered restitution, judgments, and other amounts owed to the state.

The act adds a definition for "processor" as "an entity conducting the settlement of an electronic payment or transfer of funds, which shall be denominated in U.S. dollars."

The act adds "administrative agent of the board of deposit" to mean the Treasurer of State (TOS).

The act expands the definition of "state entity" to include an officer under the authority of a state elected official, and entities that deposit funds into an account in the custody of the TOS.

Resolution

The act requires, rather than permits, BDP to adopt a resolution authorizing the collection, receipt, and acceptance by the state of revenue, gifts, donations, or bequests made by FTD, and eliminates the following content which was required to be included in the resolution under former law:

- A designation of state elected officials and state entities authorized to accept payments by FTD;
- A list of state expenses that may be paid by the use of a FTD;
- Specific identification of FTDs that a state elected official or state entity may authorize as acceptable means of payment;
- The amount authorized as a surcharge or convenience fee for persons using a FTD;
- A specific requirement for the payment of a penalty if a payment made by means of a FTD is returned or dishonored.

The act specifies that the resolution applies to FTD services related to all bank accounts comprising the state treasury, as well as those in the custody of TOS that are not part of the state treasury. The act eliminates BDP's prior duty to transmit a copy of the resolution to each state elected official and state entity authorized to accept payments for state expenses by FTD, as well as the requirement that state elected officials and state entities provide a written notice of intent to adopt the resolution to BDP's administrative agent.

Under former law, if a state entity under the authority of a state elected official was directly responsible for collecting state expenses, and the official determined not to accept

payments by FTD, the entity was not required to accept payments by FTD. The act eliminates this provision, removing a state elected official's discretion to reject payments by FTD by a state entity under the official's authority.

Administrative agent

Under continuing law, TOS serves as BDP's administrative agent to solicit proposals. The act specifies that the proposals solicited must be for FTD services. Under former law, the administrative agent was required to request proposals from at least three financial institutions, issuers of financial transaction devices, or processors of FTDs. The act eliminates that requirement and specifies that the request for proposals be "for acceptance, processing, and settlement services."

Under the act, the administrative agent must publish an electronic notice regarding requests for proposals on the agent's website, instead of on a state agency website as required under former law. The act increases, from ten to 15 days, the minimum time after initial publication of the request for proposals after which the request for proposals will be available. It also eliminates the administrative agent's duty to email the request for proposals to financial institutions, issuers, or processors and requires the request to detail the services subject to the request.

Under former law, the BDP, after reviewing all submitted proposals and considering its administrative agent's recommendation, had authority to contract with processors and was required to provide notice to a processor when the processor's proposal was rejected. The act transfers the authority to contract to the administrative agent, as well as the duty to notify a processor of a rejected proposal. It eliminates BDP's duty to review all submitted proposals.

The act grants the TOS authority to enter into contracts necessary to fulfill TOS's obligations as administrative agent for BDP.

Surcharges and convenience fees

The act transfers the authority to establish surcharge and convenience fees on a person making payment by FTD from BDP to state elected officials and state entities. It expands the state's ability to impose surcharge and convenience fees on persons making payment by FTD by eliminating the requirement that the authority to impose such fees be provided for under contract.

Under continuing law, when a surcharge or convenience fee is imposed, state entities must notify each person making payment about the surcharge or fee. The act eliminates the requirement that every state entity accepting payment by FTD post a notice in the entity's office when a surcharge or convenience fee is imposed. The act eliminates existing language stating that surcharge and convenience fees are not refundable and eliminates the requirement that each notice contain a statement that the surcharge or fee is nonrefundable.

Under the act, if a person remits revenue to the state by FTD and the payment is reversed or is less than the amount owed, the person is liable to the state elected official or state entity for the total amount of state revenue and certain reimbursable costs incurred by the official or entity in collecting the reversed payment. Under former law, a person who made a payment by

FTD that was returned or dishonored was liable to the state for expenses and certain reimbursable costs incurred by the state in collecting the returned or dishonored payment.

Limitation of liability

Former law provided personal liability immunity to state entities and employees for the final collection of FTD payments. The act eliminates this immunity for state entities and extends it to state elected officials. It adds language specifying that the employees covered under this immunity are those employed by "a state entity or state elected official."

Warrant clearance accounts

(R.C. 135.01)

The act expands the definition of "warrant clearance account" to include accounts established by TOS for the deposit of active state moneys for the purposes of clearing state checks through the banking system.